

# 1998 Final Legislative Report

Fifty-fifth Washington State Legislature

1997 Special Session

1998 Regular Session

The entire object of true education is to make people not merely to do the right things, but to enjoy them; not merely industrious, but to love industry; not merely learned, but to love knowledge; not merely pure, but to love purity; not merely just, but to hunger and thirst after justice.

John Ruskin

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Photo provided by Walla Walla School District

Public education is the paramount mission of state legislators. With nearly one million children enrolled in Washington public schools, close to 1,800 schools and almost 90,000 teachers, it is also the largest state-run operation. As a tribute to our educational system, this report features photographs depicting education in Washington today.

## Fifty-fifth Washington State Legislature

1997 Special Session

1998 Regular Session

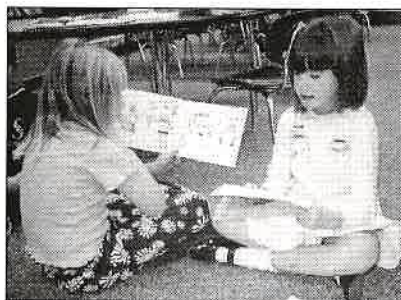


Photo provided by Marysville School District

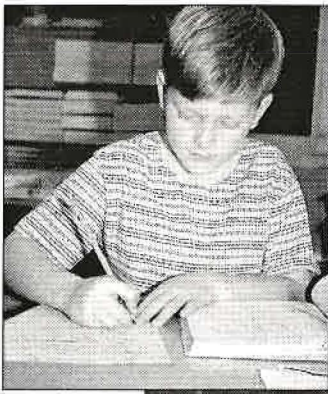
**Top:** Walla Walla High School Vocal Music Teacher Paul Dennis. Paul was recently inducted into Washington's newly established "Music Teachers Hall of Fame."

Arts are a strong part of the Walla Walla community, within the schools and the community at large.

**Bottom:** Marysville School District first grade students participating in a comprehensive reading program which has improved reading skills in almost all grades.

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Photo provided by Longview School District



Edmonds School District photo by Daryl Stuart



Photo provided by Northshore School District

**Top:** Third grader at Olympic Elementary School, Longview, works on writing expectations for the early years. **Middle:** At Seaview Elementary School in the Edmonds School District, students enjoy working on the computer. **Bottom:** Northshore School District (Bothell) high school science students.

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## Statistical Summary

*1997 Special Session of the 55<sup>th</sup> Legislature*

*1998 Regular Session of the 55th Legislature*

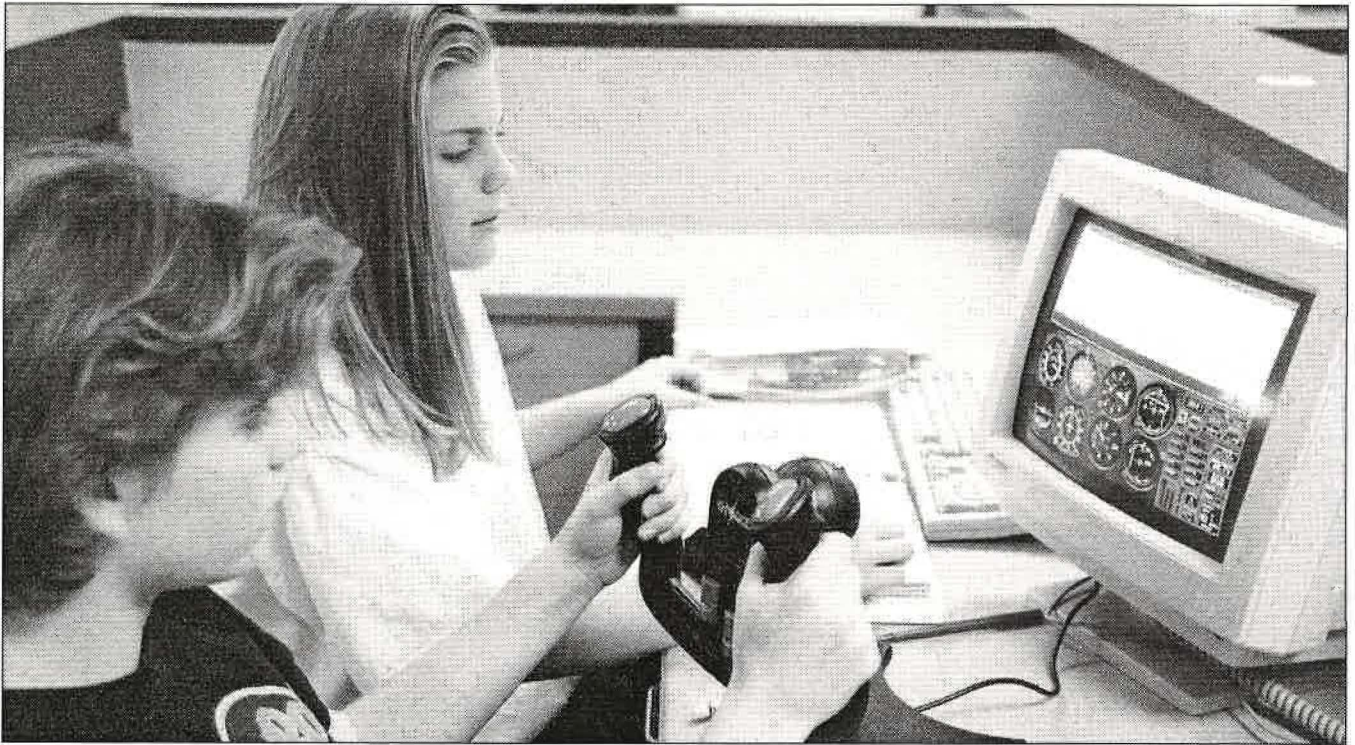
<b>Bills Before Legislature</b>	<b>Introduced</b>	<b>Passed Legislature</b>	<b>Vetoed</b>	<b>Partially Vetoed</b>	<b>Enacted</b>
<i>1997 Special Session (September 17)</i>					
House	1	1	0	0	1
Senate	0	0	0	0	0
<b>TOTALS</b>	<b>1</b>	<b>1</b>	<b>0</b>	<b>0</b>	<b>1</b>

<b>Bills Before Legislature</b>	<b>Introduced</b>	<b>Passed Legislature</b>	<b>Vetoed</b>	<b>Partially Vetoed</b>	<b>Enacted</b>
<i>1998 Regular Session (January 12 - March 12)</i>					
House	848	211*	17	20	194
Senate	652	165	11	21	154
<b>TOTALS</b>	<b>1,500</b>	<b>376</b>	<b>28</b>	<b>41</b>	<b>348</b>

<b>Initiatives, Joint Memorials, Joint Resolutions and Concurrent Resolutions Before Legislature</b>	<b>Introduced</b>	<b>Filed with the Secretary of State</b>
<i>1998 Regular Session (January 12 - March 12)</i>		
House	29	4
Senate	29	2
<b>TOTALS</b>	<b>58</b>	<b>6</b>
<b>Initiatives</b>	<b>1</b>	<b>0</b>

<b>Gubernatorial Appointments</b>	<b>Referred</b>	<b>Confirmed</b>
<i>1998 Regular Session (January 12 - March 12)</i>	94	32

\* Includes override of HB 1130



Richland School District photo by Steven Aagaard



Photo provided by the Bainbridge Island School District

**Top:** Chief Joseph Middle School students in the Richland School District learn about aviation by getting their hands on the controls of a flight simulator—one of sixteen stations available in the Chief Joseph Industrial Technology Lab.

**Bottom:** Art teacher at Woodward Middle School located in the Bainbridge Island School District directs students on photo-realism charcoal drawings.

## SECTION I Legislation Passed

Numerical List

House Bill Reports and  
Veto Messages

House Memorials and  
Resolutions

Senate Bill Reports and  
Veto Messages

Senate Memorials and  
Resolutions

Sunset Legislation

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**EHB 1042**

C 168 L 98

Changing the taxation of dental appliances, devices, restorations, and substitutes.

By Representatives Dyer, B. Thomas, Dunshee, Robertson, Grant, Thompson, Smith and Mielke.

House Committee on Health Care  
 House Committee on Finance  
 Senate Committee on Ways & Means

**Background:** Washington's major business tax is the business and occupation (B&O) tax. In 1997, the Legislature eliminated the distinction between financial services, selected business services, and other services and consolidated these activities into a single tax rate. These changes take place July 1, 1998. After July, the principal B&O tax rates are:

Manufacturing, wholesaling, and extracting	0.484%
Retailing	0.471%
Services	1.5%

The B&O tax is imposed on the gross receipts of business activities conducted within the state without any deduction for the costs of doing business. Out-of-state companies that bring goods into Washington and sell these goods in Washington must pay B&O tax.

In its excise tax rules, the Department of Revenue views dental laboratories as providing professional services. The product that results from those services is merely the evidence of those services. Therefore, dental laboratories are taxed at the services B&O tax rate of 1.5 percent.

The sales tax applies to most retail sales of tangible personal property and to most retail sales of repair services. Most non-repair services are exempt from sales tax. Use tax is imposed on the use of an item in this state, when the acquisition of the item has not been subject to sales tax. Repair services are not subject to use tax.

Property that would otherwise be subject to sales and use taxes is exempt if it is furnished in connection with an activity that is taxed as a service under the B&O tax. Thus, sales and use taxes do not apply to dental appliances, devices, restorations, substitutes, or other dental laboratory products because they are considered part of services rendered by a dental lab. Nor does sales tax apply to repair of these items.

Prosthetic devices, orthotic devices, hearing instruments, ostomic items, and medical oxygen systems are exempt from sales and use taxes. Repair of these items is generally subject to sales tax, but the repair of hearing instruments is exempt from sales tax.

**Summary:** Dental laboratory activities are defined as manufacturing activities, rather than as services, for B&O tax purposes. If the manufactured products of a dental lab are sold at retail, the 0.471 percent B&O tax rate applies.

If the products are sold at wholesale, the 0.484 percent B&O tax rate applies.

Dental appliances, devices, restorations, and substitutes are exempt from retail sales and use tax. Repairs of dental appliances, prosthetic devices, orthotic devices, ostomic items, and medical oxygen system are also exempt from sales tax.

**Votes on Final Passage:**

House	88	0
Senate	46	3

**Effective:** October 1, 1998

**SHB 1043**

**FULL VETO**

Requiring the state landlord/tenant act to preempt all other local landlord/tenant acts.

By House Committee on Law & Justice (originally sponsored by Representatives Schoesler, Dunn and Smith).

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

**Background:** A variety of state laws regulate the relationship between landlords and tenants. There are specific and detailed laws relating to the renting or leasing of residential dwelling units. These laws establish the duties and liabilities of landlords and tenants with respect to each other, and they provide procedures for each side to enforce its rights.

In landlord-tenant law, there is an action for "unlawful detainer." Generally, this is an action by a landlord to evict a tenant who remains on the rental premises beyond the time when he or she is required to leave, either because of the expiration of the term of the tenancy, or because of some breach of the rental agreement by the tenant.

The state's residential landlord-tenant law requires a landlord to have cause for evicting a tenant before the end of a lease agreement. The causes that allow such an eviction include failure to pay rent, failure to maintain the premises, permitting a nuisance, creating a hazard, engaging in illegal drug or other criminal activities, or any one of several other acts or omissions by the tenant. With respect to month-to-month leases, the state law also requires a landlord to notify a tenant of the landlord's intent not to renew a lease for an additional month. However, as long as the landlord meets these notification requirements, the landlord does not need any cause for the termination of a month-to-month lease at the end of a month. Likewise, a tenant may terminate a month-to-month lease at the end of a month without any cause if proper notice is given to the landlord.

At least one city, Seattle, has adopted a local ordinance that prevents any eviction without "just cause." This "just

cause" requirement applies to all evictions, even those at the end of a month-to-month lease. Among the grounds that may serve as just cause for an eviction are, generally, any breach of the tenant's duties under the state landlord-tenant law that would constitute cause for an eviction before the end of a lease period under the state law. Additional just causes include the desire of the landlord to use the premises for his or her immediate family members, to demolish the premises, or to convert the premises to other use. If the tenant's occupancy is conditioned upon certain employment, the tenant may be evicted if the employment is terminated. If the tenant is living in the landlord's own residence, the landlord may evict the tenant without cause.

The state Supreme Court has held that the state's residential landlord-tenant law does not preempt local jurisdictions from adopting additional rules regarding residential tenancies. The court considered a Seattle city ordinance that, among other things, required landlords to register rental buildings and prohibited a landlord from evicting a tenant if the landlord had not complied with the registration requirement. In holding that the state's residential landlord-tenant law did not preempt local ordinances, the court allowed the failure of the landlord to register to be used by the tenant as a defense against an unlawful detainer action. The court did not specifically address the other "just cause" aspects of the Seattle ordinance, but presumably they are valid under the court's ruling.

**Summary:** The state preempts the field of landlord-tenant regulation with respect to local ordinances not in place as of January 1, 1999. Local jurisdictions are expressly prohibited from enacting ordinances that are inconsistent with, more restrictive than, or exceed the requirements of state law. Local ordinances that provide defenses to unlawful detainer actions are also expressly prohibited.

Preemption does not apply to local laws dealing with the physical safety of tenants, with houseboats, or with discrimination based on certain identified categories.

**Votes on Final Passage:**

House	55	43	
Senate	30	16	(Senate amended)
House	59	37	(House concurred)
House	59	37	(House reconsidered)
House	58	38	(House reconsidered)

**VETO MESSAGE ON HB 1043-S**

April 2, 1998

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. 1043 entitled:

"AN ACT Relating to the regulation of residential land-lord tenant duties;"

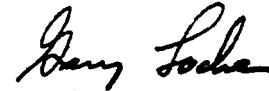
*SHB 1043 would attempt to provide state wide uniformity in landlord/tenant law by preempting local ordinances governing certain landlord/tenant relations in Washington. However, because of the way the bill was drafted, any local government would have until January 1, 1999 to enact ordinances that would be "grandfathered" under this act. This could cause a rush to enact local ordinances that are not currently in place.*

*This bill would also take away local control. Fair housing issues vary widely from area to area, influenced by the degree of urbanization, the population's size and composition, or the types and availability of low-income housing. A single set of state standards may not adequately address conditions across the state.*

*This bill would severely hamper the ability of citizens and local governments to respond to evolving fair housing issues as they see fit.*

*For these reasons, I have vetoed Substitute House Bill No. 1043 in its entirety.*

Respectfully submitted,



Gary Locke  
Governor

**2SHB 1065**

C 23 L 98

Filing certain insurance related corporate documents.

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

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

**Background:** Anyone organizing an insurance company to be incorporated in the state must file corporate documents with both the Office of the Secretary of State and the Office of the Insurance Commissioner. These documents include the articles of incorporation and any amendments to the articles. As with other corporations, the Secretary of State checks for duplication of the proposed name with existing corporations or any similarity of names that might be confusing to the public. The Insurance Commissioner also checks proposed names for duplication or possible confusion.

These filing requirements also apply to health care service contractors and health maintenance organizations.

**Summary:** The requirement that corporate documents be filed in both the Office of the Insurance Commissioner and the Office of the Secretary of State by insurance companies is changed to require processing through the Insurance Commissioner only. The Insurance Commissioner and the Secretary of State are required to cooperate in registering or reserving new corporate names to avoid duplication with existing corporate names. The Insurance Commissioner must notify the Secretary of State immedi-

ately upon receiving a filing regarding a corporate name or taking action that affects a corporate name.

For health care service contractors and health maintenance organizations (HMOs), corporate documents still are filed with the Secretary of State, who then forwards copies to the Insurance Commissioner.

**Votes on Final Passage:**

House	97	0
Senate	45	0

**Effective:** June 11, 1998

## SHB 1072

C 217 L 98

Regulating interception of communications.

By House Committee on Law & Justice (originally sponsored by Representatives Sterk, Sheahan, Hickel and Delvin).

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

**Background:** A “pen register” is a device attached to a telephone line that records the phone numbers dialed from that telephone line. A “trap and trace device” is a device attached to a telephone line that records the telephone numbers of all calls coming into that telephone line. Federal and state law regulate the installation and use of these devices.

**Federal Law.** Pen registers and trap and trace devices are not subject to the Fourth Amendment to the United States Constitution, which generally prohibits unreasonable searches and seizures without a court order based on probable cause. However, federal statutory law places restrictions on the use of these devices.

Federal law generally prohibits the installation and use of a pen register or trap and trace device without a court order. A court may authorize the installation and use of a pen register or trap and trace device if the information likely to be obtained is relevant to an ongoing criminal investigation.

A designated law enforcement officer may install and use a pen register or trap and trace device without court authorization if:

- (1) the officer reasonably determines that:
  - an emergency exists involving immediate danger of death or serious bodily injury to a person, or conspiratorial activities characteristic of organized crime;
  - the pen register or trap and trace device needs to be installed before a court order authorizing the installation can be obtained; and
  - there are grounds on which a court order for installation could be obtained; and
- (2) the officer seeks a court order authorizing the installation within 48 hours.

**State Law.** The installation and use of a pen register is subject to the right to privacy protections contained in the Washington Constitution. In *State v. Gunwall*, the Washington Supreme Court ruled that the installation and use of a pen register without valid legal process violates the Washington Constitution’s right to privacy. In addition, the court concluded that pen registers are “private communications” under the Privacy Act, and therefore may not be used except as specifically authorized by that statute.

The Privacy Act restricts the interception or recording of private communications or conversations. As a general rule, it is unlawful for any person to intercept or record a private communication or conversation without first obtaining the consent of all persons participating in the communication or conversation. There are limited exceptions to this general rule that allow the communication or conversation to be intercepted and recorded when only one party consents. The Privacy Act allows a court to order interceptions of communications without the consent of any party to the communication only in cases involving danger to national security or a human life, or imminent arson or riot.

Trap and trace devices are not “private communications” under the Privacy Act. In *State v. Riley*, the Washington Supreme Court upheld the use of evidence obtained by law enforcement officers who installed a trap and trace device without a court order. The court distinguished the holding in *Gunwall* with respect to pen registers, finding that a trap and trace device is not a private communication because it does not affect more than one person and does not involve the potential of multiple invasions of privacy.

**Summary:** The Privacy Act is amended to provide that no person may install or use a pen register or trap and trace device without prior court authorization except as specifically authorized under the Privacy Act.

A pen register or trap and trace device may be installed and used by law enforcement agencies pursuant to an authorizing court order or in certain emergency situations.

**Court Authorization.** A law enforcement officer may apply to the superior court for an order authorizing the installation and use of a pen register or a trap and trace device. The court must authorize the installation and use of the device if the court finds (1) that the information likely to be gained is relevant to an ongoing criminal investigation; and (2) there is probable cause to believe that the device will lead to evidence of a crime, contraband, fruits of crime, things criminally possessed, weapons, or things by means of which a crime has been committed or reasonably appears about to be committed.

The court order must specify the identity of the person registered to the affected line, the identity of the subject of the criminal investigation, the number and physical location of the affected line, and a statement of the offense to which the information likely to be obtained relates.

The court order is valid for a period not to exceed 60 days. A 60-day extension may be ordered based upon a new application and a court finding of appropriate grounds only if the court finds that there is a probability that the information sought is more likely to be obtained under the extension than under the original order. To obtain a second or subsequent extension, extraordinary circumstances, such as immediate danger of death or injury to an officer, must also be shown. The existence of the pen register or trap and trace device may not be disclosed by any person except by court order.

Courts must submit information on the number and characteristics of authorizations issued for the installation and use of a pen register or trap and trace device in an annual report to the Administrator for the Courts.

If requested by the law enforcement officer and directed by the court, providers of wire or electronic communication services and other appropriate persons must provide the law enforcement officer authorized to install a pen register or trap and trace device with all information, facilities, and technical assistance necessary to complete the installation. A person who provides assistance must be reasonably compensated for the person's services and is immune from civil or criminal liability for any information, facilities, or assistance provided in good faith reliance on a court order authorizing the installation.

**Emergency Situations.** A pen register or trap and trace device may be installed without prior court authorization if:

- (1) a law enforcement officer and a prosecuting attorney or deputy prosecuting attorney jointly and reasonably determine that there is probable cause to believe that:
  - an emergency exists involving immediate danger of death or serious bodily injury to any person;
  - the pen register or trap and trace device needs to be installed before an authorizing court order can be obtained; and
  - grounds exist upon which an authorizing court order could be entered; and
- (2) a court order approving the use of the pen register or trap and trace device is obtained within 48 hours after its installation.

In the absence of an authorizing court order, the use of a pen register or trap and trace device must immediately terminate once the information sought is obtained, when the application for the order is denied, or when 48 hours have elapsed since the installation, whichever is earlier. If a court order approving the installation is not obtained within 48 hours, any information obtained from the installation is not admissible as evidence in any legal proceeding.

A law enforcement agency must file a monthly report with the Administrator for the Courts indicating the number of authorizations made by the agency without a court order, the date and time of each authorization, and whether a subsequent court authorization was granted. An

officer who knowingly installs a pen register or trap and trace device without court authorization and who does not seek court authorization within 48 hours is guilty of a gross misdemeanor.

The restrictions on the installation and use of pen registers and trap and trace devices do not apply to employees of the Department of Corrections in the interception or recording of telephone calls of an inmate at a state correctional facility.

Local governments may submit claims for reimbursement to the Legislature if the act mandates an increased level of service by local governments.

**Votes on Final Passage:**

House	91	1	
House	92	0	(House reconsidered)
Senate	48	0	(Senate amended)
House	96	0	(House concurred)

**Effective:** June 11, 1998

**ESHB 1074**

C 274 L 98

Protecting personality rights.

By House Committee on Law & Justice (originally sponsored by Representatives Sheahan, Costa, Hatfield and Constantine).

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

**Background:** Washington courts have acknowledged that the right to privacy may include protection from the unauthorized appropriation of a person's name or likeness. The courts have not, however, specifically addressed such a particular right. Other states, including California and Texas, recognize a person's right not to have his or her identity misappropriated for commercial purposes without the person's consent.

Defamation laws are closely linked to the right of privacy and protect a person from another's intentional false communication that is published or publicly spoken and that injures the person's reputation or good name.

Federal copyright laws protect a person's original works of authorship. Trademark laws protect a person's registered trademark. A trademark, such as a name or symbol, is used to distinguish goods made or sold by a particular person. A person may reserve an exclusive right to use a trademark and may sue any other person who uses the trademark without his or her consent.

**Summary:** A personal property right is created in the use of a person's name, voice, signature, photograph, or likeness. Anyone using another's name, voice, signature, photograph, or likeness for commercial purposes without the person's consent may be civilly liable to the owner of the right.

**Who Owns The Right.** Every individual has a property right in the use of his or her name, voice, signature, photograph, or likeness. Likeness includes clear representations of an individual's face, body, distinctive appearance, gestures, or mannerisms.

If an individual's name, voice, signature, photograph, or likeness has commercial value, the individual is considered a "personality." Washington recognizes the property right in the use of the name, voice, signature, photograph, or likeness of any deceased personality, including, without limits, personalities who died after January 1, 1948.

The property right is exclusive to the individual or personality during the individual's or personality's lifetime. The property right may be assigned or licensed, while the individual or personality is alive, or may descend through a will. Absent a will, the right is distributed to the heirs the same way other property rights are distributed by state law.

The property right exists whether or not an individual made commercial use of it while the individual was alive.

**How Long The Right Lasts.** The property right of an individual continues to exist for 10 years after the individual dies.

The property right of a personality continues to exist for 75 years after the personality dies, whether or not those who have obtained the right make commercial use of it.

**How One Infringes On Another's Right.** A person infringes on an owner's right if the person, without getting written or oral, expressed or implied consent, uses or authorizes the use of an individual's or personality's name, voice, signature, photograph, or likeness in the following ways:

- on or in products entered into commerce in this state;
- for purposes of advertising products or services;
- for purposes of fund-raising or solicitation of donations; or
- by publishing or disseminating infringing advertisements in the state.

An infringement may occur regardless of whether the use or activity is for profit or not for profit.

**Remedies.** A person whose rights have been infringed may bring an action for damages and obtain an injunction to restrain any continual infringement. The court may order that the materials made or used in the infringement be impounded and destroyed.

The person infringing on the right is liable for either \$1,500 or actual damages sustained, whichever amount is larger, and any profits attributable to infringement. The prevailing party may recover reasonable attorney fees, expenses, and court costs.

Individuals or personalities may not bring a class action against an alleged infringer.

**Exceptions.** It is not an infringement if a person uses an individual's name, voice, signature, photograph, or likeness in the following ways:

- in connection with matters of cultural, historical, political, religious, educational, newsworthy, or public interest;
- for the purposes of commentary, criticism, satire, or parody;
- in single and original works of fine art that are not published in more than five copies, and any advertisement for those works;
- in literary, theatrical, or musical work and any advertisements for those works;
- in a film, radio, television or online program, magazine article, public affairs report, or sports broadcast or account, and any advertisements for those works;
- in any political campaign when the use does not inaccurately claim that the individual or personality endorses the campaign;
- in any advertisement or commercial or packaging for a literary, musical, cinematographic, or other artistic work when the author or creator of the work consented to the use of his or her name, voice, signature, photograph, or likeness with the initial sale, distribution, performance or display of the work;
- in any advertisement or sale of rare or fine products that incorporate the signatures of the authors or artists;
- in describing or identifying a thing or place and the use of the name is used fairly and in good faith;
- in connection with matters of cultural, historical, political, religious, educational, newsworthy, or public interest, and the use is in the form of a paid advertisement, so long as the principle purpose of the advertisement is to comment on the matter; and
- in uses that are insignificant or incidental.

Owners or employees of any medium that is used for advertising, such as newspapers or magazines, will not be liable for advertisements that infringe upon another's rights, unless the advertisement was intended to promote the medium itself.

#### **Votes on Final Passage:**

House	87	2	
Senate	32	17	(Senate amended)
House	97	1	(House concurred)

**Effective:** June 11, 1998

## **SHB 1077**

C 24 L 98

Specifying the official forms of establishing proof of identity.

By House Committee on Law & Justice (originally sponsored by Representatives Sterk, D. Sommers, Boldt and Sheahan).

## HB 1082

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

**Background:** Certain agencies and entities require proof of identification for a variety of purposes. For example, the Department of Licensing requires proof of identification before issuing a driver's license or an identicard. Both the motor vehicles statutes and the Department of Licensing's rules establish the types of documents the department will recognize as showing proof of identification. Absent any of those documents, the department may accept other documentation that clearly establishes the applicant's identity. If the applicant cannot produce required documentation, the department will issue a license plainly labeled "not valid for identification purposes."

A class 1 civil infraction has a maximum penalty and default amount of \$250 and is not a criminal offense.

**Summary:** Any person or entity, other than those exempted, who issues an identification card that purports to identify the holder as a resident of this or any other state and that contains a name, photograph, and date of birth must label the card "not official proof of identification" in fluorescent yellow ink, on the face of the card, and in not less than 14 point font. The background color of the card must be a color other than that used for Washington State driver's licenses and identicards. Certain persons and entities, such as government agencies and private employer's issuing identification cards, are exempt from this requirement. Failure to comply is a class 1 civil infraction.

### Votes on Final Passage:

House	92	0
Senate	47	0

**Effective:** June 11, 1998

## HB 1082

C 3 L 98

Extending authority to cite for contempt of court.

By Representatives McDonald and Sheahan.

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

**Background:** Contempt of court is any intentional (1) disorderly conduct toward a judge that tends to impair the court's authority, or to interrupt the due course of a trial or other judicial proceedings; (2) disobedience of any lawful judgment, decree, order, or process of the court; (3) refusal as a witness to appear, be sworn, or answer a question without lawful authority; or (4) refusal, without lawful authority, to produce a record, document, or other object.

Sanctions imposed for contempt of court may be either punitive or remedial. Punitive sanctions are imposed to punish a past contempt of court. A prosecuting or city attorney, on his or her own initiative, or at the request of an aggrieved person or judge, must file an action to impose a

punitive sanction. After a hearing, the court may impose a punitive sanction of a fine of up to \$5,000, imprisonment in the county jail for not more than one year, or both.

Remedial sanctions are imposed to coerce performance with a court order. A court may initiate a proceeding to impose a remedial sanction on its own motion or on the motion of an aggrieved person. After a hearing, the court may impose the following remedial sanctions: (1) imprisonment; (2) a forfeiture not to exceed \$2,000 for each day the contempt continues; (3) a court order designed to ensure compliance with a prior order; or (4) any other remedial order if the above sanctions are not effective.

District and municipal courts are considered courts of limited jurisdiction. District courts have concurrent jurisdiction with superior courts over misdemeanor and gross misdemeanor crimes and civil cases, where the value of the claim or amount at issue does not exceed \$35,000. District courts do not have jurisdiction over civil actions involving title to real property or foreclosure. Municipal courts have jurisdiction over civil and criminal matters involving violations of city ordinances.

A district court commissioner is appointed by district court judges and must be a lawyer admitted to practice law in Washington or have passed the qualifying examination for lay judges. A municipal court commissioner is appointed by judges of the city and must be a lawyer admitted to practice law in Washington. District and municipal court commissioners have the same powers that the appointing judges possess and prescribe.

A judge or commissioner of the supreme court, the court of appeals, or the superior court, and a judge of a court of limited jurisdiction may impose a sanction for contempt of court.

**Summary:** In additions to judges, commissioners of courts of limited jurisdiction may impose sanctions for contempt of court.

### Votes on Final Passage:

House	92	0
Senate	48	0

**Effective:** June 11, 1998

## SHB 1083

C 218 L 98

Authorizing use of department of licensing records in criminal prosecutions.

By House Committee on Law & Justice (originally sponsored by Representatives McDonald, Sheahan and Mielke).

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

**Background:** The Department of Licensing (DOL) is required to keep various records relating to drivers' licenses.

Generally, the DOL must keep a case record for each driver in the state for each traffic offense committed by the driver. The DOL must also keep a cross-referenced case record of each accident in which the driver is involved, including a brief statement of the cause of the accident.

These case records are generally confidential, but they are available for the confidential use of the DOL, the State Patrol, the Traffic Safety Commission, and police officers as authorized by law. The DOL uses the case records for determining when "in the best interest of public safety" a driver's license should be suspended or revoked. The case records may not be offered as evidence in court, except as part of an appeal from the DOL's suspension or revocation of a driver's license.

**Summary:** The DOL case records of a driver's history may be introduced as evidence in court where relevant to the prosecution or defense of a criminal charge.

**Votes on Final Passage:**

House	93	0	
Senate	43	0	(Senate amended)
House	95	1	(House concurred)

**Effective:** June 11, 1998

## SHB 1088

C 129 L 98

Designating *Mammuthus primigenius* as the official fossil of the state of Washington.

By House Committee on Government Administration (originally sponsored by Representatives Sheahan and Schoesler).

House Committee on Government Administration  
Senate Committee on Government Operations

**Background:** Washington has designated several official ceremonial symbols over the years. These include: the state fish, steelhead trout; the state gem, petrified wood; and the state folk song, "Roll On Columbia, Roll On." Washington does not have an official state fossil. Other states have designated state fossils, including the saber-toothed cat in California and the Hagerman Horse Fossil in Idaho.

**Summary:** The Columbian mammoth (*Mammuthus COLUMBI*) is designated as the official fossil of the state of Washington.

**Votes on Final Passage:**

House	89	0
Senate	34	0

**Effective:** June 11, 1998

## HB 1117

C 4 L 98

Providing penalties for supplying liquor to or consuming liquor by minors.

By Representatives Benson, Sheahan, Costa, D. Sommers, McDonald, Gombosky, Mulliken, Robertson, O'Brien, D. Schmidt, Backlund, Sterk, Wood, Sheldon, Quall, Anderson, Boldt and DeBolt.

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

**Background:** The state's liquor code has a variety of penalty provisions for violations of the code. Violations of provisions that lack their own penalty provisions are covered by a general criminal penalty provision. This general provision provides for the following criminal penalties for individual persons:

- on a first conviction, a fine of up to \$500 and imprisonment for up to two months;
- on a second conviction, imprisonment for up to six months; and
- on a third conviction, imprisonment for up to one year.

The penalties imposable under this provision against a corporation are as follows:

- on a first conviction, a fine of up to \$5,000; and
- on a second or subsequent conviction, a fine of up to \$10,000.

Providing liquor to a minor and possession or consumption of liquor by a minor are crimes without specific penalty provisions and are therefore subject to this general provision. Because of the way this general provision is structured, fines may not be imposable against individuals for second or third convictions.

The maximum imprisonment allowed for a third conviction against an individual under the general penalty provision is one year. This maximum is the same as the maximum imprisonment possible for a gross misdemeanor. The maximum fine for a gross misdemeanor is \$5,000.

**Summary:** The crimes of providing liquor to a minor and possession or consumption of liquor by a minor are made gross misdemeanors.

**Votes on Final Passage:**

House	93	0
Senate	48	0

**Effective:** June 11, 1998



SHB 1121

C 130 L 98

Revising legal custody of children.

By House Committee on Children & Family Services (originally sponsored by Representatives Veloria, Cooke, Tokuda, Wolfe, Dunn and Costa).

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

**Background:** In a dependency proceeding, a juvenile court may order that a child be temporarily placed outside the child's home. If a child is so placed, the agency that is charged with the child's care must present to the juvenile court a permanency plan identifying the long-term goals for the permanent care of the child. The agency may choose from a statutorily defined list of goals. These goals include adoption, long-term relative care, foster care, guardianship, or independent living, or return of the child to the parents, a guardian, or a legal custodian. The plan must encourage maximum parent-child contact and the resumption of parental custody.

One goal that is not on the list of long-term goals for a child's care is non-parental custody of the child through a permanent custody order. Permanent custody orders are court orders that transfer child custody from the parents of a child to a non-parental individual, such as a grandparent.

The content, scope, and procedures for obtaining a permanent child custody order are established by law. To grant an order, a court must find that the parent of the child is either unfit, or that placement of the child with the parent would detrimentally affect the child's growth and development. An individual, or individuals, receiving permanent custody of a child has the authority to determine the child's care, upbringing, education, health care, and religious training. As part of a permanent custody order, the court may award visitation rights to the parents and require them to provide child support and health insurance for the child.

**Summary:** Permanent custody orders are added to the list of long-term goals that an agency may select to implement in a dependency proceeding. In addition to the other statutorily listed long-term placement arrangements, an agency has the option of facilitating custody by a non-parental individual through a permanent custody order.

Entry of a permanent custody order by a court acts to dismiss a dependency proceeding and ends court supervision of the child. The court is relieved of conducting periodic permanency planning hearings to review the child's status. Once a court has entered a permanent custody order, the individual's custody over the child may be altered only through judicial modification of the order.

Because the court ordering permanent child custody (superior court) is a separate court from the one supervising the child's dependency (juvenile court), both courts

are explicitly permitted to exercise concurrent jurisdictions.

**Votes on Final Passage:**

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

**Effective:** June 11, 1998

SHB 1126

C 304 L 98

Providing for 911 emergency communications funding.

By House Committee on Finance (originally sponsored by Representatives Mastin, Sump, Boldt, Doumit, Hatfield, McMorris, Kessler, Sheahan, Sheldon, Mulliken, Grant, Chandler, O'Brien, Conway, Wood, Cooper, Murray and Morris).

House Committee on Finance  
Senate Committee on Ways & Means

**Background:** Where a 911 system is available, a person can contact emergency assistance by dialing "911." Under a basic 911 system, the caller must identify his or her location to the emergency system personnel. Under an enhanced 911 (E-911) system, the caller's phone number and location are automatically displayed at the public safety answering point. In 1991, voters adopted Referendum 42, requiring E-911 service to be available throughout the state by December 31, 1998. The Military Department is responsible for statewide coordination of E-911 programs.

Enhanced 911 services are funded by county and state excise taxes. All counties levy an excise tax on each switched telephone access line. The maximum tax rate that a county may levy on a switched line is 50 cents. Counties may also impose an excise tax of up to 25 cents per month on each radio (wireless/cellular) access line. Counties are required to set 30 days following the collection month as the date by which telephone companies must remit E-911 revenues.

The state levies a maximum tax of 20 cents per switched telephone access line. There is no state tax on radio access lines. Voters approved this state tax when they adopted Referendum 42. State tax revenues fund statewide coordination of the E-911 program and help counties to pay for the extra costs incurred in upgrading from a basic 911 system to an E-911 system. The maximum tax rate of 20 cents per switched access line applies during the implementation phase of E-911 service when capital costs for new equipment must be paid. The state tax rate is scheduled to decrease to a maximum tax rate of 10 cents per switched access line after December 31, 1998. Revenues from this lower state tax rate are to be used to assist counties in meeting their ongoing operational costs for their E-911 systems.

The treasurer is required to deposit state revenues in the E-911 account, but the law does not specify how the revenues are to be transferred from the telephone companies who collect the taxes to the treasurer. Nor does the law provide for enforcement of the collection and remittance of the tax. Reportedly, telephone companies have been sending the state revenues to the Military Department, which has been forwarding the money to the treasurer.

The telecommunications industry continues to change rapidly. Since Referendum 42 was adopted, the number of radio access calls to E-911 centers has risen. Radio access calls slow E-911 systems, because the E-911 systems are not equipped with technology that identifies the location or phone number of a call from a radio access line.

In 1994, the Legislature directed the Department of Revenue to study long-term funding for E-911 systems. Some study recommendations are as follows:

- Impose a state tax on radio access lines so that radio and switched access lines are taxed at the same rate;
- Change state law so that the maximum tax rate of 20 cents per switched access line does not automatically decrease to a maximum tax rate of 10 cents per switched access line on January 1, 1999; and
- Distribute state E-911 assistance only to counties that have imposed a full 50-cent tax on switched access lines and 25-cent tax on radio access lines.

In 1997, the Military Department also conducted an E-911 study. As a result of its study, the Military Department found that a maximum state tax rate of 10 cents will not be sufficient to cover ongoing E-911 operational costs. The Military Department recommended that the maximum E-911 state tax rate of 20 cents per switched access line be made permanent. Some counties generate insufficient revenues to cover E-911 related salaries and operational expenses, and the Military Department concluded that financial incentives should be used to encourage these counties to regionalize and operate multi-county E-911 systems. Some counties also indicate that implementing E-911 has caused them to hire additional staff, and the Military Department recommended that the Legislature direct whether state funds should be used to reimburse counties for increased staffing costs.

The 1998 supplemental operating budget includes funding for the Department of Revenue to study and evaluate the most cost effective and efficient manner for implementing statewide E-911 services for radio access lines.

**Summary:** A maximum state E-911 tax rate of 20 cents per switched access line is made permanent. The actual tax rate must be based on actual revenue needs and may vary from year to year.

A county may not receive any state E-911 excise tax funds unless the county has imposed maximum county 911 taxes. County ordinances must require telephone companies to remit county E-911 revenues on or before

the last day of the month following the month in which the tax liability accrued.

State E-911 tax revenues may be used to pay for increased salary costs in a county with fewer than 75,000 residents, if the county's salary costs have increased as a result of handling 911 calls. This salary assistance for a county with fewer than 75,000 residents is limited to a maximum of three years.

When two or more counties jointly operate a multi-county E-911 system, state assistance may be provided to the multi-county region. If counties in the multi-county region have fewer than 75,000 residents, then the state assistance may include salary assistance. There is no restriction on the number of years that salary assistance may be provided to a multi-county region.

The Military Department continues to coordinate the state E-911 program, but tax administration, collection, and enforcement duties are assigned to the Department of Revenue. The Department of Revenue may adopt rules to implement this act.

If a telephone company goes out of business and the Department of Revenue determines there is no reasonable means of collecting taxes from the company, then the person in charge of remitting the state E-911 revenues may be personally liable for any unpaid taxes, interest, and penalties. The person is liable only if he or she willfully fails to pay the taxes or willfully fails to see that the taxes are paid. "Willfully" means an intentional, conscious, and voluntary course of action.

**Votes on Final Passage:**

House	89	0	
Senate	45	0	(Senate amended)
House			(House refused to concur)

Conference Committee

Senate	45	0
House	98	0

**Effective:** July 1, 1998 (Section 14)  
January 1, 1999

**ESHB 1130**  
**FULL VETO**  
**VETO OVERRIDE**  
C 1 L 98

Reaffirming and protecting the institution of marriage.

By House Committee on Law & Justice (originally sponsored by Representatives Thompson, Koster, Mulliken, L. Thomas, Bush, Backlund, Dunn, Sump, Mielke, Pennington, Talcott, Chandler, Johnson, Lambert, D. Sommers, Sheahan, McDonald, D. Schmidt, McMorris, Sterk, Boldt, Crouse, Benson, DeBolt and Sherstad).

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

**Background:** Washington Law. Marriage is a civil contract regulated by the state. Marriage must be solemnized before a judge, court commissioner, or licensed or ordained minister or priest. To be lawfully married, both parties must be at least 18 years of age and capable of giving consent.

Marriage is specifically prohibited if one party has a spouse living or if the parties are nearer of kin to each other than second cousins. In addition, the marriage statute makes it unlawful for a man or a woman to marry close relatives of the opposite sex.

Persons of the same sex are not able to legally marry in Washington. Although not specifically prohibited in the marriage statute, a Washington appellate court decision, *Singer v. Hara*, held that the marriage statute does not allow marriage between persons of the same sex. In *Singer*, the court relied on references to "husband and wife" and "female and male" contained in the original marriage statute and current provisions in the amended statute, in determining that the Legislature did not intend to authorize same-sex marriage. The *Singer* court also held that prohibiting marriage between persons of the same sex does not violate the Equal Rights Amendment to the Washington Constitution or the Equal Protection Clause of the United States Constitution.

Hawaii Decisions. In 1993, the Hawaii Supreme Court, in *Baehr v. Lewin*, ruled that not allowing persons of the same sex to marry presumptively violates the Equal Protection Clause of the Hawaii Constitution unless the state can show a compelling government interest in prohibiting same-sex marriage. The court remanded the case to the trial court for a hearing on whether the state has a compelling interest in prohibiting same-sex marriages.

In December 1996, the Hawaii trial court ruled, in *Baehr v. Miike*, that the state does not have a compelling interest in prohibiting marriage between persons of the same sex and that denying same-sex marriage violates the Hawaii Constitution's equal protection clause. The decision of the trial court is stayed pending appeal to the Hawaii Supreme Court.

Federal Law. The Full Faith and Credit Clause of the United States Constitution provides that "full faith and credit shall be given in each state to the public acts, records, and judicial proceedings of every other state." Federal statutory law also provides that states must give full faith and credit to the laws and proceedings of other states.

In 1996, the United States Congress passed the Defense of Marriage Act, which amends the full faith and credit statute. The act provides that a state is not required to give effect to a public act, record, or judicial proceeding of another state respecting a relationship, or a right or claim arising from a relationship, between persons of the

same sex that is treated as a marriage under the laws of the other state.

In addition, the act defines the words "marriage" and "spouse" for the purposes of federal law. "Marriage" is defined as a legal union between one man and one woman as husband and wife. "Spouse" is defined as a person of the opposite sex who is a husband or a wife.

Choice of Law. Although the Full Faith and Credit Clause is not limited on its face, the scope of its application is not clearly defined in case law. In addition, the clause does not address the issue of what law to apply when two states with conflicting laws both have an interest in a matter. To resolve this issue, courts apply established choice of law rules.

With respect to marriage, the general choice of law rule provides that if a marriage is valid in the jurisdiction where it is contracted, it is valid in all other jurisdictions. This general rule is subject to exceptions. First, a state may not have to recognize a marriage valid in another state if the marriage violates a strong public policy of the state. Second, the state may not have to recognize a valid out-of-state marriage if the couple left the state to enter into the marriage in order to evade the state's law prohibiting such a marriage.

For example, common law marriages are not valid under Washington statutory law. However, case law establishes that Washington will recognize a common law marriage if it is valid in the state where it was contracted. In addition, Washington courts have held that polygamous or incestuous marriages, which are specifically prohibited by state law, will not be recognized even if valid in the jurisdiction where they were contracted.

**Summary:** A legislative finding is made that matters relating to marriage are reserved to the sovereign states and should be determined by the people within each individual state, and not by the people or courts of another state. The Legislature intends to exercise the authority granted to states by the Congress in the federal Defense of Marriage Act to establish in statute a public policy against same-sex marriage.

Washington is declared to have a compelling interest in reaffirming and protecting its historical commitment to the institution of marriage as a union between a man and woman as husband and wife.

The marriage statute is amended to specifically prohibit marriage when the parties are of the same sex. References to "parties" in the marriage statute are replaced with references to "the male and female" and "the husband and wife."

A marriage that is valid in another jurisdiction will not be recognized in Washington if either party has a husband or wife living at the time of the marriage, when the parties are closely related, or when the parties are of the same sex.

**Votes on Final Passage:**

House 56 41  
 Senate 34 13 (Senate amended)  
 House 60 33 (House concurred)

**Votes on Veto Override:**

House 65 28  
 Senate 34 11

**Effective:** June 11, 1998

**VETO MESSAGE ON HB 1130-S**

February 6, 1998

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. 1130 entitled:

“AN ACT Relating to reaffirming and protecting the institution of marriage;”

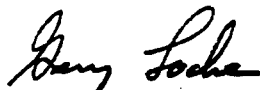
This bill would amend the marriage statute by codifying existing case law that prohibits same-gender marriage in Washington. It also declares that same-gender marriages will not be recognized, even if they are made legal in other states. ESHB 1130 is essentially identical to Engrossed Substitute Senate Bill No. 5398, which I vetoed on February 21, 1997.

Subsequent to the 1972 passage of the Equal Rights Amendment to the Washington Constitution, in *Singer v. Hara*, 11 Wn. App. 247 (1974) our Court of Appeals firmly stated that our existing statute prohibits same-gender marriages in Washington. The Washington Supreme Court then upheld that decision in *Marchioro v. Chaney*, 90 Wn.2d 298 (1978).

The 1996 federal Defense of Marriage Act exempts states from having to recognize or give effect to same-gender marriages from other states. Furthermore, Washington courts have consistently held that marriages not recognized under Washington law will not be upheld in this state, even if they are considered valid in other states.

Not only is this legislation unnecessary, it serves no legitimate purpose. For these reasons, I have vetoed Engrossed Substitute House Bill No. 1130 in its entirety.

Respectfully submitted,



Gary Locke  
 Governor

**HB 1165**

C 219 L 98

Creating the crimes of homicide by watercraft and assault by watercraft.

By Representatives Backlund, O'Brien, Skinner, Cairnes, Dyer, Dunn, Lambert, Sherstad, Sterk, Delvin and Mielke.

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

**Background:** Some of the state's motor vehicle laws have equivalent counterparts in the state's boating laws. For instance, there is a drunk boating provision similar to the drunk driving law, and there are boating hit and run

laws similar to those that apply on the highways. However, there are no equivalents to vehicular assault and homicide in the boating laws.

The state's motor vehicle code includes the crimes of "vehicular assault" and "vehicular homicide." Vehicular assault consists of causing serious bodily injury to another by driving in a reckless manner or under the influence of drugs or alcohol. Vehicular homicide consists of causing the death of another while driving recklessly, or with disregard for the safety of others, or while under the influence of drugs or alcohol.

Vehicular assault is a class B felony ranked at level IV under the Sentencing Reform Act. Vehicular homicide is a class A felony ranked at level IX if committed while under the influence, ranked at level VIII if committed while driving recklessly, and ranked at level VII if committed while driving with disregard for the safety of others. Persons convicted of these crimes who are subsequently placed on community supervision or community placement must submit to diagnostic evaluation and possible treatment for drug or alcohol problems.

**Summary:** The crimes of assault by watercraft and homicide by watercraft are created. The elements, classifications, rankings, and evaluation and treatment provisions for these crimes are the equivalents of those that apply to vehicular assault and homicide.

Injury or death caused by a water skier is excluded. Sailboards are exempted not only for the purposes of this act, but also for purposes of the chapter of law regulating recreational vessels generally.

**Votes on Final Passage:**

House 93 0  
 Senate 47 0 (Senate amended)  
 House 96 0 (House concurred)

**Effective:** June 11, 1998

**HB 1172**

C 220 L 98

Concerning the failure to register as a sex offender.

By Representatives D. Sommers, Sterk, O'Brien, Koster, Thompson, Delvin, Sherstad, Schoesler, Hatfield and Conway.

House Committee on Criminal Justice & Corrections  
 Senate Committee on Human Services & Corrections  
 Senate Committee on Ways & Means

**Background:** In 1994, Congress passed the Jacob Wetterling Act, 42 U.S.C. Section 14071. The act requires states to establish a registration system for persons convicted of certain crimes against minors and sexually violent offenses. States are required to comply with the act or face an automatic 10 percent reduction in federal Byrne Formula Grant funding.

Washington is out of compliance with the Jacob Wetterling Act and is required to amend a number of its provisions covering the state's sex and kidnapping offender registration statute prior to the year 2000. Some of the provisions that need to be amended include:

Offenders Who Are Residents of Other States. Sex and kidnapping offenders who are residents of other states, but who are students, employed, or who carry on a vocation in Washington, are not required to register in Washington.

Offenders in Custody. Sex and kidnapping offenders must register within 24 hours of release with the county sheriff. The offender does not have to register with the agency having jurisdiction over the offender. New photographs and fingerprints are not required as part of the registration with the county sheriff.

Offenders Changing Residence Address within the Same County . When a sex or kidnapping offender changes his or her residence, the offender must send written notice of the change of address to the county sheriff fourteen days prior to moving.

Offenders Moving to a Different County or State. When a sex or kidnapping offender notifies the county sheriff that he or she is moving to a new county or state, the county sheriff of the old county is not required to notify or forward the change of address information to the sheriff of the new county or state.

Name Change. A citizen of Washington who wishes to change his or her name must submit an application with appropriate fees to the local district court. The application must state the reason for the name change. The court in its discretion may approve and order a name change and the new name will replace the former name. A sex offender who has been released from custody and who wishes to change his or her name may do so in a similar manner as any law-abiding citizen.

An offender under the jurisdiction of the Department of Corrections (DOC) who wishes to change his or her name must apply to the local district court. In addition, a copy of the application must be submitted to the DOC five days prior to submitting the original application to the district court. No offender under the jurisdiction of the DOC at the time of application may be granted an order changing his or her name if the court finds that doing so will interfere with legitimate penological interests, except that no order may be denied when the name change is requested for religious or legitimate cultural reasons or in recognition of marriage or dissolution of marriage. An offender under the jurisdiction of the DOC who receives approval to change his or her name must submit a copy of the order to the DOC within five days of the entry of the order. A violation of this law is a misdemeanor.

Address Verification. When a sex or kidnapping offender registers with the county sheriff, the county sheriff must make reasonable attempts to verify that the offender is residing at the registered address. Reasonable attempts at verifying an address must include at a minimum send-

ing certified mail, with return receipt requested, to the offender at the registered address, and if the return receipt is not signed by the offender, talking in person with the residents living at the address. The sheriff must make reasonable attempts to locate any offender who cannot be located at the registered address. Information relating to the failure to verify an address is kept internally within the local sheriff's department and is not forwarded to the Washington State Patrol.

End of Duty to Register. A person convicted of a class A sex or kidnapping felony may petition the superior court to be relieved of the duty to register. A person convicted of a class B felony may be relieved of the duty to register after 15 years after the last date of release from confinement. A person convicted of a class C felony or an attempt, solicitation, or conspiracy to commit a class C felony may be relieved of the duty to register after 10 years after the last date of release from confinement. For a sex offense or kidnapping offense committed when the offender was a juvenile, the offender may petition the superior court to be relieved of the duty to register.

Central Registry. The county sheriff must forward all information and fingerprints obtained from sex and kidnapping offenders to the Washington State Patrol within five working days. The State Patrol is required to maintain a central registry of sex offenders and kidnapping offenders.

Technical Amendment. In 1997, the Legislature passed two bills amending the public notification and offender registration process for sex offenders and kidnappers. One chapter required kidnappers to register with local law enforcement agencies upon release from custody. The other chapter required the DOC, the Juvenile Rehabilitation Administration, and the Indeterminate Sentence Review Board to classify all sex offenders released from their facilities into three risk levels for the purposes of public notification: level I (low risk), II (moderate risk), or III (high risk). As a result, the Legislature twice amended the same chapters and sections of the Revised Code of Washington.

Developmentally Disabled Offenders. An agency with jurisdiction over a developmentally disabled sex or kidnapping offender is not required to notify the Division of Developmental Disabilities prior to the release of the offender.

Juvenile Courts. Local juvenile courts are not required to share information with local law enforcement agencies relating to when a juvenile sex or kidnapping offender is "allowed to remain in the community." There is no requirement governing where adult or juvenile sex or kidnapping offenders may reside.

**Summary:** The following sex and kidnapping offender registration provisions are amended to comply with the federal Jacob Wetterling Act:

Offenders Who Are Residents of Other States. Persons who have been convicted of a sex or kidnapping offense

and who are residents of other states, but who are students, employed, or who carry on a vocation in Washington must register in Washington. "Employed" or "carries on a vocation" means employment that is full-time or part-time for a period of time exceeding fourteen days, or for an aggregate period of time exceeding thirty days during any calendar year. A person is employed or carries on a vocation whether the person's employment is financially compensated, volunteered, or for the purpose of government or educational benefit. "Student" means a person who is enrolled, on a full-time or part-time basis, in any public or private educational institution. An educational institution includes any secondary school, trade or professional institution, or institution of higher education.

**Offenders in Custody.** At the time a sex or kidnapping offender is released from custody, the offender must register with an official designated by the agency (Department of Corrections, Department of Social and Health Services, a local division of youth services, or a local jail or juvenile detention facility) having jurisdiction over the offender. The associated agency must forward the registration information to the county sheriff of the offender's anticipated residence within three days.

All offenders who are required to register must provide a new photograph and fingerprints during the registration process.

**Offenders Changing Residence Address within the Same County.** When a sex or kidnapping offender changes his or her residence, the offender must send written notice of the change of address to the county sheriff within seventy-two hours of moving.

**Offenders Moving to a Different County or State.** Upon receiving notification that an offender is moving to a new county, the county sheriff of the old county must promptly forward the change of address information to the sheriff of the new county. In addition, when an offender notifies the sheriff of a planned out-of-state relocation, the county sheriff must forward the change of address information to the new state's designated registration agency.

**Name Change.** Sex offenders released from custody and subject to registration requirements are not permitted to change their names if doing so will interfere with legitimate law enforcement interests. Name changes due to changes in marital status, religious, and legitimate cultural reasons are not included in this restriction.

Any sex offender who applies to change his or her name must submit a copy of the application to the county sheriff and the Washington State Patrol at least five days prior to the entry of a name change order and must submit a copy of the court's name change order within five days after the order.

A violation of the name change requirements is a class C felony if the crime for which the individual was convicted was a felony or a federal or out-of-state conviction for an offense that under the laws of this state would be a felony. If the crime was other than a felony or a federal or out-of-state conviction for an offense that under the laws

of this state would be other than a felony, a violation of this requirement is a gross misdemeanor.

**Address Verification.** Each year the county sheriff must attempt to verify the sex or kidnapping offender's registered address by mailing a verification form to the last registered address. The offender must sign and return the form within ten days.

If the offender fails to return the verification form or the offender is not at the last registered address, the county sheriff must promptly forward this information to the Washington State Patrol for inclusion in the central registry of sex offenders.

**End of Duty to Register.** A sex or kidnapping offender with a prior registration-eligible offense is required to register for life. A sex or kidnapping offender may petition for relief from the registration requirement after spending 10 consecutive years in the community without a new offense; however, this provision does not apply to juveniles prosecuted as adults.

**Central Registry.** The county sheriff must forward all sex and kidnapping registration information, including change of address information, photographs, and fingerprints, to the Washington State Patrol within three days to be included in the state central registry for sex and kidnapping offenders.

**Technical Amendment.** Conflicting double amendments involving public disclosure about sex offenders and kidnappers are merged. (This is a technical amendment that updates two sections of law that were amended in 1997.)

**Developmentally Disabled Offenders.** The agency with jurisdiction over a developmentally disabled sex or kidnapping offender must notify the Division of Developmental Disabilities within thirty days prior to the release of the offender. The jurisdictional agency and the division must assist the offender to register.

**Juvenile Courts.** A provision is added to require local juvenile courts to share information with local law enforcement agencies when a juvenile sex or kidnapping offender is allowed to remain in the community.

**Votes on Final Passage:**

House	95	0	
Senate	46	0	(Senate amended)
House	96	0	(House concurred)

**Effective:** June 11, 1998

**SHB 1184**

C 275 L 98

Repealing the sales tax on coin-operated laundromats in apartments and mobile home communities.

By House Committee on Finance (originally sponsored by Representatives Van Luven, Mason, Smith, Dunn, Carrell, Delvin, Cairnes, Sheldon, B. Thomas, Morris, Quall,

Koster, Mulliken, Sherstad, Schoesler, D. Schmidt, Hatfield, Wood, Honeyford and Backlund).

House Committee on Finance  
Senate Committee on Ways & Means

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

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

Retail sales tax applies to some services. Services subject to sales tax include the installing, repairing, cleaning, altering, imprinting, or improving of tangible personal property. Retail sales tax is also levied on the charges made for the use of facilities to perform services such as cleaning. Thus, retail sales tax applies to the use of coin-operated laundry facilities.

Before 1993, coin-operated laundry facilities provided for the exclusive use of tenants in apartment houses, hotels, motels, rooming houses, and trailer or tourist camps were exempt from retail sales tax. In 1993, the Legislature repealed the exemption. Since coin-operated laundries provided for tenants' exclusive use became subject to retail sales tax, the business and occupation (B&O) tax classification also changed from service to retailing. As a result of the classification change, the B&O tax rate for these laundries was reduced from the service rate of 1.50 percent to the retailing rate of 0.471 percent.

**Summary:** Charges made for tenants' exclusive use of coin-operated laundry facilities in an apartment house, rooming house, or mobile home park are removed from the definition of retail sale. (As a result, these activities are no longer subject to the retail sales and use tax. The B&O tax classification also changes from retailing to service which increases the B&O tax rate increases from the retailing rate of 0.471 percent to the service rate of 1.50 percent.)

**Votes on Final Passage:**

House	98	0
Senate	42	7

**Effective:** July 1, 1998

Controlling personal service contracts.

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

House Committee on Government Administration  
Senate Committee on Government Operations

**Background:** State agencies are authorized to enter into personal services contracts. A personal services contract is an agreement with a consultant to provide professional or technical expertise to accomplish a specific study, project, task, or other work. An agency may only enter into a personal services contract to resolve a particular agency problem or to expedite a specific temporary project. The agency must demonstrate that the service is critical to agency responsibilities or is mandated or authorized by the Legislature, that sufficient staffing or expertise is not available within the agency to perform the service, and that other qualified public resources are not available to perform the service.

Personal service contracts generally must go through a competitive solicitation process unless it is an emergency contract, a sole source contract, a contract amendment, or a contract of less than \$10,000. A personal service contract with a value of at least \$2,500, but less than \$10,000, must have documented evidence of competition. The Office of Financial Management (OFM) must approve any state-funded sole source personal service contract of \$10,000 or more. The dollar thresholds for competitive solicitation have not been adjusted for many years.

The competitive solicitation process requires an agency to conduct a documented formal process providing an equal and open opportunity for qualified parties to participate. The selection criteria must include factors such as the consultant's fees, ability, capacity, experience, reputation, responsiveness to time limitations and solicitation requirements, quality of previous performance, and compliance with laws relating to contracts or services. If a personal services contract is subject to competitive solicitation, any subcontract of that contract is also subject to competitive solicitation requirements.

Copies of personal service contracts that are subject to competitive solicitation and are state-funded, or that are sole source and are state-funded, or that have a substantial amendment made to them, or that are an emergency, must be filed with the OFM and the Joint Legislative Audit and Review Committee (JLARC). The contract must be made available for public inspection at least 10 days before the starting date of the contract.

**Summary:** The threshold amount for a personal services contract to be subject to competitive solicitation requirements is raised from \$10,000 to \$20,000. Contracts with a value of at least \$5,000, but less than \$20,000 must have

documented evidence of competition. The OFM must approve any sole source contract of \$20,000 or more. References to "state-funded" contracts are deleted.

At the beginning of each biennium, the director of the OFM may adjust the dollar thresholds for personal service contracts by an amount not to exceed the percentage increase in the implicit price deflator. The adjusted dollar thresholds must be rounded to the nearest \$500 increment.

The provisions are repealed that required a subcontractor to comply with competitive solicitation requirements if the underlying personal services contract was subject to competitive solicitation.

The JLARC no longer receives copies of personal service contracts. Personal service contracts awarded by institutions of higher education from non-state funds do not have to be filed in advance with the OFM. These contracts are subject to all other provisions of law.

The requirement of at least 10 days of availability for public inspection before a contract may start, applies only if the contract relates to management consulting, organizational development, marketing, communications, employee training, or employee recruiting.

**Votes on Final Passage:**

House	95	0	
Senate	39	0	(Senate amended)
House	95	0	(House concurred)

**Effective:** June 11, 1998

## SHB 1211

C 169 L 98

Making accident reports available to the traffic safety commission.

By House Committee on Transportation Policy & Budget (originally sponsored by Representatives DeBolt, Fisher, K. Schmidt, Blalock, Johnson, Mielke, O'Brien and Costa; by request of Washington Traffic Safety Commission).

House Committee on Transportation Policy & Budget  
Senate Committee on Transportation

**Background:** The Washington State Patrol (WSP) is required to make accident reports and analysis available to the Director of Licensing, the Department of Transportation (DOT), the Utilities and Transportation Commission, or their duly authorized representatives for further tabulation and analysis. It is the duty of the chief of the Washington State Patrol to file, tabulate, and analyze all accident reports. While the Traffic Safety Commission (TSC) is not specifically named in statute as a receiving entity, it has, in fact, been receiving summary data as a duly authorized representative.

One source of data used by the TSC is the traffic collision records from the WSP. The commission receives the accident summary data records on a monthly and annual

basis. The commission performs statistical and trend analysis on the data received to identify traffic safety issues. One of the functions of the TSC is to find solutions to the traffic safety problems that have been identified.

A formal attorney general opinion was recently requested to clarify the commission's authorization to receive this data. The attorney general's recommendation was that a legislative change is necessary to allow the Traffic Safety Commission to have access to the accident report. When reviewing the existing entities receiving the accident report data, it was found that even though the attorney general's formal opinion did not mention the other entities, language was required to allow these entities to continue to receive the data that they have been receiving.

**Summary:** The Traffic Safety Commission is added to the list of agencies which are authorized to receive accident reports and analysis from the Washington State Patrol. At the discretion of the chief of the Washington State Patrol, other public entities may be authorized to receive the information as well.

**Votes on Final Passage:**

House	94	0
Senate	45	0

**Effective:** June 11, 1998

## ESHB 1221

### PARTIAL VETO

C 203 L 98

Impounding vehicles driven by a person with a suspended or revoked license.

By House Committee on Law & Justice (originally sponsored by Representatives Ballasiotes, Sheahan, Robertson, Chandler, Cody, Crouse, K. Schmidt, Costa, Scott, Buck, Kessler, Schoesler, Chopp, Johnson, Honeyford, O'Brien, Wensman, Sheldon, McDonald, Zellinsky, Thompson, H. Sommers and Mason).

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

**Background:** A person's driver's license may be suspended or revoked for a variety of reasons, including a conviction for certain motor vehicle-related offenses, being an habitual traffic offender, failing to maintain liability insurance, and failing to respond to a traffic infraction.

The crime of driving while a license is suspended or revoked (DWLS) may be committed in any one of three degrees depending on the reason the license was suspended or revoked. The first-degree offense (DWLS 1) involves driving after the license was suspended for being an habitual traffic offender. The second-degree offense (DWLS 2) involves driving following the suspension or revocation of a license for driving while under the influence or other relatively serious traffic offenses. The



third-degree offense (DWLS 3) involves driving after a license is suspended or revoked solely for secondary reasons such as failure to furnish proof of financial responsibility, or failure to renew a license after a period of suspension has expired.

Law enforcement officers are authorized to impound a vehicle in a variety of circumstances, such as when the officer arrests the driver, the person operating the vehicle does not have a valid driver's license, or the person operating the vehicle is driving with a suspended or revoked license. Courts interpreting this statute have ruled that the authority granted is a discretionary authority to impound and that this statutory authority does not authorize impoundment unless impoundment is reasonable under the circumstances and serves to prevent a continuing violation of a motor vehicle regulation.

A vehicle impounded by a law enforcement officer may be redeemed only by the owner of the vehicle or a person who has the permission of the owner and upon payment of all costs associated with the impound. A registered tow truck operator must provide a person seeking to redeem the vehicle notice of redemption rights and the right to a hearing on the validity of the impound or the costs of towing and storage. The district court has jurisdiction to hear all matters relating to impoundment. If the court determines that the impoundment was invalid, the person or agency authorizing the impoundment is liable for the towing and storage costs and for damages for the loss of the use of the vehicle.

If an unauthorized vehicle is found abandoned and removed by a law enforcement officer, the last registered owner is guilty of a traffic infraction and is responsible for the costs of removing, storing, and disposal of the vehicle. The last registered owner is relieved of this liability if he or she filed a report of sale or transfer with the Department of Licensing (DOL) or a theft report with a law enforcement agency. Vehicles left in a tow truck operator's possession for 96 hours are considered abandoned. Tow truck operators who store abandoned vehicles must comply with certain procedures, including sending a notice of custody and sale to the registered owner of the vehicle within 24 hours. If the vehicle is not claimed within 15 days, the tow truck operator may auction the vehicle, and if the vehicle is not sold at auction, the tow truck operator must sell the vehicle within 30 days for scrap or apply for title to the vehicle.

A security interest in a vehicle may be "perfected," which generally establishes priority over other claims to the vehicle, by submitting to the DOL the certificate of ownership and an application for a new certificate of ownership containing the secured party's name. The security interest is perfected at the time of its creation if these documents are received within eight business days of the creation of the security agreement.

There are two statutory provisions that prohibit a vehicle owner from knowingly allowing an unlicensed driver to drive the owner's car. One provision makes this of-

fense a misdemeanor, and the other provision makes this offense a traffic infraction.

**Summary:** A vehicle operated by a person with a suspended or revoked driver's license, or by a person who is driving while under the influence (DUI), is subject to impoundment by a law enforcement officer pursuant to local ordinance.

An impounded vehicle may only be released pursuant to a written order from the agency that ordered the impound. The person redeeming the vehicle must pay all towing and storage fees and, if the operator of the car is the owner, must establish with the agency that ordered the impound that all fines, penalties and forfeitures owed by the owner have been paid. An agency that ordered a vehicle impounded may order the release of the vehicle on the basis of economic or personal hardship to the spouse of the operator, taking into consideration public safety factors, such as the operator's criminal history and driving record.

If the vehicle is impounded because the driver is in violation of DWLS 3, and if the driver has a previous DWLS violation in the past five years, the vehicle may be held for up to 30 days at the written direction of the agency ordering the impound. If the vehicle is impounded because the driver is in violation of DWLS 1 or DWLS 2, the vehicle may be held for up to 30 days. If the operator has a prior DWLS 1 or 2 conviction within the past five years, the vehicle may be held for up to 60 days, and if the operator has two or more prior DWLS 1 or 2 convictions within the past five years, the vehicle may be held for up to 90 days.

A law enforcement officer and the local jurisdiction that employs the officer are not liable for damages for the unauthorized impoundment of a vehicle if the officer relied in good faith and without gross negligence on DOL records in determining that the operator of the vehicle had a suspended or revoked license.

The municipal court is granted jurisdiction over hearings involving a vehicle impoundment authorized by an agent of the municipality.

A local jurisdiction that authorizes impoundment may provide for alternative "home impoundment" by means of a boot or device that renders the vehicle immobile. The home impoundment option is available only for cases involving DUI, or vehicular assault or vehicular homicide while under the influence.

The requirements relating to unauthorized and abandoned vehicles are amended. The last registered owner of an unauthorized and abandoned vehicle is responsible for the costs of removing and storing the vehicle, even if the owner filed a theft report with law enforcement. A properly filed report of sale or transfer of a vehicle relieves a registered owner of liability for costs of removing and storing the unauthorized vehicle only if the date of sale indicated in the report is on or before the date of impoundment. The definition of abandoned vehicle is

amended to be a vehicle that is left in a tow truck operator's possession for 120 consecutive hours, rather than 96 hours. If the date on which a notice by a tow truck operator is required to be mailed falls on a weekend or postal holiday, the operator may mail the notice on the next business day. The time period within which a tow truck operator must sell a vehicle for scrap or obtain title to the vehicle if the vehicle was not sold at auction is increased from 30 to 45 days.

The requirements for the perfection of a security interest in a motor vehicle are changed. The time period within which a secured party may submit required information to the DOL in order to have the security interest perfected at the time of creation is increased from eight business days to 20 calendar days. A report of sale of a motor vehicle is properly filed if all required information is submitted and the DOL notes on the document that it was received within five days of sale.

A new mechanism is created for the perfection of a security interest in a vehicle, which allows a "transitional ownership record" to be submitted to the DOL in the place of a certificate of ownership. The transitional ownership record must contain specified information and may only be used as an ownership record if the certificate of ownership is not in possession of the selling vehicle dealer or new security interest holder at the time the transitional ownership record is submitted to the DOL and if it will not be available within 20 days of the date the security interest is created.

The provision that makes it a traffic infraction to knowingly permit an unlicensed driver to drive the person's car is repealed.

Local governments may submit claims for reimbursement to the Legislature if this act mandates an increased level of service by local governments.

**Votes on Final Passage:**

House	93	0	
Senate	43	4	(Senate amended)
House	96	0	(House concurred)

**Effective:** June 11, 1998

**Partial Veto Summary:** The Governor vetoed the provision that authorizes an alternative "home impoundment" by means of a boot or other immobilizing device in cases where a person is arrested for drunk driving, or vehicular homicide or vehicular assault where the driver was under the influence. The Governor also vetoed the provision authorizing local governments to submit claims for reimbursement for any increased costs mandated by the act and requiring the Office of Financial Management to verify the claims.

**VETO MESSAGE ON HB 1221-S**

March 30, 1998

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

*I am returning herewith, without my approval as to sections 7 and 13, Engrossed Substitute House Bill No. 1221 entitled:*

*"AN ACT Relating to the impoundment and forfeiture of vehicles being operated by persons who have a suspended or revoked driver's license;"*

*ESHB 1221 expands the law governing impoundment of vehicles driven by a person with a suspended or revoked license. I agree with the purpose of this legislation, however some sections are problematic.*

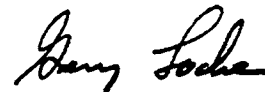
*Section 7 of ESHB 1221 is technically flawed. That section would authorize local governments to use "home impoundment" to immobilize vehicles driven by drunk drivers. This would be done by locking a "boot" or similar device on the vehicle. Unlike the rest of the bill, this section would not require that the driver's license have been suspended or revoked previously. It also would not specify how long the "boot" could remain on the vehicle. Under existing law, which the bill does not amend, vehicles impounded on a DUI arrest may be recovered at any time by paying towing and storage fees. But section 7 refers to a "period of home impoundment" without specifying any period. It also prohibits release of a vehicle if a "boot" is unlawfully removed, but once the "boot" is removed the question of release is moot. "Booting" cars is a useful alternative to towing them to impound lots, especially in rural areas. Regrettably, however, this section would not create a workable mechanism for that purpose.*

*Section 13 of ESHB 1221 would require that the Office of Financial Management verify claims from local governments for increased levels of services mandated by the act. This section would add an unnecessary additional bureaucratic layer to the existing statutory and procedural process for handling these claims. I will direct the Office of Financial Management and the Department of General Administration to work collaboratively with the appropriate legislative committees to ensure that timely and accurate information is provided to the Legislature.*

*For these reasons, I have vetoed sections 7 and 13 of Engrossed Substitute House Bill No. 1221.*

*With the exception of sections 7 and 13, Engrossed Substitute House Bill No. 1221 is approved.*

Respectfully submitted,



Gary Locke  
Governor

**ESHB 1223**

C 276 L 98

Addressing the public nuisance activities of tenants.

By House Committee on Law & Justice (originally sponsored by Representatives Carrell, Zellinsky, Talcott, Hickel, Thompson and Conway).

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

**Background:** The Residential Landlord-Tenant Act establishes various duties of landlords and tenants and provides remedies when those duties are not met. For example, the tenant has a duty to, among other things, keep the premises clean, not intentionally destroy the dwelling, not permit a nuisance or commit waste, and not engage in any drug-related activity.

If the tenant does not comply with any of the statutory duties and the failure to comply substantially affects the health and safety of the tenant or others, the landlord must give the tenant written notice of the noncompliance and allow the tenant 30 days in which to comply. Under certain circumstances, such as when the tenant is engaged in drug-related activity, the landlord need not provide written notice of noncompliance and wait 30 days. Instead, the landlord may terminate the tenancy and proceed directly to an unlawful detainer action. An unlawful detainer action allows the landlord to evict the tenant and regain possession of the property if the tenant does not vacate the property after being served with a notice to vacate.

**Summary:** Under the Residential Landlord-Tenant Act, a tenant has a duty not to engage in any gang-related activity that renders people in at least two or more dwelling units or residences insecure with respect to their lives or the use of their property, or that injures or endangers the safety or health of people in at least two or more dwelling units or residences. "Gang-related activity" means activity that occurs within a gang or advances a gang purpose. "Gang" means a group that: (1) consists of three or more persons; (2) has identifiable leadership or an identifiable name, sign, or symbol; and (3) on an ongoing basis, regularly conspires and acts in concert mainly for criminal purposes.

In determining whether gang-related activity is occurring, the court should consider the totality of the circumstances, including factors such as whether there have been numerous complaints, incident reports to police, property damage, and arrests.

The landlord may terminate a tenancy for gang-related activity and proceed directly to an unlawful detainer action. The landlord is not liable for bringing an unlawful detainer action if he or she acted in good faith.

Any person whose life, safety, health, or use of property is being injured or endangered by a tenant's gang-related activity and who resides, works in, or owns property in the same building or within a one block radius may give the landlord a notice and demand that the landlord commence an unlawful detainer action against the tenant. A copy of the notice and demand must be given to the tenant as well. Within 10 days from the time the notice and demand are served, the landlord must take reasonable steps to investigate whether there is gang-related activity occurring.

After giving the landlord a notice and demand, the person may also petition a court to have the tenancy terminated under the following circumstances: (1) if the landlord fails to take any action within 10 days of the notice and demand; (2) if the landlord believes there is no gang-related activity; or (3) if, after the landlord's attempt to stop the activity, the tenant fails to comply within a reasonable time. The court may not terminate the tenancy unless the allegations of gang-related activity are corroborated by a source other than the petitioner.

The court must award reasonable attorney fees to the prevailing party in the tenancy termination action. However, regardless of which party prevails, the court must order the landlord to pay costs and reasonable attorney's fees to the injured person if the landlord failed to conduct any investigation. The court may impose sanctions against a petitioner for bringing multiple actions against the same tenant with the intent to harass.

**Votes on Final Passage:**

House	90	3	
Senate	46	3	(Senate amended)
House	97	0	(House concurred)

**Effective:** June 11, 1998

**ESHB 1230**

C 131 L 98

Protecting students' religious rights.

By House Committee on Education (originally sponsored by Representatives Backlund, Johnson, Lambert, Carrell, Sherstad, D. Schmidt, Thompson, Boldt and Pennington).

House Committee on Education  
Senate Committee on Education

**Background:** Both the Washington Constitution and the U.S. Constitution protect the right of free speech and the right to practice religion. The Washington Constitution also prohibits spending public money for religious worship, exercise, or instruction, or the support of any religious establishment. The Washington Constitution also specifically provides that all public schools must be free from sectarian control or influence.

The tension between these principles has spawned substantial litigation regarding the permissible expression of religious views or practices in schools.

A student has a right not to express his or her religious beliefs. The First Amendment protects a student from official compulsion to adopt or verbalize any particular political or personal philosophy, including religion. The Washington Administrative Code prohibits a school from using written or oral tests, questionnaires, surveys, or examinations to elicit the personal beliefs of a student or his or her family regarding sex or religion without parental consent.

Several of the cases involving the tension between the right to free speech and the right to practice religion involve the issue of whether the free expression by one student or set of students under the auspices of school authority results in violating other students' rights by subjecting a "captive audience" to certain religious beliefs or programs.

When public money is spent to promote or support a religious program, then the issue is even more complicated.

The Washington Supreme Court has held that the Washington Constitution is far stricter than the U.S. Constitution because the state constitution contains a specific prohibition against using public funds to maintain or support any school that is under sectarian control or influence.

In one case, the Washington Supreme Court found that the practice of distributing cards and other promotional materials for a religious program in which students participated during "release time" violated the constitution. The practice had the effect of influencing the pupils, while assembled in the classrooms as a captive audience, to participate in a religious program. The Ninth Circuit Court of Appeals has held that a school policy permitting students to organize and include prayers in school assemblies or commencement exercises violates the U.S. Constitution's Establishment Clause. However, not all mention of religion is prohibited in public schools. Students are not prohibited from praying on their own initiative, either singly or in groups. In addition, the United States Supreme Court has held that if a school creates an "open forum" for other groups, religious groups may not be excluded. That ruling was codified in the federal Equal Access Act. The Ninth Circuit has held that any public school that receives federal assistance must comply with the Equal Access Act, even if compliance means violating the Washington Constitution.

**Summary:** The Legislature recognizes that federal and state constitutional rights of free speech and religion extend to students enrolled in common schools.

A student may freely express and incorporate his or her religious beliefs and opinions where relevant and appropriate in class work, homework, evaluations, or tests. School personnel may not grade or censure a student's work based on religious content but may grade the student's work based on scholastic content such as spelling, and the degree to which the student complied with the assignment. School personnel may not penalize a student for expressing religious beliefs in his or her work when relevant and appropriate.

The provision is not intended to limit the exchange of ideas in common schools. However, an officer, employee, agent, or contractor of a school district may not impose his or her religious beliefs on any student.

The Superintendent of Public Instruction must distribute to the school districts information about laws governing students' rights of religious expression in school.

**Votes on Final Passage:**

House	84	4	
Senate	37	12	(Senate amended)
House	93	3	(House concurred)

**Effective:** June 11, 1998

**HB 1248**

C 38 L 98

Allowing facsimile filings with the secretary of state's office.

By House Committee on Government Administration (originally sponsored by Representatives Sump, Costa, Sheahan, Sterk, Sherstad, Skinner, Lantz, Lambert, D. Schmidt, D. Sommers, Backlund, Ogden, Wensman and Constantine; by request of Secretary of State).

House Committee on Government Administration  
Senate Committee on Law & Justice

**Background:** Partnerships, for-profit corporations and nonprofit corporations doing business in Washington must file various documents in the Secretary of State's Office.

The Secretary of State currently accepts facsimile transmissions of several types of election related documents, including declarations and affidavits of candidacy, county canvass reports, and candidates' pamphlet statements.

**Summary:** The Secretary of State must accept and file facsimile transmissions of any documents required from businesses, including partnerships, for-profit corporations, and nonprofit corporations. Documents submitted via facsimile transmission must satisfy legal requirements for form and content, including legibility, in order to be accepted. If a document must be signed by a specified party, the signature on the facsimile transmission satisfies that requirement. The Secretary of State may reject a document if a fee required in conjunction with the document is not received before or at the time of receipt of the document.

**Votes on Final Passage:**

House	94	0
Senate	44	0

**Effective:** June 11, 1998

**HB 1250**

C 39 L 98

Regulating trademarks.

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

House Committee on Government Administration  
Senate Committee on Law & Justice

**Background:** A trademark is any word, name, symbol, or device that is used by a person to identify goods made or sold by that person. A trademark also includes any word, name, symbol, or device, and any title, designation,

slogan, character name, and distinctive feature of radio or television programs used in the sale or advertising of services to identify the services of one person. Trademarks are registered with the secretary of state's office and are subject to public examination. Registration of a trademark is effective for six years and is renewable.

Trademarks are registered by filing a form furnished by the Secretary of State.

A single application to register a trademark may specify all goods or services in a single class, but cannot specify goods or services in different classes. An application must be accompanied by three specimens or facsimiles of the trademark for at least one, rather than each, of the goods or services for which registration is requested.

There is no process established for an applicant to correct or amend an application to register a trademark previously filed with the Secretary of State. The Secretary of State sets the amount of the filing fee by rule, but there is no express statutory authority for the Secretary of State to vary the amount of the fee based upon the number of categories listed in the application.

**Summary:** A single application to register a trademark may specify goods or services in different classes. An application to register a trademark must be accompanied by at least three specimens or facsimiles of the trademark for each of the goods or services for which registration is requested.

A person may correct an application already filed with the Secretary of State to register a trademark by filing a form provided by the Secretary of State within 90 days of the original filing. The form to correct an original application may only be filed if the original application contains an incorrect statement or was improperly executed, signed, or acknowledged. The correction may not change the mark itself. The form must be accompanied by a filing fee set in rule by the Secretary of State. A corrected application is effective on the date when the original application is filed, except that it is effective on the date the correction is filed as to any persons relying upon the uncorrected document and adversely affected by the correction.

A person may also amend an application previously filed with the Secretary of State if the applicant changes categories in which he or she does business. The applicant may amend a previously filed application by filing a form provided by the Secretary of State accompanied by three specimens or facsimiles of the trademark for any additional goods or services for which the amendment is requested. The form must be accompanied by a filing fee established by the Secretary of State in rule. The amendment may not change the mark itself, and is effective on the date it is filed.

The Secretary of State may vary the amount of the filing fee based upon the number of categories listed in an application.

**Votes on Final Passage:**

House	94	0
Senate	42	0

**Effective:** June 11, 1998

**HB 1252**

C 277 L 98

Regulating the dissolution of limited partnerships.

By House Committee on Law & Justice (originally sponsored by Representatives Wensman, Costa, Sheahan, Sterk, Lantz, Skinner, Kenney and Lambert; by request of the secretary of state).

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

**Background:** A limited partnership is a form of business organization that consists of limited partners and at least one general partner. General partners run the business and are personally liable for the debts and obligations of the limited partnership. Limited partners are liable for the partnership's debts and obligations only to the extent of their contributions, as long as they do not participate in control of the business.

A limited partnership may be formed by filing a certificate of limited partnership with the Secretary of State. Limited partnerships formed under the laws of another state or country may conduct business in the state if they file a registration of foreign limited partnership with the Secretary of State. The name of a limited partnership must be distinguishable on the records of the Secretary of State from the name of any other limited partnership, limited liability company, or corporation.

A limited partnership is dissolved at the date specified in its certificate of formation or, if no date is specified, 30 years after the date the certificate of partnership is filed. A limited partnership may be administratively dissolved by the Secretary of State if the limited partnership: (1) fails to file a required amendment to its articles of incorporation when the name or structure of the limited partnership changes; (2) is without a registered agent or registered office in the state for 60 days or more; or (3) does not notify the Secretary of State within 60 days of a change affecting its registered agent or registered office. The limited partnership may be reinstated if the limited partnership submits an application for reinstatement within two years after the administrative dissolution. The registration of a foreign limited partnership may be revoked under similar circumstances and in a manner similar to administrative dissolution.

A limited partnership is required to amend its certificate upon the happening of certain events but is not required to file periodic reports with the Secretary of State. There is no authority in the limited partnership act for the Secretary of State to update its records or identify

limited partnerships that are inactive or operating outside the state.

Before 1982, limited partnerships were registered by the counties under a state law passed in 1945. In 1981, the Legislature updated the limited partnership act and required limited partnerships to register with the Secretary of State.

There are approximately 17,200 limited partnerships of record in Washington, the majority of which were registered with the secretary of state after 1982. The Secretary of State estimates that about 90 percent of limited partnerships registered before 1982 and 50 percent of limited partnerships registered after 1982 are defunct or operating outside of Washington.

**Summary:** A limited partnership formed before 1982 and after June 6, 1945, must provide written notice to the Secretary of State before January 1, 1999, that it continues to actively conduct business. The notice must include its principle business address, the name of its registered agent, and the address of its registered office.

The Secretary of State must notify all limited partnerships formed between 1945 and 1982 of the requirement to notify the Secretary of State that it continues to conduct business. If the notice to the limited partnership is returned as undeliverable, or if the limited partnership fails to notify the Secretary of State that it continues to conduct business, the Secretary of State must administratively dissolve the partnership. The dissolved partnership may be reinstated upon application within two years after the dissolution, or if the notice to the limited partnership was returned as undeliverable, the limited partnership may apply for reinstatement within five years after the administrative dissolution.

A periodic reporting requirement is established for limited partnerships. A limited partnership must file a periodic report with the Secretary of State that includes the name of the limited partnership, the address of its registered office in the state, the name of its registered agent in the state, the address of its principle place of business, and in the case of a foreign limited partnership, the address of its principle office in the state or country where it is formed. The reports are due every five years, unless the Secretary of State adopts a longer reporting period, and must include a fee of \$50.

The Secretary of State may administratively dissolve a limited partnership or revoke the registration of a foreign limited partnership if the limited partnership does not deliver its completed periodic report when due.

**Votes on Final Passage:**

House	94	0	
Senate	42	3	(Senate amended)
House	96	0	(House concurred)

**Effective:** June 11, 1998

## SHB 1253

C 102 L 98

Regulating naming of businesses.

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

House Committee on Government Administration  
Senate Committee on Law & Justice

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

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

Some types of artificial entities are authorized to reserve or register a name for itself.

Many statutes relating to different types of artificial entities that may be created in this state include prohibitions on using a name that is not distinguishable from the name of another artificial entity. Some of these statutes include factors to determine if names are not distinguishable. Some of these statutes permit the use of an undistinguishable name under certain limited circumstances.

**Summary:** Statutes relating to various types of artificial entities are amended to provide common language relating to the use of a name. Provisions given common language include prohibiting the use of a name that is not distinguishable from the name of another artificial entity, identifying factors to determine if names are not distinguishable, reserving or registering names, and allowing the use of a name that is not distinguishable from another name under limited circumstances.

These new provisions are inserted into the Washington Business Corporation Act and statutes relating to non-profit corporations, mutual cooperatives, limited liability partnerships, limited partnerships, and limited liability corporations.

**Votes on Final Passage:**

House	94	0
Senate	43	0

**Effective:** June 11, 1998

**EHB 1254**

C 204 L 98

Prohibiting destruction of driving records for alcohol or drug-related offenses.

By Representatives Sterk, D. Sommers, Carrell, Mulliken, Delvin, Chandler, O'Brien and Bush.

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

**Background:** Courts are required to keep conviction records on traffic law violations. The statute requiring that these records be kept does not specify the duration of the requirement.

**Summary:** Courts are required to keep records of drunk driving convictions permanently.

**Votes on Final Passage:**

House	93	0	
Senate	46	0	(Senate amended)
House	96	0	(House concurred)

**Effective:** June 11, 1998

**HB 1297**

C 305 L 98

Including the existence of a no contact order as an aggravating circumstance in first degree murder.

By Representatives DeBolt, Sheahan, Ballasiotes, Costa, Benson, McMorris, Thompson, Lambert, Radcliff, K. Schmidt, Mitchell, Sherstad, Robertson, Pennington, Hickel, Kastama, Sullivan, Sump, Sheldon, Delvin, Cooke, Morris, Wensman, Mason and Mielke.

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

**Background:** Crimes Subject to the Death Penalty or Life in Prison. A person convicted of a first-degree murder that is both premeditated and aggravated may be subject to a sentence of death or of life in prison without release.

First-degree murder is the killing of another when committed under one of the following three conditions:

- with premeditated intent;
- with extreme indifference to human life while engaged in conduct creating a grave risk of death; or
- while committing or attempting to commit, or immediate flight from the commission or attempted commission of first- or second-degree robbery, rape, arson, or kidnapping, or first-degree burglary.

The possibility of the death penalty or life imprisonment without possibility of release applies only to the first category of first-degree murder cases: those involving premeditation.

Further, the possibility of the death penalty or life imprisonment without release applies only to premeditated first-degree cases that are also "aggravated." Aggravating circumstances that the prosecution must prove before a sentence of life in prison without release or a sentence of death may be imposed comprise:

- the victim was a law enforcement, corrections, probation or parole officer, firefighter, judge, juror, witness, prosecuting attorney, defense attorney, or news reporter, and the murder was related to the victim's position;
- the offender had been previously convicted of some crime and was in prison or jail, or on leave from prison, or was an escapee from prison;
- the offender paid another to commit the murder, or solicited or agreed to receive payment for the murder;
- the offender committed the murder to conceal a crime or protect the identity of a criminal or to avoid prosecution as a persistent offender;
- the offender committed the murder to obtain, maintain, or advance a position in an organization or group;
- the offender committed the murder as part of a drive-by shooting;
- the offender murdered multiple victims in a single act or as part of a common scheme or plan; or
- the offender committed the murder in the course or furtherance of, or in flight from, robbery in the first or second degree, rape in the first or second degree, residential burglary or burglary in the first or second degree, kidnapping in the first degree, or arson in the first degree.

Following a conviction for aggravated, premeditated first-degree murder, if the prosecutor has sought the death penalty, a special sentencing proceeding is held to determine whether the death penalty will be imposed. At this hearing, the question to be decided is whether there are sufficient "mitigating circumstances" to merit leniency. If there are not sufficient mitigating circumstances to merit leniency, the sentence is life in prison without the possibility of release. If the prosecutor did not seek the death penalty, the sentence is life imprisonment without the possibility of release.

Protection Orders. Under various statutes a person may be ordered by a court to avoid contact with another. Several statutes deal specifically with protection orders issued to prevent contact between members of the same family or household. For purposes of some of these statutes, "family or household members" is defined to include spouses, ex-spouses, persons with a child in common, adults related by blood or marriage or who are living together or have lived together, persons 16 or older who live or have lived together and have or had a dating relationship, persons with a legal parent-child relationship, including a step-relationship, and grandparents and grandchildren.

In the case of an arrest and prosecution for certain crimes committed by one family or household member against another, pre-trial orders may prohibit the defendant from having contact with the alleged victim. Following conviction for one of these offenses, a similar order may be issued as part of the sentence. These "domestic violence" crimes include rape, assault, reckless endangerment, coercion, burglary, trespass, malicious mischief, kidnapping, unlawful imprisonment, and stalking.

Similar kinds of restraining orders may be issued as part of a civil action for marriage dissolution, maintenance, or child support. In addition, a person who alleges past domestic violence and the likelihood of irreparable injury from future domestic violence may get a no contact order issued against the alleged offender. Temporary ex parte orders may be obtained pending a hearing, and in some instances where efforts at personal service would be demonstrably futile or unduly burdensome, service of notice to the respondent may be made by publication or by mail.

**Summary:** Two new aggravating circumstances are created for the purpose of qualifying a premeditated first-degree murder conviction for a death sentence or a sentence of life in prison without the possibility of release.

It is an aggravating circumstance if the offender was at the time of the murder the knowing subject of a court order prohibiting contact with or disturbance of the victim.

It is also an aggravating circumstance if the offender and victim were members of the same family or household, and the offender had assaulted or harassed the victim three or more times in a five year period. Convictions for the assaults or harassments are not necessary in order for them to constitute an aggravating circumstance.

**Votes on Final Passage:**

House	86	7	
Senate	37	11	(Senate amended)
House	83	13	(House concurred)

**Effective:** June 11, 1998

**HB 1308**

C 40 L 98

Providing additional exemptions from state law for the handling of hazardous devices.

By Representatives Mielke, McMorris, Mulliken, Sterk and McDonald.

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

**Background:** The Washington State Explosives Act governs the manufacture, use, and handling of explosives. The Department of Labor and Industries approves the use of explosives. No person may manufacture, possess,

store, sell, purchase, transport, or use explosives unless licensed by the department.

Certain uses are exempt from the explosives act. For example, the normal and emergency operations of federal agencies involving transportation, storage, and use of explosives are exempt. Only emergency operations of state agencies, police, and any municipality or county involving such activity are exempt.

Local government explosive disposal units may be subject to restrictions under the explosives act when handling and storing explosives. Certain training exercises conducted with explosive materials and other normal operations of the unit are restricted by regulations governing the handling and possession of explosives.

**Summary:** Certain work by a hazardous devices technician is exempt from the Washington State Explosives Act. Exempt activity includes performing normal and emergency operations, handling evidence, and operating and maintaining specially designed emergency response vehicles that carry no more than 10 pounds of explosive material. Training activities conducted by a hazardous devices technician whose employer possesses the minimum safety equipment prescribed by the Federal Bureau of Investigation are also exempt. A hazardous devices technician is a person who has graduated from the Federal Bureau of Investigation hazardous devices school and who is employed by a state, county, or municipality.

**Votes on Final Passage:**

House	94	0
Senate	47	0

**Effective:** June 11, 1998

**HB 1309**

C 252 L 98

Creating the crime of disarming a law enforcement officer.

By Representatives Mielke, Mulliken, Sterk, McMorris, Pennington, Bush, Doumit, McDonald, Boldt, Thompson, Costa and Dunn.

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

**Background:** A person may be charged with a variety of crimes if the person assaults, murders, or attacks a police officer or corrections officer, or tries to interfere with the officer's performance of official duties. For example, a person could be charged with murder if the person shot and killed the officer, or assault in the first degree if the officer did not die. If the person commits an assault in the fourth degree, which is the least serious of the assault crimes, that crime is elevated to a class C felony when committed against an officer who is performing official duties when assaulted. A person could also be charged with the gross misdemeanor of obstructing a law enforce-



## E2SHB 1328

ment officer for wilfully hindering the officer's performance of official duties.

There is not, however, a specific crime that prohibits removing or attempting to remove a firearm from an officer.

**Summary:** A new crime of disarming a law enforcement or corrections officer is created. A person commits this crime by knowingly removing a firearm or other weapon from an officer, or depriving the officer of the use of the weapon, when the officer is performing official duties and the person intends to interfere with those duties.

Disarming a law enforcement or corrections officer is a class C felony unless a firearm is discharged when the person removes it, in which case the offense is a class B felony.

A person who commits the crime of disarming a law enforcement or corrections officer may be charged with other applicable crimes.

The crime does not apply if the officer is engaged in criminal conduct.

### Votes on Final Passage:

House	94	0	
Senate	44	0	(Senate amended)
House	96	0	(House concurred)

**Effective:** June 11, 1998

## E2SHB 1328

C 170 L 98

Revising the business and occupation tax on the handling of hay, alfalfa, and seed.

By House Committee on Finance (originally sponsored by Representatives Schoesler, Chandler, Sheahan, Mulliken, Bush, McMorris and Mastin; by request of Department of Revenue).

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

**Background:** Effective July 1, 1998, the business and occupation (B&O) tax rate for manufacturing and selling at wholesale is 0.484 percent; for retailing, 0.471 percent; and for general business service activities, 1.5 percent. However, wholesale sales of a number of agricultural commodities are exempt from the B&O tax beginning July 1, 1998.

**Summary:** The B&O tax rate is eliminated for wholesale sales to farmers of seed conditioned for use in planting and not packaged for retail sale, or for conditioning seed for planting owned by others.

The "seed" referred to is agricultural seed and seed potatoes but not flower seeds, vegetable seeds, or seeds or propagative portions of plants used to grow ornamental

flowers or used to grow any type of bush, moss, fern, shrub, or tree.

### Votes on Final Passage:

House	97	0
Senate	36	4

**Effective:** July 1, 1998

## 2E2SHB 1354

C 342 L 98

Changing air pollution control provisions.

By House Committee on Appropriations (originally sponsored by Representatives Pennington, Mielke, Dunn and Boldt).

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

**Background:** Administration of the state's air pollution control laws may be delegated to a county or groups of contiguous counties. To receive delegation, a local air pollution control authority must be activated by the counties. The Department of Ecology (DOE) 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.

The governing body of a local air authority is composed of members that are selected by locally elected officials. A member of the board may appoint a regular alternate.

Under the federal Clean Air Act, areas that do not meet federal air quality standards must prepare a state implementation plan describing the actions to bring the area into, and maintain, compliance with the federal air standards. Motor vehicles are a substantial source of carbon monoxide and ground level ozone. Several areas in the state have been, or are, in non-attainment with federal carbon monoxide and ground level ozone standards. State law requires the DOE to administer a program to test vehicle emissions in those areas that violate or are likely to violate these federal air quality standards. Vehicle emission tests are generally required of persons living in the area from Everett to Tacoma, the greater Vancouver area, and the greater Spokane area. Vehicles registered in these areas must be tested biennially. State law caps the maximum fee for the test at \$18. The fee is \$12.

The DOE must approve the creation or expansion of vehicle emission testing programs submitted by a local air pollution control authority. The approved program is incorporated as part of the state's implementation plan and submitted for approval to the U.S. Environmental Protection Agency.

**Summary:** The maximum allowable fee for an emissions test under the state's vehicle emission testing program is reduced to \$15 from \$18. Collector cars are exempt from testing if they meet certain requirements. Beginning January 1, 2000, vehicles that are less than five years old or more than 25 years old are also exempt from testing. Persons whose vehicles fail the emissions tests must be provided information regarding obtaining temporary waivers from further testing. The DOE must keep copies of the complaints it receives about the vehicle emissions testing program and repairs secured for such testing and must, within disclosure law limitations, make them available to the public upon request.

The DOE must establish a science advisory board to review plans that establish or expand the geographical area for which vehicle emission testing is required. A review by the science advisory board may be requested by the DOE or a local air pollution control authority or by the board's being petitioned by at least 50 people living within the boundaries of the area. The DOE must conduct a public hearing if the proposed rule to create or expand a testing area is in conflict with the final majority opinion of the science advisory board. The department must include in its rule-making process a written response to any inconsistency between the scientific review of the board and its rule to expand a testing area. Members of the science advisory board are to be reimbursed for travel expenses.

The DOE must evaluate the new exemption for vehicles less than five years old or more than 25 years old and other options that meet air quality objectives and lessen the effect of the program on motorists. It must consider air quality, program costs, and motorist convenience in its evaluation. Its recommendations for changes to the program must be reported to the appropriate standing committees of the Legislature by January 1, 1999.

The first stage of impaired air quality is reached when particles ten microns and smaller reach the average daily ambient level of 60 micrograms per cubic meter (rather than 75 micrograms per cubic meter). A person designated as the alternate for a member of the board of a local air pollution control authority may not serve as the permanent chair of the board.

#### **Votes on Final Passage:**

House	86	2	
Senate	32	17	(Senate amended)
House			(House refused to concur)

#### **Conference Committee**

Senate	39	7
House	98	0

**Effective:** June 11, 1998

## **E2SHB 1374**

### **FULL VETO**

Establishing alternate teacher certification.

By House Committee on Appropriations (originally sponsored by Representatives Smith, Johnson, Hickel, Talcott, B. Thomas and Thompson).

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

**Background:** Teachers in public or private schools must hold teaching certificates authorized by the State Board of Education (SBE). The SBE establishes and enforces the rules that govern certification of teachers in the common schools. Applicants for teacher certification must have completed a state-approved college or university teacher preparation program, hold appropriate degrees, and licenses, and complete any additional course work required by the SBE.

There are two types of certificates: initial and continuing. An initial certificate is valid for four years. Candidates for initial certification must have a baccalaureate degree from an approved college or university. Teachers may obtain certain endorsements to teach certain subject areas and grade levels. To obtain an endorsement to teach certain classes or grade levels, an aspiring teacher must complete a certain number of hours in pertinent course work.

A person who does not have a teaching certificate may teach in public schools under limited circumstances. The SBE issues instructional specialist certificates to persons of unusual distinction or exceptional talent in a particular field. The SBE also issues conditional certificates to persons who are highly qualified and experienced in the subject matter to be taught, and temporary permits to individuals who are waiting for documentation of proof that they have completed normal certification requirements. Each of these certificates is temporary and carries restrictions.

In the Appropriations Act, the Legislature establishes a statewide salary allocation schedule for certificated employees. The schedule is for allocation purposes only. The Superintendent of Public Instruction calculates salary allocations for certificated staff by determining the district average salary for basic education staff using the salary allocation schedule. The superintendent may adjust the allocation based on the education and experience of the district's certificated staff.

**Summary:** The Legislature intends to facilitate a conditional opportunity for members of the community to bring their expertise and work experiences into the classroom.

A school district may ask the Superintendent of Public Instruction to issue an alternate teacher certificate to a person that the district wishes to hire to teach a particular

subject. The superintendent must issue an alternate certificate if the person:

- possesses a baccalaureate degree from a regionally accredited institution of higher education;
- has at least five years' work experience relevant to the subject areas that the person will teach;
- has sufficient knowledge or experience to teach particular subjects as determined by the school board at the recommendation of the district's superintendent;
- passes the state certification assessment of basic skills when it becomes available;
- takes the certification assessment of teaching knowledge when it becomes available. The results of the assessment will be used to develop a written supervision plan;
- meets established age and character requirements; and
- possesses a contract for employment in a school district of the state.

Until the state assessment of basic skills is available, the person must complete a test of basic skills recommended by the SBE. The school board will determine passing grades until the SBE adopts rules governing minimum passing scores. The candidate and the school district must develop a written plan for training and supervising the candidate before the candidate starts teaching. The person must be supervised for the first 10 weeks of teaching. The SBE will ensure that candidates for alternative certification are permitted to challenge required professional preparation courses offered by colleges and universities.

The alternate teaching certificate allows the holder full authority to teach as a part-time or full-time teacher for up to two years in a middle school or higher grade. The person may only teach subjects approved by the school board. If a person holding the certificate wants to continue to teach after the certificate expires, the candidate must apply for an initial or residency certificate. Initial certification is conditioned upon two years of successful teaching under the alternative certificate, and successfully passing the state certification assessments of subject and teaching knowledge when they become available. The state board may not require any other conditions for the initial certification.

Alternate teaching certificates must be available beginning with the 1998-99 school year.

Salaries for holders of alternative certificates must be based on the statewide salary allocation schedule for individuals with zero years of service and the individual's degree. When the individual is granted an initial or continuing certificate, the two years of teaching under the alternative certificate will not count as years of service for salary allocation purposes.

**Votes on Final Passage:**

House	84	14	
Senate	27	21	(Senate amended)
House	87	10	(House concurred)

**VETO MESSAGE ON HB 1374-S2**

April 3, 1998

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 Second Substitute House Bill No. 1374 entitled:


"AN ACT Relating to alternate teacher certification;"

This legislation would require the state to issue alternate certification to individuals who want to teach middle school, junior high, or high school students. Such individuals would have to meet certain practical and experience requirements, and complete an "assessment" of teaching knowledge. The results of the assessment would be used by the employing district to structure on-the-job training and assistance. The bill would also provide that after two years of successful teaching under such an alternate certificate, and upon passing assessments of subject matter and teaching knowledge, the individual would be issued an initial or residency teaching certificate.

The foundation of this legislation is in the assessments. In lieu of a formal teacher preparation program, the assessments would provide the state with assurances that the individual it certifies has both adequate knowledge of the subject matter, as well as adequate knowledge and skills in teaching methods, classroom management, child development and behavior, school safety and discipline, and other important competencies. Unfortunately, the Legislature did not pass a bill authorizing development of assessments. Without the assessments, the state would be required to issue certificates without assurance that these teachers will have met important competency standards. In addition, without the assessments the bill would not improve the alternate certification laws that already exist. The State Board of Education currently has authority to issue two-year conditional and internship certificates, as well as alternate certificates which allow people of "unusual distinction or exceptional talent" to teach in their areas of expertise.

For these reasons, I have vetoed Engrossed Second Substitute House Bill No. 1374 in its entirety.

Respectfully submitted,



Gary Locke  
Governor

**EHB 1408**  
**PARTIAL VETO**  
 C 253 L 98

Authorizing carrying of concealed pistols by certain persons from out of state.

By House Committee on Law & Justice (originally sponsored by Representatives Mielke, Sheahan, Doumit, Pennington, Mulliken, Sterk, Thompson, Dunn and Sullivan).

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

**Background:** Persons are generally prohibited from carrying a concealed pistol in Washington without a license to do so. Except for in a person's home or place of business, a concealed pistol license (CPL) is required before a person may legally carry a concealed pistol, and the person must also carry the CPL while carrying the pistol.

Eligibility for a Washington State CPL. A person may apply to the city or county of his or her residence for a CPL. Certain qualifications must be met before a person may be issued a CPL. 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 a felony offense;
- 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 intoxicated in a place where a concealed pistol license is required.

A person is not eligible to possess a firearm, and therefore is not eligible for a CPL, if he or she has been convicted of any felony or convicted of certain misdemeanors committed against a family or household member, or if he or she has been involuntarily committed for mental health reasons. Restoration of rights is available under some circumstances and after varying periods of time for some of these disqualifying conditions.

Background Checks. To get or renew a Washington State CPL, a person must pay a fee and undergo a state and federal criminal history background check, including fingerprinting, in order to be determined eligible.

Privileges of Washington State CPL Ownership. In addition to authorizing a person to carry a pistol concealed on his or her person, a CPL also affords other privileges. Possession of a valid CPL exempts a person from an otherwise applicable five-day waiting period for the purchase of a pistol. Washington State's requirements for a CPL qualify possessors of CPLs for this exemption under the federal "Brady Law."

Exemptions from Requirement for a Washington State CPL. Several exemptions are provided from the requirement for a CPL in order to carry a concealed pistol. Marshals, sheriffs, prison or jail wardens or their deputies, or other law enforcement officers are exempted. Also exempted are federal officers and military members, persons engaged in various firearms manufacturing or dealing jobs, and persons engaged in various activities such as sport shooting, gun collecting, or outdoor recreation.

**Summary:** A valid CPL issued in another state exempts a person from the requirement of having a Washington State CPL in order to conceal a pistol on his or her person. A person with an out-of-state CPL must carry the CPL with him or her when carrying a concealed pistol. Marshals, sheriffs, prison or jail wardens or their deputies, or other law enforcement officers from other states are given the same exemption from the requirement for having a Washington State CPL.

**Votes on Final Passage:**

House	74	24	
Senate	36	12	(Senate amended)
House	73	23	(House concurred)

**Effective:** June 11, 1998

**Partial Veto Summary:** The Governor vetoed the portion of the bill that allows a person with a permit from another states to carry a concealed pistol in Washington. The portion of the bill dealing with law enforcement officers from other states was not vetoed.

**VETO MESSAGE ON HB 1408**

*April 1, 1998*

*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 of Engrossed House Bill No. 1408 entitled:*

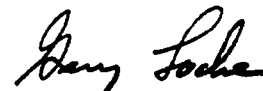
*"AN ACT Relating to the carrying of a concealed pistol by persons from another state;"*

*Section 1 of EHB 1408 would allow a non-resident to bring a concealed handgun into the state as long as he or she has a license from some other state. A number of states issue licenses without the strict standards and background checks Washington law requires, and section 1 would force our law enforcement agencies to honor all those permits. In addition, the practical effect of section 1 would be to require prosecutors to check with all 50 states in order to convict a person of violating our law against carrying a concealed handgun without a license. This is tantamount to repeal of the concealed handgun license law.*

*For these reasons, I have vetoed section 1 of Engrossed House Bill No. 1408.*

*With the exception of section 1, Engrossed House Bill No. 1408 is approved.*

*Respectfully submitted,*



*Gary Locke  
 Governor*

**SHB 1441**

C 221 L 98

Penalizing voyeurism.

By House Committee on Law & Justice (originally sponsored by Representatives McDonald, Pennington, Ballasiotes, Mielke, Hatfield, Lambert, Doumit, Costa, Bush, Dickerson, O'Brien, Keiser, Kastama and Smith).

House Committee on Law & Justice

Senate Committee on Law & Justice

**Background:** Civil damages may under certain circumstances be recoverable for what might broadly be called invasion of privacy.

For instance, surreptitiously viewing or photographing someone may amount to the tort of "intrusion" on a person's privacy, for which damages are recoverable. Generally, this tort is committed by one who intentionally intrudes, physically or otherwise, upon the solitude or seclusion of another, or his or her private affairs or concerns, if the intrusion would be highly offensive to a reasonable person. The interference with seclusion must be a substantial one resulting from conduct of a kind that would be offensive and objectionable to the ordinary person.

In some instances, an invasion of this sort may involve a criminal act such as trespassing or burglary. In addition, surreptitious photography, for instance, might result in the subsequent possession or dissemination of material depicting a minor engaged in sexually explicit conduct.

**Summary:** The crime of "voyeurism" is created.

It is a class C felony for anyone to view, photograph, or film a person without his or her consent, if done: for the purpose of arousing or gratifying the sexual desire of anyone; and when the person viewed is in a place where an expectation of privacy is reasonable.

A place of reasonable expectation of privacy is defined to mean a place where a reasonable person would believe he or she could disrobe without being photographed or filmed, or could be safe from intrusion or surveillance.

An exception is provided for criminal investigations and security measures in correctional facilities.

The statute of limitations for prosecuting the crime of voyeurism is two years from the date a person first learns that he or she was viewed, photographed, or filmed.

**Votes on Final Passage:**

House	93	0	
Senate	34	14	(Senate amended)
House			(House refused to concur)
Senate	43	5	(Senate amended)
House	98	0	(House concurred)

**Effective:** June 11, 1998

**SHB 1447**

FULL VETO

Providing tax exemptions related to thoroughbred horses.

By House Committee on Finance (originally sponsored by Representatives Robertson, L. Thomas, Clements, Kastama and Cooke).

House Committee on Finance

Senate Committee on Ways & Means

**Background:** Washington's major business tax is the business and occupation (B&O) tax. In 1997, the Legislature eliminated the distinction between financial services, selected business services, and other services and consolidated these activities into a single tax rate. These changes take place July 1, 1998. After July, the principal B&O tax rates are:

Manufacturing, wholesaling, and extracting	0.484%
Retailing	0.471%
Services	1.5%

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.

Persons who sell or lease thoroughbred racing horses pay the 0.471 percent retailing B&O tax on their gross receipts earned from selling horses at retail. Persons who sell thoroughbred racing horses at wholesale, however, are exempt from paying the 0.484 percent wholesaling B&O tax. A horse is sold at wholesale if the horse is resold within 60 days, there is no intervening use, and the seller receives a resale certificate from the buyer.

Horse breeders pay the 1.5 percent service B&O tax on gross receipts earned from stud fees. Persons who race, ride, exercise, groom or train the horses pay the 1.5 percent service B&O tax on their gross receipts received as compensation for their services. Owners of thoroughbred racing horses pay the 1.5 percent service B&O tax on gross receipts earned from racing purses and other awards.

**Summary:** Persons who race, raise, ride, exercise, groom, breed, train, or sell thoroughbred race horses are exempt from paying B&O taxes on any amounts received as compensation for these services or sales transactions. Compensation includes, but is not limited to, amounts received from purse winnings or awards.

**Votes on Final Passage:**

House	97	0
Senate	37	3

**VETO MESSAGE ON HB 1447-S**

April 3, 1998

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. 1447 entitled:

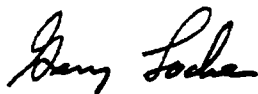
"AN ACT Relating to tax exemptions related to thoroughbred horses;"

*SHB 1447 would exempt from the business and occupations tax all amounts received for "racing, raising, riding, exercising, grooming, breeding, training, or selling thoroughbred race horses, including but not limited to amounts received from purse winnings or awards."*

*Under this bill, essentially all activity related to thoroughbred race horses would be exempt from tax. While I agree with assisting and encouraging industries that may be struggling, this bill would go too far. The industry would pay no general business tax for the government services it receives. For those with gross income below \$24,000, who may have the hardest time paying taxes, there is already a 100% B&O tax exemption.*

*For these reasons, I have vetoed Substitute House Bill No. 1447 in its entirety.*

*Respectfully submitted,*



*Gary Locke  
Governor*

**HB 1487**  
C 171 L 98

Enhancing transportation planning.

By Representatives K. Schmidt, Fisher, Mitchell and Hankins.

House Committee on Transportation Policy & Budget  
Senate Committee on Transportation

**Background:** A number of unanswered questions exist regarding the treatment of state-owned transportation facilities in city and county comprehensive plans and development regulations which are required by the state's Growth Management Act (GMA).

Linking transportation and land use decisions is cited as a goal of the GMA. For example, the GMA provides that the development should be encouraged "... in urban areas where adequate public facilities and services exist or can be provided in an efficient manner." However, how this linkage is to be achieved with regard to state-owned transportation facilities is unclear.

The measurement commonly used in transportation to determine adequacy is the level of service (LOS) standard. LOS is an engineering formula that measures the flow of traffic on a particular facility. An LOS standard "A" means traffic is free flowing; an LOS standard "F" means traffic is at a standstill.

Cities and counties planning under the GMA are required to develop LOS standards for all arterials and transit routes. Some local jurisdictions have interpreted "arterial" to include state-owned transportation facilities while others have not.

Determining LOS standards establishes the benchmark for determining whether the transportation facilities are adequate to support development.

The "concurrence" provision of the GMA states, in part, "... local jurisdictions must adopt and enforce ordinances which prohibit development approval if the development causes the level of service on a transportation facility to decline below the standards adopted in the transportation element of the comprehensive plan, unless transportation improvements or strategies to accommodate the impacts of development are made concurrent with the development."

The 1994 Legislature approved a study to address the treatment of state transportation facilities in local comprehensive plans. Representative from cities, counties, ports, regional transportation planning organizations, the Department of Transportation, the Department of Community, Trade and Economic Development, the private sector, and the Legislative Transportation Committee participated. The study, with recommendations, was completed in January 1995.

**Summary:** By December 31, 2000, cities and counties planning under the Growth Management Act are required to include state-owned transportation facilities in the transportation element of their comprehensive plans.

The state Department of Transportation (DOT), in consultation with local governments, is authorized to set LOS standards for state highways and state ferry routes of statewide significance. (Setting LOS standards for all other state-owned transportation facilities continues to be performed by regional transportation planning organizations jointly with the DOT.)

Island counties are required to have state ferries and state highways in their comprehensive plans. These state facilities are required to meet local plan concurrence requirements.

Regional transportation planning organizations are required to work with cities, counties, transit agencies, the DOT, and others to develop LOS standards or alternative transportation performance measures.

Transportation facilities of statewide significance are set forth. These include the interstate highway system; interregional state principal arterials, including ferry connections that serve statewide travel; intercity passenger rail services; intercity high-speed ground transportation; major passenger intermodal terminals, excluding all airport facilities and services; the freight railroad system; the Columbia/Snake navigable river system; marine port facilities and service that are related solely to marine activities affecting international and interstate trade; and high-capacity transportation systems.

The Transportation Commission must designate state highways of statewide significance and submit a list of such facilities for adoption by the 1999 Legislature.

Transportation facilities of statewide significance are deemed essential public facilities under the GMA.

The Transportation Commission must give higher priority to correcting identified deficiencies on transportation facilities of statewide significance.

## 2SHB 1501

### Votes on Final Passage:

House	89	5	
House	88	6	(House reconsidered)
Senate	44	3	(Senate amended)
House	91	5	(House concurred)

Effective: June 11, 1998

## 2SHB 1501

C 41 L 98

Clarifying and making technical corrections to driver's license statutes.

By House Committee on Transportation Policy & Budget (originally sponsored by Representatives Robertson, Scott and Mielke; by request of Department of Licensing).

House Committee on Transportation Policy & Budget  
Senate Committee on Law & Justice

**Background:** In the 1994 Youth Violence Prevention Act, the Legislature required multiple driver's license revocations for minors convicted of repeated alcohol, drug and firearm offenses, to run consecutively. However, because of a drafting oversight, the portion of the statute pertaining to driver's license reinstatement was not amended accordingly.

The statute specifying the appeal process following a determination by the Department of Licensing (DOL) that a driver's license should be suspended or revoked following an arrest for driving under the influence provides that the appeal be filed "in the same manner as an appeal from a decision of a court of limited jurisdiction." Generally, this provision has been interpreted to mean that the supreme court's Rules for Appeal of Decisions of Courts of Limited Jurisdiction (RALJ) should apply. However, use of the RALJs has caused confusion in some courts because many of the rules are apparently not applicable to an administrative agency.

In 1995, the Legislature directed the department to waive the \$50 fee for a probationary driver's license when a person who already possesses a probationary license is required to obtain a new one. The 1995 amendment to abolish the fee does not, however, allow the DOL to waive the requirement that a person obtain a new probationary license, which is merely a duplicate of the one previously issued.

It is a crime for a minor to drive a motor vehicle while having an alcohol concentration of 0.02 or more. The statute, unlike the implied consent statute, does not speak to minors in actual physical control of the vehicle.

A person must provide documentary proof of his or her identity in order to have a driver's license issued in the person's name. Once established, however, a person can change the name on his or her license without providing proof that the person's name has been legally changed.

**Summary:** The Legislature intends to clarify procedural issues and make technical corrections to the driver's license statutes. Reinstatement of a juvenile's privilege to drive following a revocation is subject to expiration of the revocation periods prescribed in statute.

The process for appealing a driver's license suspension or revocation following an arrest for driving while under the influence of alcohol or drugs is set forth. The notice of appeal must be filed within 30 days after the date the final order is served. The appeal is confined to the record of the administrative hearing. The determination of the superior court is limited to whether the department has committed any errors of law.

The requirement to obtain an additional probationary license upon renewal is abolished.

It is a crime for a minor to be in physical control of, not just driving, a motor vehicle while having an alcohol concentration of 0.02 or more.

A name of record is established for a person holding a driver's license. Once established, the DOL is prohibited from changing a person's name of record in the department's records absent production of documentary evidence required by statute or rules.

### Votes on Final Passage:

House	96	0
Senate	44	0

Effective: July 1, 1998

## SHB 1504

FULL VETO

Protecting records of strategy discussions.

By House Committee on Government Administration (originally sponsored by Representatives McMorris, Boldt, Honeyford and Dunn).

House Committee on Government Administration  
Senate Committee on Government Operations

**Background:** Each state and local agency is required to make all public records available for public inspection and copying unless the record is exempted from disclosure. Among others, the following records are exempt from public inspection and disclosure: preliminary drafts, notes, recommendations, and intra-agency memos in which opinions are expressed or policies are formulated, unless the agency publicly cites the document in an agency action; and the contents of real estate appraisals made for the acquisition or sale of property until the sale is abandoned or finalized.

Although strategy sessions pertaining to collective bargaining, professional negotiations, and grievance and mediation proceedings are exempt from the provisions of the Open Public Meetings Act, records pertaining to such sessions are not expressly exempt from public inspection and copying under the Public Disclosure Act.

**Summary:** Records which would reveal, either directly or indirectly, the strategy or position that an agency will take before and during the course of collective bargaining, professional negotiations, or grievance or mediation proceedings, are exempt from public inspection and copying. These records are disclosable after the conclusion of the bargaining, labor negotiations, or grievance or mediation proceedings.

**Votes on Final Passage:**

House	94	0	
Senate	43	0	(Senate amended)
House	58	40	(House concurred)

**VETO MESSAGE ON HB 1504-S**

March 31, 1998

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. 1504 entitled:

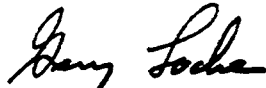
"AN ACT Relating to public record protection;"

Substitute House Bill No. 1504 was originally intended to exempt from disclosure the records of a public agency that reveal its strategy in collective bargaining negotiations and grievance and mediation proceedings. It was a reasonable goal to attempt to protect the integrity of the collective bargaining process and ensure a level playing field in such sensitive negotiations and proceedings.

However, the bill was amended to expressly require that these records be released after the conclusion of the proceedings. That requirement would likely have had an unfortunate chilling effect on the bargaining process and other highly sensitive personnel proceedings that require a level of mutual trust, the free exchange of information, and some assurances of confidentiality.

For these reasons, I have vetoed Substitute House Bill No. 1504 in its entirety.

Respectfully submitted,



Gary Locke  
Governor

**SHB 1541**  
**FULL VETO**

Protecting sport shooting ranges.

By House Committee on Law & Justice (originally sponsored by Representatives Sump, McMorris, Sheahan, Sheldon, Crouse, Sherstad, Honeyford, DeBolt, Koster, Chandler, Linville, Clements, Boldt, Sterk, Smith, Conway and Bush).

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

**Background:** Firearms ranges are used by members of the general public and by many law enforcement personnel for recreational shooting as well as firearms training and safety training. Some of these ranges are owned and

operated by public entities, and some are owned by private entities.

Private "nonprofit firearm range training and practice facilities" may be supported in part by public money. Private entities receiving matching funds or grants of public funds are required to keep facilities open on a regular basis and available for use by law enforcement personnel or by members of the general public who have concealed pistol licenses or Washington hunting licenses. Private ranges receiving funds must also make their facilities available for hunter and firearms safety classes. The firearms range account is administered by the Interagency Committee for Outdoor Recreation and is authorized to make grants for the construction or maintenance of range facilities. The firearms range account is funded by a portion of the fees paid for concealed pistol licenses. A grant to a range must be matched by the range on a one-for-one basis.

Pressures of population growth, land development, and land use regulations have caused concern about the continued use of some firearms ranges. In some instances, range facilities that have been operating for years have been increasingly surrounded by residential neighbors who express concern over noise and safety issues.

In 1994, the Legislature enacted legislation that restricted local government's ability to close firearms ranges. Under the 1994 legislation, a local government could "close" a firearms range training and practice facility only if the government "replaced" the closed facility with another facility of at least equal capacity. The Governor vetoed this provision.

**Summary:** Operators and users of "sport shooting ranges" are given immunity from certain civil and criminal liabilities, and ranges that conform to existing laws must be permitted to continue operation.

If a range is in compliance with the noise control laws that are in place when this act takes effect, then an operator or user of the range is immune from civil liability, criminal prosecution, and injunctive action for noise or noise pollution. No state agency rule limiting noise in the outdoor atmosphere applies to such a range.

If there has been no substantial change in the nature of the use of a "permanently located and improved" range, then other property owners whose property has been adversely affected by the use of the range may not bring a nuisance action against the range. This provision does not affect legal actions against a range operator or user for negligence. However, with respect to potential liability of range operators for injuries to range users, the users of ranges are deemed to have accepted the "obvious and inherent" risks associated with sport shooting.

A range that is in operation and in compliance with existing laws as of the effective date of a new or amended ordinance must be allowed to continue operation even if the range is out of conformance with the new ordinance or amendment.



# HB 1549

Beginning on January 1, 1999, ranges will be required to carry liability insurance coverage of at least \$250,000 per occurrence for personal and property damage.

### Votes on Final Passage:

House	80	18	
Senate	36	11	(Senate amended)
House			(House refused to concur)
Senate	32	17	(Senate amended)
House	81	17	(House concurred)

### VETO MESSAGE ON HB 1541-S

March 27, 1998.

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. 1541 entitled:

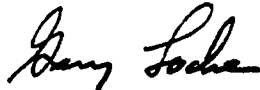
"AN ACT Relating to protecting sport shooting ranges;"

The continued operation of shooting ranges in the state of Washington is important to all residents. Shooting ranges help teach and promote proper gun safety and often serve as practice facilities for law enforcement officers. Local authorities should recognize existing shooting ranges within their jurisdictions and promote responsible zoning and land use decisions that avoid establishing conflicting land uses.

This bill, however, would go far beyond addressing conflicting land uses. It would create a standard for compliance by shooting ranges that assumes that current noise and liability standards will always be adequate. In essence, it would create a permanent preemption of local land use decisions and ordinances. I believe that is unrealistic and unwarranted. As community conditions change, municipalities and their residents should have a right to adjust their land use decisions.

For these reasons, I have vetoed Substitute House Bill No. 1541 in its entirety.

Respectfully submitted,



Gary Locke  
Governor

### HB 1549

C 306 L 98

Reducing property tax assessments in response to government restrictions.

By House Committee on Finance (originally sponsored by Representatives H. Sommers, Reams, Scott, B. Thomas, Dunshee, Gombosky, Cooper, Chopp, Conway, Costa, Lantz, Cole, O'Brien and Mason).

House Committee on Finance  
Senate Committee on Ways & Means

**Background:** All real and personal property in the state is subject to the property tax each year based on its value, unless a specific exemption is provided by law. The tax bill is determined by multiplying the assessed value by the

tax rate for each taxing district in which the property is located.

The assessed value is defined to be 100 percent of the property's true and fair value (market value). The assessed value takes into account, among other factors, development regulations, zoning, and other governmental policies or practices that affect the use of property.

County assessors establish new assessed values on a regular revaluation cycle. The length of revaluation cycles varies by county. The most common length is four years, which is the maximum allowed by statute. Of the 39 counties, 20 revalue every four years. San Juan revalues every three years. Douglas revalues every two years. Seventeen counties revalue every year.

If a county's revaluation cycle is longer than two years, an equal portion of the county must be revalued during each year of the cycle. Individual property values are not changed during the intervening years of the revaluation cycle. Counties on revaluation cycles longer than one year must physically inspect each property at the time it is revalued.

If a county revalues property annually, physical inspection of each property is required only once every six years. Values are adjusted annually based on market value statistical data.

Notice of a valuation change is mailed to the taxpayer not later than 30 days after the assessor determines a new value. The assessor must complete revaluations by May 31 of each year.

County boards of equalization provide the first level of appeal for property owners who dispute the assessed value of their properties. In counties with revaluation cycles longer than one year, the property owner's appeal is based on the true and fair value as of January 1 of the year in which the revaluation occurs. Appeals of county boards of equalization decisions are taken to the state Board of Tax Appeals.

**Summary:** A property owner may appeal directly to the county assessor to reconsider valuation of real property if a government entity adopts a restriction that limits the use of the property. A request to reconsider property valuation must be made within three years of the time the government entity adopts the restriction.

The assessor has 120 days to reconsider the property value. Unless the property would otherwise be revalued that year as a result of the revaluation cycle or new construction, the valuation of the property shall not be increased as a result of the revaluation. The taxpayer may appeal the new value to the county board of equalization.

If the new valuation is established after June 1 in any year, the new valuation shall be used for purposes of imposing property taxes in the following year. If the property value is reduced the property owner is entitled to a refund on property taxes for each year after the restriction was adopted, not to exceed three years. The refund amount in each year is the amount of the reduced valua-

tion of the property for that year multiplied by the tax rate in that year.

**Votes on Final Passage:**

House	98	0
Senate	46	0

**Effective:** June 11, 1998

## 2SHB 1618

C 132 L 98

Modifying certain aspects of programs that treat impaired physicians.

By House Committee on Health Care (originally sponsored by Representatives Skinner, Dyer, Conway, Zellinsky, Cody, Backlund, Parlette and Clements).

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

**Background:** The Impaired Physician Program is a program under contract with the Medical Quality Assurance Commission to provide for the treatment of physicians impaired as a result of alcoholism, drug abuse, mental illness, or other debilitating conditions. This program also includes by contract the participation of osteopathic physicians, podiatrists, and veterinarians.

The program involves physicians and other impaired health practitioners who volunteer, or have been required, to participate in treatment by their respective disciplinary authorities as a condition for deferring sanctions imposed under the Uniform Disciplinary Act. A committee of physicians contracting with the program provides intervention, monitoring of the treatment and rehabilitation, prevention, and education services for impaired physicians.

A physician must be verified as impaired prior to intervention by the commission. The program's authorizing statutes include a declaration that impairment by itself does not give rise to a presumption of unskilled or unsafe practice.

The Impaired Physician Program is funded by a \$25 annual surcharge on physician licenses that is deposited in the Health Professions Account for use solely for the program. There is no surcharge on the licenses of physician assistants or osteopathic physician assistants.

There is no immunity from civil liability provided for the Impaired Physician Program or similar programs serving other practitioners.

**Summary:** The Legislature finds that funds generated by surcharges on physician license fees are not being fully spent on the Impaired Physician Program.

The Impaired Physician Program is changed in several respects.

The entity established to administer the Impaired Physician Program is immune from civil liability. Similar voluntary substance abuse monitoring programs or impaired practitioner programs established by the other professional disciplinary authorities are also immune from civil liability.

The entity is defined as a nonprofit corporation formed by physicians with expertise in alcohol and drug abuse who contract with the Medical Quality Assurance Commission to evaluate, treat and monitor impaired physicians unable to practice medicine with reasonable skill and safety. The commission may intervene in cases of verified impairment, or when there is reasonable cause to suspect impairment.

Other regulated health professions may contract with the Medical Quality Assurance Commission for providing services to other impaired health practitioners.

There is an Impaired Physician Account created in the custody of the State Treasurer. Funds deposited in the account may only be used for the Impaired Physician Program. Only the Secretary of Health may authorize expenditures from this account. The \$25 surcharge on physician license fees for funding the program is extended to physician assistant licenses, as well as osteopathic physician assistant licenses.

The declaration that impairment does not give rise to a presumption of unskilled or unsafe practice is repealed.

The disciplining authorities of the other regulated professions may adopt rules requiring impaired practitioner programs or voluntary substance abuse monitoring programs to report impaired practitioners. The cost of treatment is borne by the practitioner when treated by approved treatment programs or other providers approved by the entity or the commission.

A declaration is added encouraging the courts to impose sanctions on clients and attorneys making allegations in bad faith and without reasonably objective and substantive grounds.

Changes in terminology of a technical nature are made.

**Votes on Final Passage:**

House	94	2	
Senate	43	0	(Senate amended)
House	96	0	(House concurred)

**Effective:** June 11, 1998

**SHB 1692**  
**FULL VETO**

Describing those lands eligible to be included in a port district aquatic lands management agreement.

By House Committee on Capital Budget (originally sponsored by Representatives Sehlin, Morris, Anderson, Honeyford, Huff, Lantz and Chopp).

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

**Background:** The Department of Natural Resources (DNR) manages approximately 2.2 million acres of state-owned aquatic lands. Original title to these lands was established by Article XVII of the state constitution and these lands are held in trust for all citizens of the state.

The DNR is permitted to lease aquatic lands for terms of up to 55 years. The aquatic land policies and lease rates established in statute are designed to encourage water-dependent uses over other uses of aquatic lands. Aquatic land lease rates for water-dependent uses are based on an aquatic land value equal to 30 percent of the adjacent upland value. Nonwater-dependent rates are based on the appraised value of the land. Approximately 70 percent of lease revenues from state-owned aquatic lands are deposited in the Aquatic Lands Enhancement Account (ALEA), and are appropriated by the Legislature for aquatic lands enhancement and fisheries projects. The remaining 30 percent of lease revenues are deposited in the Resource Management Cost Account (RMCA) and appropriated for DNR management costs.

Upon the request of a port district, the DNR and the port district may enter into a management agreement that permits the port district to manage state-owned aquatic lands abutting or used in conjunction with and contiguous to uplands owned or leased by the port district. Port districts are exempt from paying rent to the DNR for water-dependent uses on aquatic lands covered by a management agreement, but must pay to the state 85 percent of rent revenues attributable to nonwater-dependent uses. Port rents on lands covered by a management agreement must be comparable to rents charged for the same or similar uses by the DNR.

**Summary:** In addition to currently eligible lands, port districts may enter into agreements with the DNR for port management of state-owned aquatic lands beneath public marina facilities. "Marina" means a waterfront facility that provides moorage for recreation vessels, charter vessels, commercial fishing vessels, and water-based aircraft. A marina facility may include fuel docks and other activities designed to serve water-based vessels.

The authority to enter into agreements with the DNR for management of state-owned aquatic lands is expanded to include cities that operate publicly-owned marinas. Cities located within the territorial limits of a port district

must obtain approval of the port commission prior to applying for a management agreement for marinas constructed or expanded after the effective date of the act.

**Votes on Final Passage:**

House	96	2	
Senate	40	7	(Senate amended)
House	95	2	(House concurred)

**VETO MESSAGE ON HB 1692-S**

March 31, 1998

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. 1692 entitled:

"AN ACT Relating to management of state-owned aquatic lands;"

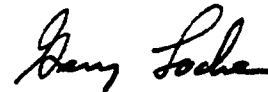
Substitute House Bill No. 1692 would change the authority of certain port districts to manage some state-owned aquatic lands, and provide new authority for cities to manage such lands. In both instances, the state would no longer receive lease payments for use of those aquatic lands managed by the ports or cities.

SHB 1692 raises significant issues regarding the management of state-owned aquatic lands, including the loss of lease revenue available for all of the people of the state, and whether it is appropriate to divest management responsibilities over significant portions of these public trust lands to cities and ports.

In light of changing economic circumstances that have increased lease rates, the Legislature has recognized the need for a comprehensive examination of management of state-owned aquatic lands, and specifically the issue of lease rates. I urge the Legislature to also review the issue of delegation of management authority for state-owned aquatic lands occupied by ports and cities.

For these reasons, I have vetoed Substitute House Bill No. 1692 in its entirety.

Respectfully submitted,



Gary Locke  
Governor

**2ESHB 1746**

C 133 L 98

Making minor possession of tobacco a class 3 civil infraction and clarifying penalties for violation of current laws regarding youth access to tobacco.

By House Committee on Commerce & Labor (originally sponsored by Representatives Sherstad, Morris, Radcliff, Hatfield, D. Schmidt, Grant, Pennington, Sullivan, Koster, Mulliken, Wood, L. Thomas, Scott, Carrell, Doumit, Sheahan, Huff, Kastama, Boldt, Hickel, McMorris, Thompson, Cooke and Dunshee).

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

**Background:** In 1993, the federal government required, as a condition of receiving federal substance abuse funds,

that states adopt a law making it illegal for a manufacturer or retailer of tobacco products to distribute these products to a person under the age of 18. In response, Washington enacted restrictions on the distribution and sale of tobacco to reduce availability to minors. One provision dealt with requirements for licensed cigarette retailers and another provision dealt with the purchase of tobacco by persons under the age of eighteen.

The Liquor Control Board may suspend or revoke a retailer's license or impose monetary penalties on a retailer if the board finds the retailer has violated provisions of the youth access to tobacco law. Provisions include selling tobacco to minors, failing to post a warning sign with penalties for purchase of tobacco by a minor, failing to prevent access to cigarette vending machines by minors, failing to require identification if age is questioned, and selling cigarettes other than in their original packaging.

A minor who purchases or obtains tobacco may be guilty of a class 3 civil infraction which is punishable by a maximum \$50 fine. The court may also require the minor to participate in a smoking cessation program.

Juvenile courts have exclusive jurisdiction over most proceedings involving youth under the age of eighteen. Certain proceedings involving juveniles are specifically removed from juvenile court jurisdiction. Municipal and district courts are courts of limited jurisdiction and generally handle proceedings involving adults unless those courts are specifically authorized to handle proceedings involving juveniles.

**Summary:** In addition to purchasing tobacco, a person under the age of eighteen may be guilty of a class 3 civil infraction if he or she possesses tobacco. In addition to the current penalties, a court may require four hours of community service for a violation.

The Liquor Control Board may reduce penalties or waive license revocations or suspensions if there are mitigating circumstances including the exercise of due diligence by a tobacco retailer or if the elements of proof are inadequate. The board may exceed penalties if there are aggravating circumstances.

Municipal and district courts have jurisdiction to enforce laws prohibiting minors from purchasing or possessing tobacco.

**Votes on Final Passage:**

House	94	2	
Senate	34	13	(Senate amended)
House	93	3	(House concurred)

**Effective:** June 11, 1998

## SHB 1750

C 61 L 98

Protecting existing, functional mobile home park septic systems.

By House Committee on Government Administration (originally sponsored by Representatives D. Sommers, Sterk and Sheldon).

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

**Background:** Cities, towns, and counties are authorized to construct, maintain, and operate systems of sewerage. Water-sewer districts have the express authority to compel property owners within an area served by the district's sewers to connect to the sewer system. Cities, towns, and counties lack the express statutory authority to compel property owners to connect to sewers.

When local boards of health identify failing septic systems, they are directed to use their discretion in implementing corrections, such as specifying nonwater-carried sewage disposal devices or other alternative methods of treatment and disposal as a way to address the substandard conditions. A city or county may use more restrictive standards for failing septic systems if it determines that it is necessary to protect the public health, attain state water quality standards, or protect shellfish and other public resources.

**Summary:** A city, town, or county may not require an existing mobile home park to replace an existing, functional septic system, with a sewer system within the community, unless the local board of health determines that the septic system is failing.

**Votes on Final Passage:**

House	89	5	
Senate	49	0	(Senate amended)
House	95	0	(House concurred)

**Effective:** June 11, 1998

## ESHB 1769

C 222 L 98

Providing for the electronic transfer of prescriptions.

By House Committee on Health Care (originally sponsored by Representatives Zellinsky, Sheldon and L. Thomas).

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

**Background:** The use of electronic equipment for transferring patient prescription information is not authorized or regulated by law.

## SHB 1781

**Summary:** The electronic communication of prescription information is authorized by law.

Electronic communication of prescription information means the transfer of prescription information by computer, facsimile visual imaging (FAX), or other electronic means for original or refill information for legend drugs and controlled substances between a prescribing practitioner and a pharmacy, or between pharmacies.

Electronically communicated prescription information is limited to schedule III through V controlled substances and must comply with applicable laws and rules. The Board of Pharmacy is authorized to adopt rules implementing these provisions. Except for FAX equipment in current use, electronic systems must be approved by the Board of Pharmacy. The board must maintain a list of approved systems.

Electronically communicated prescription information must: allow the opportunity for health prescribers to indicate their preferences for substituting therapeutically equivalent generic drugs authorized by law; protect the confidentiality of patient prescription information from unauthorized disclosure; and assure accuracy and authenticity of prescriptions.

**Votes on Final Passage:**

House	96	0	
Senate	42	0	(Senate amended)
House	95	0	(House concurred)

**Effective:** June 11, 1998

## SHB 1781

C 223 L 98

Expanding the supervision management and recidivist tracking program.

By House Committee on Appropriations (originally sponsored by Representatives Lambert, Ballasiotes, Clements, McMorris, Talcott, Costa, Backlund, Cooke, Huff, Delvin and Thompson).

House Committee on Criminal Justice & Corrections  
House Committee on Appropriations  
Senate Committee on Human Services & Corrections

**Background:** The supervision management and recidivist tracking program (SMART) is a community monitoring program for released offenders.

Prior to an offender's release, the Department of Corrections (DOC) identifies where the offender plans to reside and then notifies the local law enforcement agency within that community. The DOC provides the local law enforcement agency with pertinent background information on the offender's criminal history, sentence, and community placement requirements. Once the offender is released, local law enforcement officers begin to make regular visits to the offender in addition to the regular visits he or she may receive from his or her assigned

community corrections officer. This allows local officers to get to know the offenders through face-to-face contact and to operate as a 24-hour eye for community corrections officers. Each time a contact, whether suspicious or routine, is made between the local law enforcement officer and the offender, the local police department informs the DOC, in writing, regarding the status of the released offender.

The SMART program serves as a communication link between the DOC, the local community corrections offices, and the participating local law enforcement agencies. Although cities such as Redmond, Aberdeen, Seattle, and Tacoma have similar programs with the same concept, the programs are not identical and are operated differently in each city.

The homicide investigative tracking system (HITS) is operated by the Attorney General's Office and is used to track the criminal histories of all offenders who have committed a homicide.

**Summary:** A new branch, called the supervision management and recidivist tracking (SMART) program, is created within the state's homicide investigative tracking system (HITS). The HITS and SMART systems are tools that may be used for the sole purpose of administering criminal justice. These systems may not be used for any other purpose.

The Attorney General (AG) is authorized to contract with the Department of Corrections (DOC), and any other state, local or private agency interested in implementing or providing training for a SMART program. All programs must include a computer linkage between the AG's main data base for HITS, the DOC, and each local law enforcement department participating in the program.

Local law enforcement agencies electronically transfer each contact report on offenders who are under the DOC supervision directly into the HITS computer system data base. The HITS program then electronically sends the reports to the DOC and the corrections officer who is responsible for supervising the offender.

All dormant information in the SMART system is required to be automatically archived after seven years. The DOC must notify the AG when each person is no longer under its supervision. The term "dormant" means there have been no inquiries by the DOC or law enforcement with regard to an active supervision case or an active criminal investigation in the past seven years. The term "archived" means information which is not in the active data base and can only be retrieved for use in an active criminal investigation.

**Votes on Final Passage:**

House	93	0	
Senate	48	1	(Senate amended)
House	95	0	(House concurred)

**Effective:** June 11, 1998

**SHB 1786**  
**FULL VETO**

Requiring the transportation improvement board to report to the legislative transportation committees.

By House Committee on Transportation Policy & Budget (originally sponsored by Representatives K. Schmidt, Fisher, Murray, Cooper, Mitchell, Hatfield, Sterk, Skinner, Blalock, Ogden, Robertson, DeBolt, Gardner, Johnson, Wood, Backlund, O'Brien, Scott, Zellinsky, Hankins, Chandler and Dyer).

House Committee on Transportation Policy & Budget  
Senate Committee on Transportation

**Background:** New projects to be funded by the Transportation Improvement Board (TIB) are not available for legislative review prior to enacting an appropriation. This occurs because the TIB selects a prioritized list of projects to be funded in mid to late May. The agency's budget request is under legislative review from January to March or April, depending on the length of the legislative session.

**Summary:** Starting February 1, 2000, the TIB is required to submit lists of proposed projects to be funded in the agency's budget request for legislative review prior to enactment of an appropriation. Projects that are of an emergent nature or coincide with the federal funding cycle that are outside of the regular grant process will be reported to the Legislative Transportation Committee when the projects are selected.

**Votes on Final Passage:**

House	93	0	
Senate	48	0	(Senate amended)
House	96	0	(House concurred)

**VETO MESSAGE ON HB 1786-S**

March 31, 1998

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. 1786 entitled:

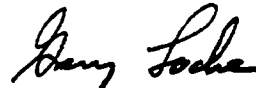
"AN ACT Relating to transportation improvement board reporting requirements;"

SHB 1786 would require the Transportation Improvement Board to submit its prioritized list of projects to the Legislature for review before final budget decisions are made.

The Transportation Improvement Board's prioritization process for local transportation projects was established to ensure that the investment of state transportation funds be sound and systematic. Priority programming, by statute, is grounded in the rational selection of projects and services according to factual need and an evaluation of life cycle costs and benefits. Projects selected by this process are then scheduled to carry out defined objectives within available revenues. SHB 1786 would have threatened the integrity of that process by interjecting a layer of legislative screening of local projects, which are already adequately screened by the Transportation Improvement Board, a board that includes local elected officials.

For these reasons, I have vetoed Substitute House Bill No. 1786 in its entirety.

Respectfully submitted,



Gary Locke  
Governor

**SHB 1829**  
C 134 L 98

Requiring a record of transaction for trade-in or exchange of computer hardware.

By House Committee on Commerce & Labor (originally sponsored by Representative Van Luven).

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

**Background:** Pawnbrokers and second-hand dealers are required to record information about their transactions. The recorded information must identify the parties and the property of the transactions.

Upon the request of the chief of police or the chief county law enforcement officer, a pawnbroker or second-hand dealer must furnish a record of all transactions conducted on the preceding day. A pawnbroker or second-hand dealer is required to report any property he or she suspects is stolen to local law enforcement. The report must contain identifying information on the property, the owner, if known, and the person from whom the property was received.

Violations of the statute are gross misdemeanors.

Transactions that involve trade-ins or exchanges on the purchase of similar property of the same or greater value are exempt from the laws regulating transactions by pawnbrokers and second-hand dealers.

There is no similar exemption for the trade-in or exchange of goods under the uniform commercial code.

**Summary:** The trade-in or exchange of computer hardware is regulated under the uniform commercial code. A retail establishment that accepts computer hardware as a trade-in or exchange for other computer hardware of greater value is required to record identifying information about an employee or a person involved in the trade-in or exchange. The recorded information must be maintained by the retailer for one year following the transaction, and is available for inspection by law enforcement authorities.

Upon request, a record of the preceding day's used computer hardware transactions must be furnished to law enforcement authorities within a specified time. At a minimum, a pawnbroker or second-hand dealer has 24 hours to comply with the request. If a pawnbroker or second-hand dealer suspects that computer hardware is lost or stolen, he or she must report all identifying infor-

## HB 1835

mation on the owner, if known, and on the person from whom the hardware was received. Gross misdemeanor penalties are established.

An exchange or a trade-in of a computer or computer hardware is exempted from the uniform commercial code when the exchange is between a consumer and the retailer from whom it was originally purchased.

### Votes on Final Passage:

House	96	0	
Senate	39	8	(Senate amended)
House	98	0	(House concurred)

Effective: June 11, 1998

## HB 1835

C 135 L 98

Requiring audit resolution reports.

By House Committee on Government Administration (originally sponsored by Representatives Skinner and Clements).

House Committee on Government Administration  
Senate Committee on Ways & Means

**Background:** The major fiscal duties of the Governor, director of the Office of Financial Management, State Treasurer, State Auditor, and the Joint Legislative Audit and Review Committee (JLARC) are outlined in statute.

The State Auditor must complete agency audits for legal and financial compliance with state law and must report to the Legislature annually on these audits, among other duties. The auditor may also conduct performance audits if expressly authorized by the Legislature.

The State Auditor may take exception to an agency's specific expenditures or financial practices. When this occurs, the director of the Office of Financial Management must cause corrective action to be taken promptly. Such action may include withholding appropriated funds.

**Summary:** If the State Auditor takes exception to specific expenditures or financial practices of state agencies, the director of the Office of Financial Management must cause corrective action to be taken within six months. The director must report on the status of audit resolution annually to the appropriate committees of the Legislature, the State Auditor, and the Attorney General. The report must include any actions taken as a result of an audit, including types of personnel actions, costs and types of litigation, and the value of any recouped goods or services.

### Votes on Final Passage:

House	93	0	
Senate	43	0	(Senate amended)
House	95	0	(House concurred)

Effective: June 11, 1998

## SHB 1867

C 136 L 98

Revising provisions for food sanitation and safety.

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

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

**Background:** A person may not be employed in the handling of unwrapped or unpackaged food unless the person has a food and beverage service worker permit. The permit must be obtained within 30 days of employment. The initial permit is valid for two years and renewal permits are valid for five years.

It is a misdemeanor offense for a person who has a contagious or infectious disease to work in a place where unwrapped or unpackaged food products are prepared and sold and for an employer to knowingly employ such a person.

Following an increase in the incidence of foodborne illnesses, e.g., E. Coli and Salmonella, the Department of Health identified a number of changes in the food and beverage worker permit process designed to improve the prevention of such illnesses.

**Summary:** Beginning July 1, 1998, the renewal period for a food and beverage worker permit is reduced from five to three years, unless the employee obtains additional food safety training.

A limited-duty permit for disabled workers is permitted; however, the local health officer is required to specify the activities that the permit holder may perform. This permit is valid in all counties.

Persons with foodborne contagious diseases may not work in places where unwrapped or unpackaged food or beverages are prepared, consumed or sold.

The grace period to obtain a food and beverage service worker permit is reduced from 30 to 14 days. Employers are required to provide information or training regarding safe food handling practices to employees prior to employment.

### Votes on Final Passage:

House	94	3	
Senate	44	0	(Senate amended)
House	96	0	(House concurred)

Effective: June 11, 1998  
July 1, 1998 (Section 1)

## SHB 1939

C 307 L 98

Covering reserve law enforcement officers under volunteer fire fighters relief benefits.

By House Committee on Government Administration (originally sponsored by Representatives Ogden, Cooper, Lantz, Anderson, Scott, O'Brien, Hatfield, Blalock, Kessler, Conway, Cody and Gardner).

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

**Background:** The Volunteer Fire Fighters' Relief and Pension system was created in 1945 to provide death, disability, and retirement benefits for volunteer fire fighters in cities, towns, and fire protection districts. This system is supervised and controlled by the State Board for Volunteer Fire Fighters.

Every local government employing volunteer fire fighters must participate in the death and disability portions of this system. Every local government employing volunteer fire fighters may opt to participate in the retirement benefits portion of this system.

The volunteer fire fighters' relief and trust fund is established in the state treasury to pay benefits to volunteer fire fighters under the system. A variety of moneys are placed into this fund, including annual fees for each member of the system that are paid by the local government employer and 40 percent of the receipts from the state's excise tax on fire insurance premiums.

Legislation was enacted in 1995 allowing counties, cities, towns, and other local law enforcement agencies to extend the retirement benefits of the Volunteer Fire Fighters' Relief and Pension system to their reserve law enforcement officers. The state board supervising this system was renamed the State Board for Volunteer Firefighters and Reserve Officers. Each reserve officer covered by the retirement system is required to pay an annual \$30 fee and each local government employer of a participating reserve officer is required to pay an additional annual fee to finance this retirement benefits, as determined by the State Board for Volunteer Fire Fighters based on the latest actuarial valuation.

**Summary:** Any county, city, town, or other law enforcement agency may extend the death and disability benefits portion of the Volunteer Fire Fighters' Relief and Pension system to its reserve officers and pay annual fees that are sufficient to cover the costs of this coverage. The State Board for Volunteer Fire Fighters and Reserve Officers sets the annual fees to pay for this coverage.

A municipality that extends these death and disability benefits to its reserve officers is provided with the same extent of immunity from civil actions for personal injuries to its reserve officers that would arise if the reserve offi-

cers were covered under the state's industrial insurance program.

A board of trustees is created in each local government with reserve officers covered by these death and disabilities benefits to administer the system for the local government. A board of trustees in a city or town or special district consists of the mayor, city clerk or comptroller, one council member, or their designees, the head of the law enforcement agency, and one reserve member of the law enforcement agency who is elected by the reserve members for an annual term. A board of trustees in a county consists of two members of the county legislative authority and the county auditor, or their designees, the head of the law enforcement agency, and one reserve officer from the law enforcement agency who is elected by the reserve officers for an annual term.

**Votes on Final Passage:**

House	96	0
Senate	48	0

**Effective:** June 11, 1998

## SHB 1971

C 62 L 98

Preventing double payment for insurance benefits for teachers who are legislators.

By House Committee on Appropriations (originally sponsored by Representatives Bush, Lambert, Carrell, Talcott, Johnson, Hickel, Cody, Linville, Mitchell, Delvin, Mulliken, Veloria, Zellinsky, Thompson, Smith, Tokuda, Koster, Sherstad, Cole, Mastin, D. Schmidt and Backlund).

House Committee on Appropriations  
Senate Committee on Ways & Means

**Background:** State legislators are eligible to receive insurance benefits as state employees year round. Teachers are eligible to receive insurance benefits from their local school districts. When a teacher takes a leave of absence from a school district to serve as a legislator, he or she is not eligible to receive insurance benefits from the school district during the leave of absence, although he or she may self-purchase benefits through the school district. When a teacher/legislator is not on a leave of absence from the school district, he or she is eligible to receive insurance coverage from both the school district and the state.

**Summary:** A legislator who is a teacher and who takes a leave of absence from a school district to serve as a legislator may choose to waive insurance coverage through the state. In lieu of such coverage, the House of Representatives or the Senate must pay the school district the amounts due to the school district from the teacher/legislator for self-purchased insurance benefits. The amount



## SHB 1977

paid by the House of Representatives or the Senate may not exceed the cost of the insurance benefits package that would otherwise be provided through the state.

### Votes on Final Passage:

House	95	0
Senate	44	0

Effective: March 20, 1998

## SHB 1977

C 63 L 98

Allowing arrangements for running start students to attend out-of-state community colleges.

By House Committee on Education (originally sponsored by Representatives Honeyford, Boldt and Dunn).

House Committee on Education  
Senate Committee on Education

**Background:** The 1990 Legislature created the Running Start program as part of the "Learning by Choice" law. The law was designed to expand educational options for students in public high schools. Through Running Start, qualified 11th and 12th grade students may take college level courses in any of the state's 32 community and technical colleges. Running Start students earn both high school and college credit for successfully completed college courses. About 5 percent of Washington's public high school students are enrolled in Running Start.

The 1994 Legislature expanded the program to include Central, Eastern, and Washington State universities. One reason for the expansion is to provide high school students with additional educational opportunities in communities in which no community college or technical college is located. School districts may choose whether to permit their students to attend the three participating state universities.

Running Start students are not charged tuition. However, they must provide their own transportation, books, and class materials. The school districts in which the students are enrolled must reimburse the colleges and universities for their students' participation in the program. The rate for reimbursement is uniform statewide. In 1996, the reimbursement rate was about \$79 per credit for academic programs and \$95 for vocational programs. School districts retain 7 percent of the funds for counseling and other overhead expenses.

**Summary:** School districts in Washington may enter into agreements with community colleges in Oregon and Idaho to let Washington students enroll in the community colleges for concurrent high school and college credit. If a school district enters into an agreement, most of the provisions of the Running Start laws will apply.

School districts may pay the community colleges less than the Running Start rate per credit as long as students are not required to pay tuition and fees, but they may not

pay more than the Running Start rate per credit. Agreements may require students to pay some tuition and fees, however, the agreements may not allow the colleges to charge students nonresident tuition rates. The agreements must also ensure that participating students enroll in courses that transfer to a public college or university in Washington.

### Votes on Final Passage:

House	95	1
Senate	44	4

Effective: June 11, 1998

## SHB 1992

C 224 L 98

Implementing workplace safety rules.

By House Committee on Commerce & Labor (originally sponsored by Representatives McMorris, Honeyford, Clements and Thompson).

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

**Background:** The Washington Industrial Safety and Health Act (WISHA) is administered and enforced by the Department of Labor and Industries, and applies to most private and public workplaces in Washington. Under the federal Occupational Safety and Health Act (OSHA), the state is authorized to assume responsibility for occupational safety and health standards. The state's standards must be at least as effective as those adopted under the OSHA.

The department is authorized to adopt rules governing safety and health standards for workplaces covered under the WISHA. When adopting a rule, the department must provide for (1) employment safety and health standards of general and specific application in all workplaces; (2) occupational health and safety standards which are as effective as those adopted under the OSHA; (3) methods to encourage employers and employees to institute accident prevention programs; (4) employer reporting procedures relating to safe conditions of employment; (5) inspections of workplaces; and (6) publication and distribution of information to help employers and employees achieve a safe work place. Under the Administrative Procedure Act, the department must make specific determinations when adopting a significant legislative rule.

**Summary:** The director of the Department of Labor and Industries must convene a meeting of persons who will be impacted by the department's adoption of significant legislative rules. The meeting must be held no later than twenty business days before the rules take effect. The meeting must address problem areas and ambiguities in the rule, education, public relations, training, enforcement,

and appropriate mechanisms for evaluating the rule's effectiveness.

**Votes on Final Passage:**

House	95	0
Senate	49	0

**Effective:** June 11, 1998

## SHB 2051

C 308 L 98

Exempting from taxation remedies and remedial actions taken regarding hazardous waste.

By House Committee on Agriculture & Ecology (originally sponsored by Representatives Chandler, Linville, Regala, Mastin, D. Schmidt, Grant, Veloria, Clements, Cody and Parlette).

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

**Background:** The state Model Toxics Control Act, adopted as an initiative in 1988, requires the cleanup of contaminated sites. Sites with hazardous waste contamination must be reported to the Department of Ecology (DOE). The DOE must conduct an initial investigation of a known and reported site, followed by a site hazard assessment. If the result of the site hazard assessment shows that the site will require further cleanup action, the site is placed on the department's hazardous sites list.

At any point in the investigation and assessment process, a person may choose to conduct an independent cleanup without the DOE's oversight. When an independent cleanup is completed, the cleanup results must be reported to the DOE. Approximately 90 percent of site cleanups, mostly leaking underground storage tanks, are conducted independently.

Contractors and subcontractors conducting hazardous waste cleanup services perform a number of different activities at a cleanup site. These activities include site development such as excavation of uncontaminated soil, paving, and landscaping, and activities directly related to the cleanup, such as the removal of contaminated soil or water. Prior to 1989, some of these activities fell under one business and occupation (B&O) tax rate, other activities fell under another B&O tax rate.

In 1989, the Department of Revenue adopted a policy that exempts site cleanups from state sales tax on cleanup activities and provides a uniform B&O tax rate if certain conditions are met. However, the policy applies only to hazardous waste sites that have been placed on the DOE's hazardous sites list. Businesses contracting for cleanups at a listed site are charged the B&O tax for services at the rate of 1.75 percent (1.5 percent beginning July 1, 1998) and the sales tax on purchases of materials, but they do

not pay the sales tax on their services. Businesses contracting for cleanups that do not have DOE oversight pay a lower B&O tax rate, 0.471 percent, but pay the sales tax on both their services and their purchases of materials and labor. Special rates have been established for the taxation of clean-up activities at the Hanford site.

**Summary:** Labor and services provided for environmental remedial actions are exempted from retail sales taxation. The B&O tax rate for such actions is set at 0.471 percent. This uniform taxation for remedial actions applies to such actions conducted, supervised, or ordered by the Department of Ecology (DOE) under the state's Model Toxics Control Act as well as those that are, on the whole, substantially equivalent to such actions. It also applies to remedial actions conducted under the supervision or order of the U.S. Environmental Protection Agency, or consistent with the national contingency plan adopted under the federal Comprehensive Environmental Response Compensation and Liability Act and conducted at facilities included on the national priorities list or subject to a removal action under the federal act. These uniform rates are effective until July 1, 2003.

Environmental remedial actions taken at a site are eligible for these uniform tax rates if certain certifications regarding the site and the actions are submitted to the DOE and the Department of Revenue (DOR). The DOR must confirm receipt of the certifications. The owner of a site at which such activities are conducted must provide a copy of the confirmation to each person who takes remedial actions at the site and these persons must identify the charges for labor and services for their actions. When the actions are completed, the site owner must submit to the DOE a report documenting the remedial actions taken and compliance with the state act.

Certain penalties provided by other laws apply to a person who falsifies or misrepresents statements in a certification. In addition, a penalty of 50 percent of the tax due plus interest must be assessed against a person who improperly reports the person's tax class. However, the penalty is to be waived if the misreporting was due to circumstances beyond the person's control.

**Votes on Final Passage:**

House	93	0	
Senate	49	0	(Senate amended)
House	98	0	(House concurred)

**Effective:** June 11, 1998

July 1, 1998 (Sections 1-4)

July 1, 2003 (Section 5)

**SHB 2077**

C 278 L 98

Providing uniform exemptions to competitive bidding procedures utilized by municipalities when awarding contracts for public works and contracts for purchases.

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

House Committee on Government Administration  
Senate Committee on Government Operations

**Background:** The statutory exemptions from competitive bidding requirements differ between various units of local governments for both public works and purchases. Public hospital districts, for example, have no exemptions from competitive bidding. There is no uniform definition of what constitutes an "emergency" for those units of local government whose governing statutes provide an exemption from competitive bidding for emergencies.

**Summary:** Uniform exemptions from competitive bidding requirements are established for cities and towns, counties, fire districts, port districts, public utility districts, water-sewer districts, and public hospital districts.

Competitive bidding requirements may be waived by such a municipality's governing body for purchases from sole source suppliers, purchases involving special facilities or market conditions, purchases in the event of an emergency, purchases of insurance or bonds, or public works in the event of an emergency.

The governing body of such a municipality may waive competitive bidding procedures by adopting a resolution or written policies. A resolution must state the factual basis for the exception. If written policies are used to waive competitive bidding requirements, the contract and the factual basis for the exception must be recorded and open to public inspection immediately after the contract is awarded.

If an emergency exists, the person or persons designated by the governing body to act in an emergency may declare that the emergency exists, waive the competitive bidding requirements, and award all necessary contracts to address the emergency. The governing body must make a written finding of the existence of the emergency and enter it into the record no later than two weeks after the award of the contract.

An emergency is defined as unforeseen circumstances beyond the control of the municipality that either: (1) present a real, immediate threat to the proper performance of essential functions; or (2) will likely result in material loss or damage to property, bodily injury, or loss of life if immediate action is not taken.

A county with a population of one million or more may lease space with an option to purchase in the same manner that cities may lease space with an option to purchase.

**Votes on Final Passage:**

House	94	0	
Senate	44	0	(Senate amended)
House			(House refused to concur)

Conference Committee

Senate	45	1
House	98	0

**Effective:** June 11, 1998

**HB 2141**

C 172 L 98

Providing changes to terminal audit violation penalties.

By House Committee on Transportation Policy & Budget (originally sponsored by Representatives Cairnes and Scott; by request of Washington State Patrol).

House Committee on Transportation Policy & Budget  
Senate Committee on Transportation

**Background:** In 1995, the highway truck inspection program of the Washington State Patrol (WSP) and the terminal inspection program of the Utilities and Transportation Commission (UTC) were consolidated and placed under the jurisdiction of the WSP. (A terminal inspection program is conducted at the carrier's place of business.)

A \$10 annual inspection fee is collected by the Department of Licensing for each carrier base-plated in Washington; this fee is prorated for a carrier base-plated in another state that travels in Washington. The revenue is deposited in the state patrol highway account.

The WSP may impose a \$100 per violation administrative penalty for violations discovered during a terminal safety audit. This is the same penalty that the UTC imposed prior to consolidation in 1995. The administrative penalty fee has not been increased since 1963. The Federal Bureau of Motor Carrier Safety also conducts terminal audits and imposes a minimum fine of \$500 per violation.

Since January 1, 1996, federal law has required all commercial carriers to implement a company drug and alcohol program. Fifty percent of a company's drivers must be tested for drugs during the year and 25 percent for alcohol. A driver that tests positive must complete a rehabilitation program and be tested six times during the year. A driver who is involved in an accident is required to be tested for alcohol within two hours and for drugs within eight hours. An employer that suspects a driver may be using drugs or alcohol may require a driver to submit to a reasonable suspicion test. The most common reason for disqualification of drivers is a suspended driver's license, followed by drug and alcohol use.

**Summary:** The administrative penalty imposed by the WSP for violations discovered during a terminal safety audit is increased from \$100 to \$500 for the following of-

fenses: (1) controlled substances and alcohol use and testing; (2) disqualification of drivers; and (3) moving a vehicle that has been placed out of service before the defects are repaired. These offenses are defined in the Code of Federal Regulations and have been adopted by the WSP by reference.

**Votes on Final Passage:**

House 93 0  
Senate 47 0

**Effective:** June 11, 1998

**HB 2144**

C 25 L 98

Designating depositories.

By Representatives Smith, L. Thomas, Wolfe, Sullivan, Wensman and Anderson.

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

**Background:** The Insurance Commissioner may designate any solvent trust company or financial institution domiciled in Washington as a depository to hold deposits of securities for the commissioner. All funds deposited must be insured by the Federal Deposit Insurance Corporation.

**Summary:** Solvent financial institution means any national or state-chartered bank or trust company, savings bank, or branches of these institutions. The financial institution need not be domiciled in Washington, but must have trust powers in Washington.

**Votes on Final Passage:**

House 97 0  
Senate 45 0

**Effective:** June 11, 1998

**SHB 2166**

C 173 L 98

Encouraging coordinated transportation services.

By House Committee on Transportation Policy & Budget (originally sponsored by Representatives Huff, K. Schmidt, Clements, Buck, Talcott, Johnson, Mitchell, Carlson, Delvin, Cooke and Chandler).

House Committee on Transportation Policy & Budget  
Senate Committee on Transportation

**Background:** In 1996, the Legislative Transportation Committee (LTC) was directed to conduct a public transportation assessment of eight tasks to address the state's interest in and evaluation of transit, transit financial planning, several transit-related accounts, transit effectiveness

and efficiency, interjurisdictional interests, special needs transportation, and governance. Study oversight was provided by a Transit Working Group, which consisted of four House of Representatives and four Senate members. The group forwarded a series of study recommendations to the LTC, in the 1996 Public Transportation Assessment. One of the recommendations for special needs transportation was to establish an Agency Council on Coordinated Transportation (ACCT) to facilitate coordination among public and private transportation providers.

There are a number of agencies and programs involved with providing and/or sponsoring transportation services for persons with special needs. At the state level, the Department of Social and Health Services (DSHS) and the Superintendent of Public Instruction (SPI) play major roles in providing these transportation services. At the local level transit agencies, area agencies on aging, senior services and county human services all provide transportation for special needs populations.

Transportation provided by an agency or a program is often for selected groups of people who meet specific eligibility requirements for that particular agency or program. This creates a situation in which multiple transportation providers are running duplicate routes serving only their selected population, which can result in costly and inefficient service and reduced service levels or areas.

In the 1997-99 transportation budget, \$1 million was appropriated to the Department of Transportation for grants to facilitate and demonstrate cooperation among transportation providers. Administration of this effort is overseen by a council, appointed by the Secretary of Transportation, which has nine voting and eight nonvoting members. In 1997, grants were made to five local and private nonprofit agencies for six different contracts. The department will report to the Legislature on the results of these grants.

The Utilities and Transportation Commission (UTC) regulates every private, nonprofit transportation provider in the state. This includes setting insurance requirements, safety requirements for vehicles used, and rules to ensure that the vehicle used is adequate for the proposed service, and regulating the fares charged by these providers.

**Summary:** The Legislature declares its intent to coordinate transportation services and programs to achieve increased efficiencies, and expansion of services to a greater number of persons with special transportation needs.

The Agency Council on Coordinated Transportation (ACCT) is created. The council consists of nine voting members and eight nonvoting legislative members. The nine voting members are the Secretary of Transportation, who will serve as chair; the secretary of the Department of Social and Health Services; the Superintendent of Public Instruction; and six members, serving two-year terms, appointed by the Governor, and representing consumers of special needs transportation, pupil transportation, the

## HB 2278

Community Transportation Association of the Northwest, the Community Action Council Association, and the Washington State Transit Association. Four members from the House of Representatives and four members from the Senate, representing each caucus and the Transportation, House Appropriations and Senate Ways and Means Committees, will be appointed by the Speaker of the House and the President of the Senate respectively. The council is classified as a Class 1 board, which restricts reimbursement of members to expenses only.

The ACCT is responsible for: (1) developing standards and strategies for coordinating special needs transportation; (2) identifying, developing, funding (as resources are available), and monitoring demonstration projects; (3) identifying barriers to coordinated transportation; (4) recommending statutory changes to the Legislature to assist in coordinated transportation; and (5) working with the Office of Financial Management to make necessary changes for identification of transportation costs in executive agency budgets.

The council is directed to report to the Legislature on December 1, 1998, and every two years thereafter on council activities, including results of demonstration projects and associated benefits. The Department of Transportation is to provide support for the council. The council is dissolved on June 30, 2003.

The UTC's authority to regulate fares charged by paratransit providers is eliminated.

### Votes on Final Passage:

House	93	0	
Senate	47	0	(Senate amended)
House	96	0	(House concurred)

Effective: June 11, 1998

## HB 2278

C 309 L 98

Exempting electric generating facilities powered by landfill gas from sales and use taxes.

By Representatives Honeyford and Lisk.

House Committee on Finance  
Senate Committee on Ways & Means

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

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

state, and items produced by the person using the item. Use tax is equal to the sales tax rate multiplied by the value of the property used. Use tax is paid directly to the Department of Revenue.

Machinery and equipment used directly in generating electricity using wind or sun energy are exempt from sales and use tax. Installation costs are also exempt. Only facilities capable of generating 200 kilowatts of electricity are eligible for the exemption. The exemption ends June 30, 2005.

**Summary:** The machinery and equipment sales and use tax exemption for wind and sun energy facilities is extended to facilities using landfill gas.

### Votes on Final Passage:

House	97	0
Senate	44	1

Effective: April 3, 1998

## HB 2293

C 64 L 98

Authorizing Snohomish county to create one additional district court position.

By Representatives Sherstad, Sheahan and Costa; by request of Administrator for the Courts.

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

**Background:** The number of district court judges in each county is set by statute. There is a procedure, also in statute, for changing the number of judges in a county.

The Legislature may change the number of district court judges in a county upon the recommendation of the supreme court. The process of formulating such a recommendation involves the use of a "weighted caseload" analysis developed by the Office of the Administrator for the Courts (OAC) in consultation with the Board of Judicial Administration, the Judicial Council, and the District and Municipal Court Judges' Association. The weighted caseload analysis includes consideration of the amount of judicial time and resources needed to process various kinds of cases.

For each recommended increase in the number of district court judges in a county, the OAC must prepare a judicial impact note detailing any local or state cost associated with the change.

The costs associated with an increase in the number of judges may be paid for by the county out of the county criminal justice assistance account.

The OAC recommends that the number of district court judges in Snohomish County be increased from seven to eight.

**Summary:** The number of district court judges in Snohomish County is increased from seven to eight.

**Votes on Final Passage:**

House	93	0
Senate	47	0

Effective: June 11, 1998

**SHB 2295**

C 26 L 98

Revising procedures for staggering of terms for new court of appeals positions.

By House Committee on Law & Justice (originally sponsored by Representatives Sheahan and Costa; by request of Court of Appeals).

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

**Background:** The state court of appeals is divided into three "divisions." The divisions are headquartered in Seattle, Tacoma, and Spokane. Each of the divisions is also divided into three "districts."

In 1993, the Legislature increased the number of judges in the court of appeals from 17 to 23. The positions took effect only as they were specifically funded in the state budget. The new positions were to be filled by appointment followed by an election at the next November general election for staggered terms and then election to six-year terms of office.

The new positions were to take effect over various dates to create staggered six-year terms. The statute creating the new positions includes several dates and timing provisions relating to the filling of the new positions and the length of the initial terms of the new positions. Several of these date and timing references are now obsolete.

Two of the new positions created in 1993 have not been filled. These unfilled positions are in King County, which is the first district of division one of the state court of appeals. These two positions were to have been filled prior to the November 1993 election, or, if not by that date, then prior to the November 1999 election.

**Summary:** Obsolete dates are removed from the 1993 statute that created six new judicial positions on the court of appeals. Dates relating to the two unfilled positions are adjusted.

The initial full six-year terms of the two positions remaining to be filled in the first district of division one are to begin in January 2001, following the November 2000 general election. If the effective date of the initial filling of the positions is too late for the positions to appear on the November 1999 ballot, then the initial full elected term is to begin in January 2007, following the November 2006 general election.

**Votes on Final Passage:**

House	93	0
Senate	45	0

Effective: June 11, 1998

**ESHB 2297**

C 27 L 98

Recording documents.

By Representatives Sehlin and Hankins.

House Committee on Government Administration  
Senate Committee on Government Operations

**Background:** The county auditor is the recorder of deeds and other instruments that are required to be filed with the county.

Legislation was enacted in 1996 establishing requirements for instruments that are filed with county auditors, including margin requirements and matters that must be included on the first page of the instrument. A cover sheet also must be filed if some of these items are not included on the first page of the instrument.

The following matters must be included on the first page of the instrument or cover sheet: (1) the title or titles of the document; (2) reference numbers of documents assigned or released with reference to the document page number where additional references may be found; (3) the names of the grantors and grantees with reference to the document page number where additional names are included, if applicable; and (4) an abbreviated legal description of the property, if applicable.

The assessor's property tax parcel or account number also must be included on the first page of the document, but no express provision is made for including this number on the cover sheet.

**Summary:** An instrument may be recorded with the county auditor if a minor portion of a notary seal, incidental writing, or minor portion of a signature extends beyond the margin requirements.

It is clarified that the use of the terms "grantor" and "grantee," for purposes of requirements relating to filing instruments with the county auditor, means the names of the parties involved in the transactions used to create the recording index.

The cover sheet for an instrument that is filed with a county auditor may include the assessor's tax parcel or account number.

**Votes on Final Passage:**

House	93	0
Senate	45	0

Effective: June 11, 1998

ESHB 2300

C 225 L 98

Changing provisions relating to educational pathways.

By House Committee on Education (originally sponsored by Representatives Johnson, Keiser, Huff, Talcott, Hickel, Carrell, Linville, Lisk, Veloria, Skinner, Caimes, Mason, Lambert, Mulliken, Backlund, Mitchell, Wolfe, Constantine, Kastama, Kenney, Gardner, Benson, Ogden, Butler, Carlson, Kessler, Costa, Anderson, Conway, Lantz and McDonald).

House Committee on Education  
Senate Committee on Education

**Background:** Some school districts have instituted different ways to organize the curriculum in high schools, junior high schools and middle schools. One organizational model is called educational pathways. Through educational pathways, districts attempt to cluster courses around certain themes. For example, one school has pathways in arts and communication, health careers, business and marketing, social services and education, and sciences and technology. Within each pathway, students have a variety of options available. For example, students may enter a tech prep program, or running start, or take the types of courses needed to meet college entrance requirements, or engage in work-based learning. Educational pathways are intended to allow students to focus their time in secondary education and to organize their courses in ways that meet future career goals.

The 1993 education reform act assumed that most students would successfully pass their high school assessment when the students are about 16 years of age. Successful completion would lead to the acquisition of a "certificate of mastery." While students must have a certificate of mastery to earn a high school diploma, the legislation suggested that its acquisition would not be the sole criterion for graduation. The reform act directed schools to provide students who had earned a certificate of mastery with an opportunity to pursue career and educational objectives. The schools would provide these opportunities through educational pathways that emphasize the integration of academic and vocational preparation. The pathways could include a variety of programs such as work-based learning, tech prep, running start, school-to-work transition, vocational-technical education, and preparation for entrance to an institution of higher education.

**Summary:** Middle, junior high, and high schools that use educational pathways must ensure that all participating students will continue to have access to courses and instruction needed to meet entrance requirements at baccalaureate institutions.

Every student must be permitted to enter the educational pathway of the student's choice.

Before a student is accepted into an educational pathway, the school must provide the student's parent with information on three facets of the pathway. The information must include: the pathway chosen, opportunities available to the student through the pathway, and any career objectives that the student will be exposed to while pursuing the pathway. If a student or the student's parents are not satisfied with the opportunities available through a selected pathway, the student must be permitted to transfer to any other pathway provided in the school.

Schools are not permitted to develop educational pathways that retain students in high school beyond the date that the students are eligible to graduate. In addition, schools are not permitted to require students who transfer between pathways to complete pathway requirements beyond the date that the students are eligible to graduate.

These requirements for educational pathways are added to requirements that govern the work of the Commission on Student Learning. (The requirements for the commission will expire on June 30, 1999, when other statutes governing the commission expire.) These requirements are also added to laws relating to students. Language in current law describing some examples of educational pathways is also added in the student section to the language governing pathways.

**Votes on Final Passage:**

House	95	0	
House	96	0	(House reconsidered)
Senate	47	0	

**Effective:** June 11, 1998

EHB 2302

C 65 L 98

Authorizing counties that hold money in trust for school purposes to distribute the money to school districts.

By Representatives Honeyford, Lisk, Wolfe, Scott, Gardner and Hankins.

House Committee on Government Administration  
Senate Committee on Government Operations

**Background:** Joshua Brown's Last Will and Testament, executed in 1870, devised his property or its cash proceeds to the public school fund of Klickitat County. Mr. Brown's will specified that interest on the property so devised was to be used to make interest-bearing loans.

In 1875, a territorial law established the Joshua Brown School Fund for the benefit of the Klickitat County schools. The fund was to be administered by three commissioners, the county treasurer, county auditor and county school superintendent. The county treasurer was authorized to make interest-bearing loans from the fund for the acquisition of land and other school expenses.

According to the Klickitat County Board of County Commissioners, the balance of the Fund as of August 11, 1997, was \$4,355.95.

**Summary:** Any county permitted by territorial law to administer a testamentary trust created for the benefit of school districts is authorized to dissolve the trust as long as the trust corpus does not exceed \$50,000. The county may distribute the balance of any funds held in the dissolved trust to the county's school districts. Before dissolving the trust and distributing the funds, the county must adopt a resolution finding that conditions have changed and that it is no longer feasible for the county to administer the trust.

The territorial law establishing the Joshua Brown School Fund is repealed.

**Votes on Final Passage:**

House	97	0
Senate	49	0

**Effective:** June 11, 1998

**HB 2309**

C 310 L 98

Revising notification of denial of property tax exemption.

By Representatives Thompson and Dunshee; by request of Department of Revenue.

House Committee on Finance  
Senate Committee on Ways & Means

**Background:** All property in this state is subject to property tax each year based on the property's value unless a specific exemption is provided by law. Many property tax exemptions exist for nonprofit organizations.

All foreign national governments, churches, cemeteries, nongovernmental nonprofit corporations, organizations, and associations, private schools or colleges, and soil and water conservation districts are required to file an exemption application with the Department of Revenue by March 31 each year. The fee for the initial application is \$35 and the fee for the annual renewal declaration is \$8.75.

The Department of Revenue is required to review each exemption application by August 1. The department must tell applicants why their exemption was denied. The denial notice must be sent by certified mail. Certified mail provides a mailing receipt and a record of delivery at the recipient's post office. The cost is an additional \$1.35.

**Summary:** Property tax exemption denial notices may be sent by regular mail rather than by certified mail.

**Votes on Final Passage:**

House	93	0
Senate	42	0

**Effective:** January 1, 1999

**SHB 2312**

C 279 L 98

Prescribing workers' compensation obligations of employers not domiciled in Washington.

By House Committee on Commerce & Labor (originally sponsored by Representatives Doumit, Pennington, Hatfield, Kenney, Clements, Carlson, Kessler, Anderson, Dunn and Tokuda).

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

**Background:** Industrial Insurance Coverage Requirements Under Reciprocity Agreements. The Washington industrial insurance law, with certain exemptions, covers all workers employed by persons or entities engaged in business in Washington. There may not be coverage, however, if the worker's employment in Washington is subject to a reciprocal agreement with another state. The industrial insurance law permits the director of the Department of Labor and Industries to enter into reciprocal agreements with other states and provinces of Canada to govern jurisdiction over claims that involve a contract of employment in one jurisdiction and an injury in another.

The department has entered into reciprocal agreements with Idaho, Montana, North Dakota, Nevada, Oregon, South Dakota, and Wyoming. Under the Oregon reciprocal agreement, the Washington state fund covers a Washington employer's Washington workers who are injured in Oregon at the employer's temporary Oregon workplace. Oregon is similarly responsible for an Oregon employer's Oregon workers working in a temporary workplace in Washington.

Coverage Requirements for Out-of-State Employers.

An out-of-state employer is penalized under Washington's industrial insurance law if the employer has employees working in Washington and, after one of his or her workers is injured, the employer did not have workers' compensation coverage or coverage is inadequate. If that injured worker is entitled to compensation under Washington law because of an injury in Washington, the employer who does not have an account with the state fund in Washington, or is not qualified as a self-insurer, must file a certificate from the employer's state of domicile showing that the employer has coverage for the injured worker.

Filing a certificate appoints the director of the Department of Labor and Industries as the employer's agent for service of process in any proceeding brought by the injured worker under Washington's industrial insurance law. If the employer is insured, the insurance carrier is subject to Washington's industrial insurance law with respect to the claim, up to the amount of its liability under the other state law, unless its contract with the employer provides for coverage equivalent to Washington's coverage. The director may require the employer to file additional security if the insurance coverage is less than the total



compensation to which the injured worker is entitled under Washington law. If the employer is self-insured under the other state's law, the employer may be deemed to be a qualified self-insurer under Washington's law.

If the employer does not have coverage in the other state or has inadequate coverage, the injured worker receives benefits from the Washington state fund. The employer is then subject to a penalty of up to 50 percent of the department's cost beyond what is covered by the employer or its insurer. (Washington employers who fail to secure industrial insurance coverage are subject to a penalty of \$500 or double the premiums that were incurred before obtaining coverage, and from 50 to 100 percent of the cost of the benefits paid to a worker before coverage is obtained.)

**Contractor Requirements.** Public entities must contract with registered contractors or licensed electrical contractors on public works projects, unless, on transportation construction projects, the contractor is prequalified. All contractors registering or applying for a license must show an industrial insurance account number covering employees domiciled in Washington. For employees working in Washington who are not domiciled in Washington, the contractor must show evidence of workers' compensation coverage in the employer's state of domicile. The employer's unified business identifier account number may be used in lieu of the industrial insurance account number.

**Coverage Requirements for Washington Employers Operating in Oregon.** Generally, a worker from Washington and the worker's Washington employer are exempt from Oregon's workers' compensation coverage requirements if:

- the worker is temporarily working in Oregon;
- the employer has workers' compensation coverage for the worker under Washington's law; and
- Washington recognizes Oregon's extraterritorial provisions and has reciprocal exemptions for Oregon employers.

However, Oregon's public works law requires all public works contracts to contain a clause making employers working under the contract subject to Oregon's workers' compensation law.

**Summary: Intent.** The Legislature finds that a disparity in workers' compensation coverage among the states has created a competitive disadvantage in the construction industry. The intent of the new provisions is to provide an equal footing for all contractors, to ensure that injured workers receive the benefits to which they are entitled, and to not create disincentives for hiring Washington workers.

**Industrial Insurance Coverage Requirements for Out-of-State Contractors.** Out-of-state contractors who are employing workers in Washington in work that requires the contractor to be registered or licensed, or prequalified on transportation projects, must secure the payment of compensation under Washington law by:

- insuring with the Department of Labor and Industries;
- being self-insured in Washington; or
- as permitted by a reciprocity agreement with the employer's state or province of domicile, filing a certificate of coverage from the other state or province. (The Department of Labor and Industries' authority to subject an out-of-state employer or employer's insurance carrier to liability for an injury occurring in Washington applies if the employer files the certificate.)

If an out-of-state contractor does not comply with this coverage requirement, the injured worker is covered by the state fund and the employer is subject to the same requirements and penalties as Washington employers who fail to comply with industrial insurance requirements.

The contractor registration law and electrical licensing law are made consistent with these new coverage requirements for contractors applying for registration or licensing. A contractor applicant is not permitted to use his or her unified business identifier account number as a substitute for an industrial insurance number unless the applicant will not employ employees in Washington.

**Reciprocity Agreements.** The director's authority to enter into industrial insurance reciprocity agreements with other states is modified. If the other state's law requires Washington employers to be covered under the other state's workers' compensation law for work which in Washington would require the employer to be a registered contractor or licensed electrical contractor, or be prequalified for transportation projects, then employers domiciled in that other state must purchase coverage under Washington's law when their workers are engaged in that same work in Washington.

**Study.** The Workers' Compensation Advisory Committee must appoint a subcommittee to review these new provisions and report to the Department of Labor and Industries. The department must submit a final report to the Legislature by January 15, 1999.

**Votes on Final Passage:**

House	94	0	
Senate	47	0	(Senate amended)
House	98	0	(House concurred)

**Effective:** June 11, 1998

**ESHB 2313**  
**PARTIAL VETO**  
 C 137 L 98

Revising the regulation of elevators, escalators, and other conveyances.

By House Committee on Commerce & Labor (originally sponsored by Representatives Wood, Boldt and Conway; by request of Department of Labor & Industries).

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

**Background:** The Department of Labor and Industries administers and enforces a statutory program providing for the safe operation, erection, installation, alteration, inspection, and repair of publicly and privately owned elevators, escalators, dumbwaiters, belt man lifts, moving walks, and other similar conveyances. The Department of Labor administers this program through the elevator inspection program. However, the industrial safety and health division is responsible for hand powered elevators, belt man lifts, and one man capacity man lifts on grain elevators.

An owner must obtain an installation permit from the department before a conveyance is built, installed, moved, or altered. A permit is not required for repairs and replacement normally necessary for maintenance when parts of equivalent materials, strength, and design are used. The statute exempts from inspection conveyances permanently removed from service, and certain lifts built temporarily for construction work. The statute requires the department to annually inspect and test conveyances. An operating permit is required for each conveyance operated in the state.

The department has adopted rules, and has established fees for the enforcement and administration of the statute.

**Summary:** Various elevating devices are defined within the term "conveyance."

Inspection responsibility for elevators, hand-powered elevators, belt man lifts, special purpose elevators, one-person capacity man lifts, and other conveyances are changed from the industrial safety and health program to the elevator inspection program. Only construction personnel are authorized to ride an elevator with a "limited use" permit. Private residence conveyance owners are exempted from the operating permit requirement, unless the owner requests an operating permit.

The department may assess a penalty for violations of the elevator program, and is prohibited from imposing new fees or increasing existing fees without prior approval from the Legislature.

**Votes on Final Passage:**

House	95	1	
Senate	48	0	(Senate amended)
House			(House refused to concur)
Senate	37	10	(Senate receded)

**Effective:** June 11, 1998

**Partial Veto Summary:** The Governor vetoed the section of the bill that prohibited the Department of Labor and Industries from imposing new fees or increasing fees without legislative approval.

**VETO MESSAGE ON HB 2313-S**

March 25, 1998

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

Ladies and Gentlemen:

I am returning herewith, without my approval as to section 5, Engrossed Substitute House Bill No. 2313 entitled:

"AN ACT Relating to enforcement of the elevator and other conveyances law;"

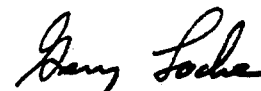
This bill assures uniform enforcement of safety standards for the wide variety of elevators and other conveyances used by the public. It will enhance both public and worker safety.

However, section 5 of ESHB 2313 would prohibit the Department of Labor and Industries from imposing new fees or increasing fees for the elevator inspection program without prior legislative approval, even when necessary to maintain the solvency of the program. Such a requirement would cause delays that could jeopardize public safety and is unnecessary. The Legislature has included a proviso in the budget which limits expenditures of the elevator program to a level that does not exceed the revenues generated by the program. Furthermore, the department is already restricted by Initiative 601 as to the amount the fees can be increased.

For these reasons, I have vetoed section 5 of Engrossed Substitute House Bill No. 2313.

With the exception of section 5, I am approving Engrossed Substitute House Bill No. 2313.

Respectfully submitted,



Gary Locke  
Governor

**SHB 2315**

C 311 L 98

Making technical corrections to excise and property tax statutes.

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

House Committee on Finance  
Senate Committee on Ways & Means

**Background:** Some excise and property tax statutes cite specific session laws rather than the codified version of the law in the Revised Code of Washington. Statutes also contain some out-of-sequence references to other statutes and outdated provisions. For example, the Department of Revenue (DOR) no longer issues warrants and orders under an official seal, but statutes still refer to the use of an official seal.

The general business and occupation (B&O) wholesaling tax rate is 0.484 percent, but there are some lower rates. One lower rate is a 0.011 percent B&O wholesaling rate for ten types of agricultural commodities. This lower 0.011 percent rate applies, however, only to commodities that have not been manufactured or processed. The DOR

## SHB 2321

has decided that processing means the same as manufacturing.

A statute enacted in 1997 states that money received from a trust account is not subject to B&O taxes if the account operates in a manner consistent with how mortgage brokers must handle borrowers' money in trust for payment of third party costs. Third party costs are expenses for services such as appraisal and credit check fees. The statute could be interpreted to mean that anyone receiving trust money would owe no B&O taxes. For example, an appraiser might not owe B&O taxes on his or her earnings if payment to the appraiser was made from one of these trust accounts.

Several different types of nonprofit organizations qualify for property tax exemptions. The term "nonprofit" is defined for some of these organizations, but the meaning of nonprofit is ambiguous for others.

**Summary:** Clarification is made that only mortgage brokers are exempt from paying B&O taxes on money received from borrowers and held in trust for payment of third party costs. This clarification applies retroactively to July 27, 1997.

The word "processed" is deleted from the statute providing a 0.011 percent B&O wholesaling tax rate for certain agricultural commodities that have not been manufactured or processed.

All nonprofit organizations eligible for property tax exemptions are made subject to the same definition of "nonprofit."

References to the use of an official Department of Revenue seal to authenticate warrants, orders, and other documents are deleted.

Other changes made to property and excise tax statutes include:

- references to specific legislative acts are replaced with references to the title or chapter where these acts are codified into law;
- expired statutory provisions are deleted;
- statutory cites are reordered for correct numerical sequence; and
- references to the defunct Interstate Commerce Commission are replaced with references to the Interstate Commerce Commission and its successor agency.

**Votes on Final Passage:**

House	93	0
Senate	47	0

**Effective:** June 11, 1998

## SHB 2321

C 28 L 98

Allowing consumer loan companies to charge borrowers fees for services provided by third parties.

By Representatives L. Thomas, Smith and Wolfe.

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

**Background:** Consumer loan companies may charge interest rates up to 25 percent per year. Consumer loan companies may charge the borrower for fees they incur for title insurance, appraisals, recording, reconveyance, and releasing in connection with preparing the borrower's loan. If the consumer loan company does not make the loan, it may only charge the borrower for the appraisal fee.

**Summary:** The restriction on the types of expenses a consumer loan company may charge the borrower is removed. Instead of being limited to fees incurred for title insurance, appraisals, recording, reconveyance and releasing, a consumer loan company may charge the borrower for any fees it pays to third parties in connection with preparing the borrower's loan. A consumer loan company is still limited to recovering the appraisal fee if it does not make the loan.

**Votes on Final Passage:**

House	97	0
Senate	46	0

**Effective:** June 11, 1998

## ESHB 2330

FULL VETO

Authorizing church schools.

By House Committee on Education (originally sponsored by Representatives Hickel, Johnson, Backlund and D. Sommers).

House Committee on Education  
Senate Committee on Education

**Background:** All parents of children from 8 to 18 years old are required to send these children to school. The children must attend public school unless they are enrolled in a private school, are receiving home-based instruction, are attending an education center, are excused by the school district superintendent under certain circumstances, or are 16 years old and meet certain criteria.

Private schools are subject to less regulation than public schools, although private schools must be approved by the State Board of Education and comply with certain statutory requirements. Private schools must annually file a certification with the Superintendent of Public Instruction that the private school meets minimum statutory

requirements, and must develop a process to correct any deficiencies. These requirements include: (1) the school year must consist of at least 180 school days; (2) all classroom teachers must be certificated by this state except for teachers of religion courses and others with unusual competence who are supervised by a certificated teacher; and (3) the school facilities must be adequate to meet the program offered by the school and meet reasonable health and safety requirements. The private school curriculum must include instruction in basic skills. Private school students are not required to meet student learning goals, obtain a certificate of mastery, or be assessed under the state assessment program. Private schools are authorized to operate an extension program for parents or legal guardians to teach their children.

Private schools must report information on their students required by the Superintendent of Public Instruction to the appropriate educational service district. Private schools must comply with rules relating to private schools promulgated by the State Board of Education.

**Summary:** Parents may comply with the requirement that they send their children to school by sending their children to a religiously affiliated exempt school. A religiously affiliated exempt school is a private school that: (1) offers instruction in grades K-12, in any combination including single grade schools; (2) is operated by a ministry of a local church, group of churches, denomination, religiously-affiliated school, or association of churches on a nonprofit basis; and (3) does not receive any state or federal funding.

Religiously affiliated exempt schools are exempt from the minimum requirements that private schools must meet, except that they must have adequate facilities. These schools do not have to be approved by the State Board of Education, and do not have to report their attendance and enrollment.

**Votes on Final Passage:**

House	71	25
Senate	30	18

**VETO MESSAGE ON HB 2330-S**

March 12, 1998

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. 2330 entitled:

"AN ACT Relating to church schools;"

This legislation creates and defines a new category of private schools, "religiously affiliated exempt schools," and would exempt these schools from all current requirements except that their physical facilities would have to meet health and fire safety standards.

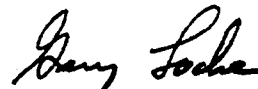
The paramount duty of the state of Washington is to provide for the education of all children in our state. Current law sets forth the very minimum state controls necessary to ensure the health and safety of students, and requires that a sufficient basic education is delivered by private schools.

*I am sympathetic to the issues raised by proponents of ESHB 2330 regarding certification requirements for private school teachers, and I am willing to support exempting teachers at religiously affiliated schools from those requirements. My staff will be available to work with those groups during the interim to develop legislation that both adequately addresses that issue and satisfies my concerns.*

*If ESHB 2330 were to become law, the state could not meet its minimum obligation to ensure that all children receive a sufficient basic education.*

*For these reasons, I have vetoed Engrossed Substitute House Bill No. 2330 in its entirety.*

Respectfully submitted,



Gary Locke  
Governor

**HB 2335**

C 312 L 98

Consolidating business and occupation tax rates into fewer categories.

By Representatives B. Thomas, Mulliken, Thompson, Morris, Gardner, Linville, Backlund, Cooke, Carrell, Kastama, Schoesler, Van Luven, Dunn and Lambert; by request of Department of Revenue.

House Committee on Finance  
Senate Committee on Ways & Means

**Background:** Washington's major business tax is the business and occupation (B&O) tax. 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. There are many different tax rates.

In 1997, the Legislature eliminated the distinction between financial services, selected business services, and other services and consolidated these activities into a single tax rate. These changes take place July 1, 1998. After July 1, 1998, the business and occupation tax will have 10 different rates as follows:

- 0.011%: wholesaling wheat, oats, corn, barley;
- 0.138%: manufacturing wheat into flour, manufacturing soybean oil, seafood manufacturing, slaughter, breaking and processing meat-wholesale;
- 0.275%: dry pea splitting, nuclear fuel sales, nuclear fuel manufacturing, travel agent commissions, international investment management;
- 0.330%: manufacturing fresh fruits and vegetables;
- 0.363%: international charter freight brokers, stevedoring;
- 0.471%: retailing;
- 0.484%: extracting, extracting for hire, manufacturing, retailing interstate transportation products, nonprofit research and development, wholesaling, internal distribution, newspaper printing, road and street improvements for government, storage warehouses, inde-

## E2SHB 2339

pendent general insurance agents, radio and TV broadcasting, construction for federal government;  
0.55%: insurance-agents/brokers commissions;  
1.50%: nonprofit hospitals, real estate brokers, and services; and  
3.30%: low-level radioactive waste disposal.

Privately owned kindergartens are exempt from the B&O tax. The Department of Revenue has interpreted this exemption to include any kindergarten, nursery school, preschool, or day care center that cares for children below the first grade level. An organization caring for children of all ages must pay the B&O tax at the 1.5 percent services rate on income received from children at or above the first grade level. A specific B&O tax exemption is available to churches providing child care for periods of less than 24 hours.

**Summary:** The number of the B&O rates is reduced to six rates by:

- eliminating the 0.011 percent rate for wholesaling wheat, oats, corn, and barley, and exempting these activities from tax;
- consolidating agricultural activities at the 0.138 percent rate. Dry pea splitting (formerly 0.275 percent) and manufacturing fresh fruits and vegetables (formerly 0.330 percent) are moved to the category with manufacturing wheat into flour; manufacturing soybeans into oil, seafood manufacturing, and processing and selling meat at wholesale;
- moving international charter freight brokers and stevedoring (formerly 0.363 percent) to the category with travel agent commissions, nuclear fuel sales and manufacturing, and international investment management at 0.275 percent; and
- moving insurance agent/broker commissions (formerly 0.55 percent) to 0.484 percent to the category with manufacturing, wholesaling, extracting and others.

The resulting six B&O tax rate categories are:

- 0.138%: manufacturing wheat into flour, manufacturing soybean oil, seafood manufacturing, slaughter, breaking and processing meat-wholesale, dry pea splitting, manufacturing fresh fruits and vegetables;
- 0.275%: nuclear fuel sales, nuclear fuel manufacturing, travel agent commissions, international investment management, international charter freight brokers, and stevedoring;
- 0.471%: retailing;
- 0.484%: extracting, extracting for hire, manufacturing, retailing interstate transportation products, nonprofit research and development, wholesaling, internal distribution, newspaper printing, road and street improvements for government, storage warehouses, independent general insurance agents, radio and TV broadcasting, construction for federal government, insurance-agents/brokers commissions;
- 1.50%: nonprofit hospitals, real estate brokers, and services; and

3.30%: low-level radioactive waste disposal.

The B&O tax rate for businesses providing child care for periods of less than 24 hours is reduced from 1.5 percent to 0.484 percent.

### Votes on Final Passage:

House	88	6	
Senate	45	0	(Senate amended)
House	85	11	(House concurred)

**Effective:** July 1, 1998

## E2SHB 2339

C 248 L 98

Authorizing wetlands mitigation banking.

By House Committee on Appropriations (originally sponsored by Representatives Thompson, Mulliken, Pennington, Gardner, Romero, Chopp, Anderson, Boldt and Lantz).

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

**Background:** A number of federal, state, and local laws govern wetlands. Generally, proposals to drain, fill, or otherwise modify wetlands require a permit from the Army Corps of Engineers under section 404 of the federal Clean Water Act. Section 404 permits require a Section 401 certification from the Department of Ecology (DOE) that the project meets state water quality standards. (Some limited wetlands activity does not require individual Clean Water Act permits.) The DOE also has some permit authority to regulate wetlands under the Shoreline Management Act.

Under the Hydraulic Code, wetlands work that affects the bed or flow of state waters requires a Hydraulic Project Approval for the protection of fish life from the Department of Fish and Wildlife.

Under the Growth Management Act, cities and counties must adopt regulations protecting critical areas, including wetlands. Most cities and counties require permits for activities in or near wetlands. Local governments also have some permitting authority for wetlands covered by the Shoreline Management Act.

When a landowner proposes a project for which an impact to a wetland is authorized, generally the landowner must compensate for the impact to the wetland. Mitigation banking is one form of compensation for a wetland impact.

Typically, a wetlands "banker" develops a bank of functioning wetlands by restoring previously drained or filled wetlands. Units of the banked wetlands are then calculated as a certain number of "credits" based on the function or value of the wetlands in the bank. If approved by regulatory agencies, these credits can be withdrawn to

offset wetland impacts, or "debits" at a development site. Banks may be public banks, sponsored by public entities impacting wetlands, or may be private entrepreneurial banks, in which a bank sponsor, with regulatory approval, may sell credits in the bank to a developer to compensate for impact of the developer's project. Wetland banking is contrasted with project-specific replacement, where the project sponsor does specific restoration or other mitigation to replace a particular wetland that is to be impacted.

At the federal level, an Interagency Working Group on Federal Wetlands Policy has issued "guidance" on mitigation banks. In Washington, the state and local governments may approve mitigation banks under their general authority to regulate wetlands, but there is no specific statutory authorization for banks. A number of Washington cities and counties have adopted or are considering local ordinances on mitigation banks. At least 10 states have adopted mitigation banking statutes.

**Summary:** Wetlands mitigation banking is specifically authorized. A state agency or local government may approve use of credits from a bank for mitigation required under a permit issued or approved by the agency or local government. A mitigation bank is a site where wetlands are restored, created, enhanced, or in exceptional circumstances, preserved, to provide compensatory mitigation in advance of authorized impacts to similar resources. The provisions apply to both public and private banks.

The Department of Ecology (DOE) may certify banks meeting specified requirements. Certification is accomplished through a banking instrument. The instrument documents agency and bank sponsor concurrence on the objectives and administration of the bank and describes the legal and physical characteristics of the bank and how the bank will be established and operated. The local jurisdiction in which the bank is located must also sign the banking instrument.

Before the DOE authorizes the use of credits from a bank to mitigate under a DOE issued or approved permit, the DOE must assure that all appropriate and practicable steps have been undertaken to first avoid and then minimize adverse impacts to wetlands. In determining appropriate steps to avoid and minimize impacts, the DOE must take into consideration the functions and values of the wetlands, including fish habitat, ground water quality, and protection of adjacent properties. The DOE may approve use of credits from a bank when: (1) the credits represent the creation, restoration, or enhancement of wetlands of like kind and in close proximity when estuarine wetlands are being mitigated; (2) there is no practicable opportunity for on-site compensation; or (3) the use of a bank is environmentally preferable to on-site compensation.

Using a collaborative process, the DOE must adopt rules addressing:

- certification, operation, and monitoring of banks. Priority is to be given to banks restoring former wetlands.

Banks involving creation and enhancement of wetlands may be certified only where there are adequate assurances of success and where the bank will result in an overall environmental benefit. Banks involving the preservation of wetlands or associated uplands may be certified only in limited circumstances.

- determination and release of credits from banks. The credit procedures must authorize the use and sale of credits to offset adverse impacts and the phased release of credits as different levels of the performance standards have been met.
- public involvement in the certification of banks, using existing statutory authority.
- coordination of governmental agencies.
- establishment of criteria for determining service areas for each bank. The service area is the geographic area in which a bank can reasonably be expected to provide appropriate compensation for wetland impacts.
- performance standards.
- long-term management, financial assurances, and remediation for certified banks.

The DOE must submit a report to the appropriate standing committees of the Legislature before January 30, 1999, on its progress in developing rules. Before adopting any rules, the DOE must submit the proposed rules to the appropriate legislative standing committees.

The interpretation of these provisions and the rules must be consistent with applicable federal guidance.

#### Votes on Final Passage:

House	83	13	
Senate	35	12	(Senate amended)
House	94	4	(House concurred)

**Effective:** June 11, 1998

## E2SHB 2342

C 313 L 98

Providing tax exemptions for businesses in community empowerment zones that provide selected international services.

By House Committee on Trade & Economic Development (originally sponsored by Representatives Van Luven, McDonald, Regala, Talcott, Huff, Conway, Lantz, Fisher, Gardner, Anderson, Lambert and Boldt).

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

**Background:** The Community Empowerment Zone program was created in 1993 to target the combined efforts and resources of the public and private sector in a partnership designed to create an environment in which reinvestment can occur. The Department of Community, Trade, and Economic Development was authorized to des-

## E2SHB 2345

ignite up to six areas for participation in the program by March 1, 1994. A community empowerment zone is a geographic area that is characterized as having high unemployment rates and a preponderance of low-income households. The areas that contain designated community empowerment zones are the cities of Yakima, Seattle, Tacoma, Bremerton, and White Center in King County.

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. Businesses are taxable according to the activities they engage in and therefore may be subject to more than one tax rate.

Washington imposes an insurance premiums tax on authorized insurers. The insurance premiums tax is in lieu of a B&O tax. The tax is based on 2 percent of the net premiums received by authorized insurers, except title insurers and fraternal benefit societies, after deduction of premiums that are returned to policyholders.

**Summary:** A credit is provided against either the business and occupation (B&O) tax or the insurance premiums tax that is equal to \$3,000 per year for a five-year period for each net new job created after July 1, 1998.

To be eligible for the tax credit the business must be engaged in providing international services and either be located in a designated community empowerment zone or be a contiguous group of census tracts meeting the unemployment and poverty criteria of a community empowerment zone and located in a city or contiguous group of cities with a population greater than 80,000 that is in a county that does not have a community empowerment zone.

A business may not claim the credit for hiring an employee for a position that existed before July 1, 1998. The business may accrue and carry forward credits until used. No refunds may be granted for unused credits.

A business is subject to a penalty in the amount of the tax credit and interest if the person is not eligible for the credit. The interest on the tax credit is assessed retroactively to the date the tax credit was taken and accrues until the taxes are repaid in full.

"International services" means the provision of a service that is for a person outside the United States or is for use primarily outside the United States. These services include computer services, data processing services, information services, legal services, accounting and tax preparation services, engineering services, architectural services, business consulting services, business management services, public relations and advertising services, surveying services, geological consulting services, real estate appraisal services, and financial services.

### Votes on Final Passage:

House	95	1	
Senate	42	0	(Senate amended)
House			(House refused to concur)
Senate			(Senate refused to recede)
House	75	23	(House concurred)

Effective: July 1, 1998

## E2SHB 2345

### PARTIAL VETO

C 280 L 98

Revising administrative law.

By House Committee on Appropriations (originally sponsored by Representative Reams).

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

**Background:** In 1994 and 1995, as part of regulatory reform, the Legislature made substantial changes to agency rule-making and the legislative review of rules. Additional changes were adopted in 1997.

**Rule-Making Requirements.** *General provisions.* The Administrative Procedure Act (APA) details procedures agencies must follow when adopting rules. Generally a "rule" is any agency order, directive, or regulation of general applicability that: (1) subjects a person to a sanction if violated; or (2) establishes or changes any procedure or qualification relating to:

- agency hearings;
- benefits or privileges conferred by law;
- licenses to pursue any commercial activity, trade, or profession; or
- standards for the sale or distribution of products or materials.

The rule-making procedures include publishing notice of the proposed rule in the state register, sending a copy of the notice to persons requesting it, and holding a hearing. For some types of rules, agencies must solicit comments and otherwise involve interested parties before publishing notice of a proposed rule. For each rule, an agency must maintain an official rule-making file that includes copies of all publications in the state register with respect to the rule.

*Significant legislative rules.* Before adopting a significant legislative rule, certain of the larger agencies must determine that the probable benefits of the rule exceed the probable costs and make other determinations. These agencies must also develop a rule implementation plan for a significant legislative rule describing how the agency intends to implement and enforce the rule, inform and educate affected persons about the rule, promote and assist

voluntary compliance with the rule, and evaluate the rule. Significant legislative rules are most rules other than emergency rules, procedural and interpretive rules, and fee-setting rules. The Joint Administrative Rules Review Committee (JARRC) may also require that any rule of any agency be made subject to the significant legislative rules requirements. The JARRC has 45 days after receiving notice of a proposed rule to make the requirements applicable.

*Expedited process.* An expedited repeal process allows agencies to repeal rules in an expedited manner if no one objects. Similarly, an expedited adoption process allows streamlined adoption of rules that have been the subject of a process involving substantial participation by interested parties before the development of the rule, rules which only correct typographical errors, and certain other types of rules. An agency may file for expedited adoption at any time, but is allowed only two filings (in April and October) of rules for expedited repeal.

*Review of rules.* Rules remain in effect until amended or repealed. The APA does not require agencies to review their rules. Under Executive Order 97-02, the Governor directed all executive agencies to review rules that have significant effects on businesses, labor, consumers, and the environment. The agencies must determine whether the rules should be retained, or amended or repealed, if they do not meet specified criteria. The criteria include whether the rule is necessary, whether it is providing the results that it was originally designed to achieve in a reasonable manner, whether it is clearly written, and whether the quantitative and qualitative benefits of the rule been considered in relation to its costs.

Under the executive order, an agency must also review its policy and interpretive statements and similar documents to determine whether they must be adopted as rules, and must review its reporting requirements.

*Economic impact statements.* Under the Regulatory Fairness Act, agencies must prepare a small business economic impact statement when adopting a rule that imposes more than minor costs on businesses in an industry or if requested to do so by the JARRC. Certain types of rules are exempt. The statement describes the reporting, record keeping, and other compliance requirements of the proposed rule, analyzes the costs of compliance, and addresses other matters. If the agency finds that the rule has a disproportionate impact on small businesses, the agency must reduce the costs on small businesses, where legal and feasible do to so.

Interpretive and Policy Statements and Other Documents. In addition to rules, agencies also issue other types of documents. An interpretive statement is a document titled "Interpretive Statement" that states an agency's interpretation of the meaning of a statute. A policy statement is a document titled "Policy Statement" that states an agency's current approach to the implementation of a statute. Unlike rules, interpretive and policy statements are advisory only. Agencies are encouraged to issue interpre-

tive and policy statements and to convert long standing interpretive and policy statements into rules.

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

The JARRC is composed of eight legislators (four senators and four representatives, with no more than two members from each house from the same political party). The President of the Senate and the Speaker of the House alternate appointing either the chair or vice chair for one year terms.

Adjudicative Proceedings. When a state agency conducts a hearing that is not presided over by officials who are to render the final decision, the hearing must be conducted by an administrative law judge.

Summary: Rule-Making Requirements. *General provisions.* A notification requirement for certain rules is added. Within 200 days of the effective date of a rule that imposes additional requirements on businesses that may subject a person to a sanction if violated, an agency must make a good faith effort to notify businesses affected by the rule of the requirements and how to obtain technical assistance. Good faith means the agency at least: (1) notifies businesses in the standard industrial classifications of businesses affected by the rule that are registered with the Department of Revenue; or (2) for rules imposing requirements only on persons or firms licensed, registered, or operating under a permit, the agency notifies the holders of the licenses, registrations, or permits. Inadvertent failure to notify a specific business does not invalidate a rule.

*Significant legislative rules.* Agencies are encouraged to convene a meeting of interested persons affected by a significant legislative rule at least 20 days before the effective date to identify and determine how to resolve ambiguities and problem areas in the rule. The rule implementation plan requirement is expanded to include the meeting, if one is convened, as well as training of agency personnel.

The time period for the JARRC to decide whether to impose the significant legislative rule requirements is extended from 45 to 75 days after receiving notice of the proposed rule.

*Expedited process.* Agencies may file proposals for the expedited repeal of rules at any time, instead of only twice a year. The contents of the rule-making file is limited so that only citations to the notices in the register are required and not copies of all the register publications with respect to a rule.



*Review of rules.* Beginning July 1, 2001, each state agency must review its rules on a seven-year cycle to determine if the rules should be retained, amended, or repealed. The rules reviewed and the criteria under which they are reviewed are the same as in Executive Order 97-02.

Consistent with the Executive Order, the agency must also review its policy and interpretive statements or similar documents to determine whether they must be adopted as rules, and must review its reporting requirements.

Beginning July 1, 2002, each agency must report annually to the JARRC on its progress in reviewing its rules, and must publish a summary of the report in the register. If the JARRC receives a written objection within 90 days after publication, the JARRC must determine whether the agency complied with the requirements. If the JARRC finds that the agency did not comply, the agency has 120 days to receive approval from the JARRC. If the agency fails to comply, the JARRC may recommend that the Governor suspend the rule. If the Governor disapproves the suspension recommendation, the agency must treat the decision as a petition to repeal the rule.

*Economic impact statements.* An agency must prepare a local government economic impact statement when adopting a rule that imposes costs on local government. Certain types of rules are exempt. The statement must describe the reporting, record keeping and compliance requirements of the proposed rule and analyze the costs of compliance for local government. The Department of Community, Trade, and Economic Development must develop a guide to help agencies prepare the statements. Annually, an agency must submit to the JARRC a list of rules for which it has prepared an economic impact statement and a summary of the costs.

Interpretive and Policy Statements and Other Documents. The legislative encouragement to agencies to use policy and interpretive statements is deleted. When a person requests a copy of a rule, an agency must identify any associated interpretive and policy statements, guidelines, documents of general applicability, or their equivalents and provide copies of the statements upon request.

A notification requirement for documents similar to the rules notification requirement is added. Within 200 days of issuing a policy or interpretive statement, guideline, document of general applicability, or its equivalent involving an issue the violation of which may result in a sanction, the agency must make a good faith effort to notify businesses. "Good faith" has the same meaning as for notification of rules.

Legislative Review. The terms of the JARRC chair and vice chair are modified. In January 1999, the President of the Senate appoints both the chair and vice chair for one-year terms. Beginning in 2000, the House and Senate alternate appointing both the chair and vice chair for two-year terms.

Adjudicative Proceedings. A hearing held by the Insurance Commissioner must be conducted by an

administrative law judge unless the person demanding the hearing agrees in writing to have an employee of the commissioner conduct the hearing.

These provisions are made subject to funding in the omnibus appropriations act.

**Votes on Final Passage:**

House	64	32	
Senate	31	17	(Senate amended)
House	83	15	(House concurred)

**Effective:** June 11, 1998

**Partial Veto Summary:** The Governor vetoed provisions requiring agencies to: provide copies of associated documents to persons requesting copies of rules; make good faith efforts to notify businesses and people affected by new rules and policies, statements or other documents; convene a meeting of interested persons affected by significant legislative rules; and prepare local government impact statements for any rules imposing costs on local government.

The Governor also vetoed provisions creating statutory rules review requirements and criteria. In addition, the Governor vetoed the provisions requiring the Insurance Commissioner to use administrative law judges for hearings and the null and void provision.

**VETO MESSAGE ON HB 2345-S2**

*April 2, 1998*

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

*Ladies and Gentlemen:*

*I am returning herewith, without my approval as to sections 1, 3, 4, 8, 10, 11, 12, and 13, Engrossed Second Substitute House Bill No. 2345 entitled:*

*"AN ACT Relating to administrative law;"*

*Engrossed Second Substitute House Bill No. 2345 makes numerous changes throughout the Administrative Procedures Act (APA) that proponents claim will improve the rule making process and provide better notification of regulatory actions.*

*I am deeply committed to meaningful regulatory improvement in state government and have demonstrated that commitment by undertaking a major reform effort under Executive Order 97-02. That program has already resulted in the elimination of nearly 2,000 rules and the rewriting of hundreds of regulations in plain English. Agencies are also eliminating regulatory inefficiencies, improving customer service, reducing conflicting regulations, using negotiated rule making, and expanding effective outreach and voluntary compliance among the regulated community. Those are examples of meaningful regulatory reform, and I welcome proposals that will further those goals.*

*Unfortunately, most of the provisions in E2SHB 2345 do not further those goals. Sections 1, 3, and 4 would mandate additional notification, meetings, and other requirements for agencies, and would add costs and complexity to the regulatory process. They would also result in additional bureaucratic red tape, and duplicate information and services that are already being provided under current law and practices. In some cases, the language in those sections is ambiguous regarding who should be notified about what actions. Those sections would only create more opportunities for litigation regarding the meaning of the requirements and the extent to which agencies may or may not have complied. Proponents of this bill did not provide hard evidence of system-wide problems that would justify these changes. Anecdotes and disagreements with individual agencies*

about a rule should not be used as a rationale to make costly changes in the APA that affect all agencies.

Section 8 of the bill would require a rule review process that is similar to that already established in E.O. 97-02. Under that executive order, all agencies are conducting rule review in an efficient and orderly manner, and that review is yielding results. Statutory rule review is, therefore, unnecessary and could open up new opportunities for litigation on technical grounds relating to the adequacy of the reviews.

Sections 10 and 12 of the bill would require the Office of the Insurance Commissioner to use adjudicators from the Office of Administrative Hearings. I vetoed the same sections after the 1997 legislative session, and I am not aware of any evidence that would justify changing the current adjudication process and singling out the Insurance Commissioner for different treatment.

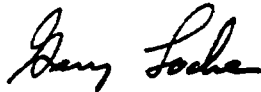
Section 11 of the bill would require agencies to prepare local government economic impact statements on rules that impose any costs on local governments. While funding was made available for this program, the Legislature chose to condition the availability of those funds on enactment of sections 1 and 4 of the bill, which I have vetoed.

Finally, section 13 of the bill is a "null and void" clause that would nullify the entire act if funding is not made available. The supplemental budget act conditions funding for portions of this bill on the approval of certain sections. Since I am vetoing those necessary sections, funding will disappear. Section 13 must, therefore, be vetoed in order to preserve sections in this bill that I have approved.

For these reasons, I have vetoed sections 1, 3, 4, 8, 10, 11, 12, and 13 of Engrossed Second Substitute House Bill No. 2345.

With the exception of sections 1, 3, 4, 8, 10, 11, 12, and 13, Engrossed Second Substitute House Bill No. 2345 is approved.

Respectfully submitted,



Gary Locke  
Governor

**ESHB 2346**

C 66 L 98

Allowing the department of social and health services to recover revenue from vendors that have been overpaid.

By House Select Committee on Vendor Contracting & Services (originally sponsored by Representatives Clements, Scott, Dickerson, Gardner, Hatfield, Anderson, Dyer, Thompson, O'Brien, Boldt, Skinner, D. Schmidt, Mulliken and Backlund; by request of Department of Social and Health Services).

House Select Committee on Vendor Contracting & Services

House Committee on Government Administration  
Senate Committee on Human Services & Corrections

**Background:** The sole statutory remedy available to the Department of Social and Health Services (DSHS) to recover funds owed to the state by vendors is to secure a lien equal to the amount of the debt plus interest. The department must bring a civil court action to enforce the lien or attempt to recover the debt by other means.

**Summary:** A uniform procedure for the DSHS to recover vendor overpayments is established. The procedure provides a mechanism for determining the amount of a debt and broadens available collection options. The department is required to give notice of an overpayment to the vendor who must, within 28 days, either pay the amount owed, or request an administrative proceeding. If the vendor does neither, a final debt against the vendor in the amount claimed by the department is established. The department may collect a debt through a lien and foreclosure, distraint, seizure and sale, order to withhold and deliver, any of the collection procedures established for overpayment of public assistance, or any other collection action available to the department.

**Votes on Final Passage:**

House	96	0
Senate	48	0

**Effective:** June 11, 1998

**EHB 2350**

C 67 L 98

Directing the Washington state crime information center to provide law enforcement agencies with access to sex offender central registry information.

By Representatives McDonald, Mulliken, Thompson, Dunn, Lambert, Mason and Sullivan.

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

**Background:** Washington State Crime Information Center (WASIC). The WASIC is located in the records division of the Washington State Patrol and functions under the direction of the chief of the Washington State Patrol. The center serves to coordinate crime information, by means of data processing, for all law enforcement agencies throughout the entire state.

The WASIC provides access to the National Crime Information Center, to motor vehicle and driver license information and to such other public records as may be accessed by data processing and that are pertinent to law enforcement. In addition, other files that can be found in the WASIC system include: hot sheets (listing dangerous felons); a listing of people that are wanted for felony or misdemeanor crimes or have no-contact orders; inmates under Department of Corrections community corrections status; files listing stolen and wanted vehicles; outstanding warrants; identifying children who have been reported by their parents, custodians, or legal guardians as having run away from home; identifiable stolen property; and such other files as may be of general assistance to law enforcement agencies.

Sex Offender Central Registry. The Washington State Patrol maintains a central registry of persons required to register as sex offenders. A sex offender must register

## SHB 2351

with the county sheriff within 24 hours of being released from confinement and within 10 days of changing his or her residential address. A sex offender who moves to Washington from another state or a foreign country must register within 30 days of establishing residence.

The county sheriff forwards the collected information and fingerprints of each registered sex offender to the Washington State Patrol for entry into the Sex Offender Central Registry. Although each individual county independently maintains records on the sex offenders within the county, there is not a statewide system that allows a law enforcement officer to obtain quick information on a sex offender who may have traveled from outside of his or her home county.

The WASIC system and Sex Offender Central registry operate as two separate registries.

**Summary:** The Washington State Patrol must include information relating to sex offenders in its WASIC system. The merging of the WASIC system and the Sex Offender Central Registry must take place by June 30, 1999.

### Votes on Final Passage:

House	93	0
Senate	47	0

**Effective:** June 30, 1998

## SHB 2351

C 138 L 98

Allowing victims of sexual assault into the address confidentiality program.

By House Committee on Government Administration (originally sponsored by Representatives McDonald, Costa, L. Thomas, Scott, Gardner, Linville, Hatfield, Benson, Keiser, Romero, Butler, Dunshee, Kessler, Kenney, Cooke, Mitchell, Cooper, Kastama, Dunn, Lambert, Constantine, Sullivan, Conway and Lantz; by request of Secretary of State).

House Committee on Government Administration  
Senate Committee on Government Operations

**Background:** A program of address confidentiality for victims of domestic violence is provided by the Secretary of State's Office. A participant in this program may use an address designated by the Secretary of State as her or his residential address, school address, or work address. All first class mail that is delivered to the participant at the designated address is forwarded to the participant.

Records of the actual address of a participant may not be disclosed except to law enforcement agencies, by court order, or if the certification of the person in the program has been canceled.

The Secretary of State may designate state and local agencies and nonprofit agencies that provide counseling

and shelter services to victims of domestic assault to assist persons applying to be program participants.

A program participant may apply for on-going absentee voter status.

**Summary:** The program of address confidentiality for victims of domestic violence is expanded to include victims of sexual assault.

The Secretary of State may not disclose any information other than the designated address of a program participant. To verify a person's participation in the program, the Secretary of State may confirm information supplied by the requestor.

### Votes on Final Passage:

House	93	0
Senate	46	0 (Senate amended)
House	95	0 (House concurred)

**Effective:** June 11, 1998

## HB 2355

C 42 L 98

Managing state park lands.

By Representatives Alexander, Ogden, Lantz, Anderson and Conway; by request of Parks and Recreation Commission.

House Committee on Appropriations  
Senate Committee on Natural Resources & Parks

**Background:** There are restrictions on the State Parks and Recreation Commission's authority to hold public hearings relating to land exchanges. The commission must have the hearing neither more than 25 days nor less than 10 days before the Director of Parks and Recreation presents a land exchange proposal to the commission. When state park lands are sold, the proceeds from the sale are paid into the state general fund.

**Summary:** The restrictions on the time period within which the State Parks and Recreation Commission must conduct public hearings before considering land exchanges are eliminated. Proceeds from the sale of park land are placed in a dedicated account to purchase other park lands.

### Votes on Final Passage:

House	95	0
Senate	45	0

**Effective:** June 11, 1998

**HB 2357**  
**FULL VETO**

Setting the rates of interest and other fees charged by pawnbrokers.

By Representatives L. Thomas, Wolfe, Smith, Grant, DeBolt, Keiser and D. Sommers.

House Committee on Financial Institutions & Insurance  
Senate Committee on Financial Institutions, Insurance & 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 based on the amount of the loan (pawn). For instance, for a loan of \$50, the maximum interest charge is \$2.50 per 30-day period and the maximum loan preparation fee is \$7; for a loan of \$100 or more, the maximum interest charge is 3 percent per 30-day period and the maximum loan preparation fee varies depending on the amount borrowed. For instance, the maximum loan preparation fee is \$12 for a \$100 loan; \$18 for a \$250 loan; \$55 for a \$1000 loan; and \$90 for a \$4500 loan or higher.

The term of the loan is 30 days, but the loan period, during which only one loan preparation fee can be collected, is a minimum of 90 days (the term of the loan plus a minimum 60-day grace period).

**Summary:** Pawnbrokers are authorized to receive higher amounts of interest and loan preparation fees based on the amount of the loan (pawn). The increase on allowable interest charged is 50 cents per 30-day period for loans up to \$100, and is 2 percent of the loan amount per 30-day period on loans of \$100 or more (from 3 percent to 5 percent). The increase in the loan preparation fee varies; the fee is 50 cents on loans less than \$30, \$1 on loans from \$30 - \$100, \$2 on loans from \$100 - \$200, \$2.50 on loans from \$200 - \$500, and \$3 on loans over \$500.

**Votes on Final Passage:**

House	63	30
Senate	33	14

**VETO MESSAGE ON HB 2357**

March 31, 1998

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. 2357 entitled:

"AN ACT Relating to the rates of interest and other fees charged by pawnbrokers;"

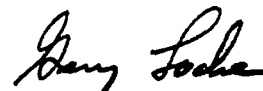
*This legislation would increase both allowable fees for preparation of loan documents and allowable interest rates that pawnbrokers may charge.*

*I recognize that pawnbrokers serve an important role in our consumer finance market by providing a source of short-term loans for small amounts of money. The maximum rates of interest that pawnbrokers are allowed to charge are already higher than allowed for many other forms of consumer loans. House Bill No. 2357 would increase them still further. For example, under current law, the allowable interest rate on a \$50 loan is \$2.50 per month, which on an annualized basis is an interest rate of 60%. This bill would increase the allowable rate to \$3.00 per month, or an annualized interest rate of 72%. Meanwhile, general market interest rates have actually decreased over the last several years.*

*Rate increases of this magnitude, to be paid by individuals who may have the greatest difficulty affording them, require convincing justification. In my view that justification has not been made.*

*For these reasons, I have vetoed House Bill No. 2357 in its entirety.*

Respectfully submitted,



Gary Locke  
Governor

**SHB 2364**

C 29 L 98

Extending the time for the secretary of health to establish administrative procedures and requirements for health professions.

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

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

**Background:** In 1996, the Legislature directed the Secretary of Health to establish uniform administrative procedures, administrative requirements, and fees for initial issuance, renewal, and reissuance of a credential to practice a regulated health service. This includes modifying the duration of the license, certification, or registration periods if the modification will result in more economical or efficient government without adversely affecting the public health and safety. The process involves 43 health professions regulated by the Department of Health. The secretary's authority terminates July 1, 1998.

**Summary:** The termination date of July 1, 1998, of the Secretary of Health's authority to establish uniform administrative procedures and administrative requirements for health service credentialing is extended to March 1, 1999.

## SHB 2368

### Votes on Final Passage:

House	95	0
Senate	47	0

Effective: June 11, 1998

## SHB 2368

C 139 L 98

Requiring sex offenders and kidnapers on college campuses to register with campus security.

By House Committee on Criminal Justice & Corrections (originally sponsored by Representatives Carlson, Kenney, Radcliff, Gardner, Anderson, Constantine and Mason).

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

**Background:** Convicted sex offenders and kidnapers are required to register with the sheriff of the county in which they reside. Failure to register is a class C felony or a gross misdemeanor, depending on the underlying conviction.

**Summary:** An adult or juvenile convicted of a sex or kidnapping offense, or found not guilty by reason of insanity of such an offense, who is admitted to a public or private institution of higher education must notify the sheriff of the person's county of residence of the person's intent to attend the institution of higher education. The notification must occur within 10 days of enrolling or the first business day after arriving at the institution of higher education, whichever is earlier.

The county sheriff must notify the institution of higher education's department of public safety and provide the department with same information provided to the sheriff by a registering offender, which includes: (1) name, (2) address, (3) date and place of birth, (4) place of employment, (5) crime for which convicted, (6) date and place of conviction, (7) aliases used, and (8) social security number.

### Votes on Final Passage:

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

Effective: June 11, 1998

## HB 2371

C 254 L 98

Creating a medical expense plan for certain retirees.

By Representatives Carlson, Radcliff, Constantine, Sheahan, Mulliken, Kastama, Johnson, Gardner, Pennington, Kenney, H. Sommers, L. Thomas, Kessler, Anderson and Dyer.

House Committee on Appropriations  
Senate Committee on Ways & Means

**Background:** State and higher education employees accrue sick leave at the rate of eight hours each month. Under the attendance incentive program, an employee who has over 480 hours (or 60 days) of accumulated sick leave may receive cash for any sick leave over 480 hours accrued in the last year. Such sick leave may be cashed out at the rate of one day's pay for every four days of accrued sick leave. At retirement, state and higher education employees may receive remuneration for all their unused sick leave at the rate of one day's pay for every four days of accumulated sick leave.

Legislation enacted in 1991 gave state and higher education employees the choice of either receiving cash under the attendance incentive program or receiving, with equivalent funds, a benefit plan providing for reimbursement of medical expenses. The legislation stipulated that each eligible employee must have the option of either receiving cash or having equivalent funds placed in a medical expense plan. The legislation further stated that before implementing the medical expense plan, the Committee on Deferred Compensation had to first receive an opinion from the United States Internal Revenue Service (IRS) stating that participating employees would not have to pay federal income tax on the amounts paid into the medical expense plan. The medical expense plan provisions have never been implemented because it was determined that the amounts paid into the plan would be taxable.

Under IRS rules, monies deposited into a medical expense plan are tax exempt only if employees included in the group of employees opting into the plan do not have the option of either receiving a cash payment or participating in a medical expense plan. If the plan allows individual employees the option of receiving cash or participating in the plan, monies deposited into the medical expense plan are taxable.

Legislation enacted in 1997 allows community college faculty to participate in medical expense plans at retirement in lieu of receiving a cash payment under the attendance incentive program. Under this legislation, participation in a medical expense plan is mandatory for all employees included in units opting into the plans.

**Summary:** Retiring state and higher education employees may receive, in lieu of a cash payment under the attendance incentive program and with equivalent funds, a

benefit plan that provides for reimbursement of medical expenses. The decision to participate in a medical expense plan must be made by groups of employees, such as all employees within an agency, all employees within a major division of an agency, all employees of the state Senate, or all employees of the state House of Representatives.

All employees in any group opting into the medical expense plan are required to sign an agreement with their employer which states that the employer will be held harmless if the U.S. Government finds that federal income taxes are owed on the funds placed in the medical expense plan. The agreement must also state that the employee will receive no remuneration under the sick leave buy back program at retirement if the employee does not participate in the medical expense plan.

**Votes on Final Passage:**

House	98	0
Senate	48	0

**Effective:** June 11, 1998

## SHB 2386

C 103 L 98

Creating the revised uniform partnership act.

By House Committee on Law & Justice (originally sponsored by Representatives Sheahan, Appelwick, Constantine, Kenney and Costa).

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

**Background:** The Washington Uniform Partnership Act (WUPA), originally adopted in 1945, provides rules and guidelines for a business organized as a partnership or a limited liability partnership. The WUPA is based on the Uniform Partnership Act (UPA) adopted in 1914 by the National Conference of Commissioners on Uniform State Laws (NCCUSL). The UPA has been adopted in every state except Louisiana.

In 1994, the NCCUSL adopted a Revised Uniform Partnership Act (RUPA) and recommended it for adoption in all states. In 1996, the NCCUSL adopted amendments to the RUPA relating to limited liability partnerships and recommended adoption of these further amendments in all states. The Partnership Law Committee of the Washington State Bar Association reviewed the RUPA and recommended its adoption, with changes, in Washington.

A partnership, also referred to as a general partnership, is created whenever two or more persons create an association to carry on business and share in profits and ownership control. No legal documentation is required to form a partnership, and the partnership dissolves upon the death, bankruptcy, or withdrawal of any partner, unless otherwise agreed. Each partner is an agent of all others and can bind the partnership. Ordinary partnership mat-

ters are decided by a majority vote of the partners. Partners cannot transfer their interests in the partnership unless all other partners agree. Each partner has unlimited personal liability for the debts and obligations of the partnership.

In 1995, the Legislature adopted the Limited Liability Partnership Act. A limited liability partnership is formed by filing an application with the Secretary of State and paying a \$175 application fee. Limited liability partnerships are governed by many of the same rules and guidelines that apply to partnerships, with several differences. A partner in a limited liability partnership is not liable for debts, obligations, and liabilities of the partnership arising from tortious conduct committed in the course of the partnership business by another partner or an employee of the partnership. A limited liability partnership that provides professional services must maintain professional liability insurance. Foreign limited liability partnerships organized under the laws of another jurisdiction may do business in this state and are required to register with the Secretary of State. Foreign limited liability partnerships are governed by the laws of the state under which they are formed.

**Summary:** The Washington Uniform Partnership Act is repealed and replaced with the Revised Uniform Partnership Act (RUPA) with modifications proposed by the Partnership Law Committee of the Washington State Bar Association. The RUPA makes the following significant changes to partnership law: (1) a partnership is treated as a legal entity with the ability to convert into or merge with other entities; (2) a partnership for a specific purpose or term will not automatically dissolve when a partner leaves the partnership; (3) partners are not strict fiduciaries for each other and may pursue their own interests, subject to their duties of loyalty and care; (4) partnerships may merge with other partnerships, limited partnerships, corporations, and limited liability companies, and a provision for dissenters' rights in mergers is provided; (5) partnerships may execute and file statements of authority to help partnerships transfer property and accomplish other partnership business; and (6) the limitation on the personal liability of a partner in a limited liability partnership is extended to include any obligation of the partnership.

**General Provisions.** The RUPA provides default rules for the relations among partners and between partners and the partnership, which may be varied or restricted by the partnership agreement. There are several limitations on the ability of a partnership agreement to vary or restrict certain relations, including limitations on the ability to eliminate a partner's duty of loyalty, duty of care, or obligation of good faith and fair dealing.

The law of the jurisdiction where a partnership has its chief executive office governs the partnership, except that Washington law governs relations among partners and the partnership and the liability of partners for an obligation of a limited liability partnership.

Nature and Formation of Partnership. A partnership is considered a legal entity distinct from its partners, rather than an aggregate of individuals, enabling it to sue and be sued in its own name.

Property of a partnership is owned by the partnership, rather than by the partners individually. Rules that determine when a partnership acquires property and the circumstances under which property is considered partnership property are expanded and clarified.

Relations of Partners. Various provisions relating to the relations of partners to other persons, to other partners, and to the partnership are clarified and changed.

A partner's fiduciary duties to the partnership and other partners consist of the duty of loyalty and the duty of care. In addition, a partner has an obligation of good faith and fair dealing in discharging the duties to the partnership and exercising any rights under the partnership agreement. The partnership agreement may not unreasonably reduce the duty of care or eliminate the duty of loyalty, but may specify types of activities that do not violate the duty of loyalty if it is not manifestly unreasonable to do so. The partnership agreement may not eliminate the obligation of good faith and fair dealing, but may set the standards by which the obligation is to be measured, if the standards are not manifestly unreasonable.

A statement of partnership authority is created that provides a mechanism for a partnership to designate the authority of a partner to transfer real property or to enter into other transactions on behalf of the partnership. A statement of authority filed with the Secretary of State imparts constructive notice to third parties of the authority or lack of authority of a partner to transfer a partnership's real property.

A statement of denial is created that provides a mechanism for a partner or a person named as a partner to file a denial of the person's authority or status as a partner. The statement of denial must be filed with the Secretary of State.

Provisions concerning the transfer of property are amended to apply to personal property as well as real property. A mechanism is provided for a sole surviving partner to execute and file documents in the name of the partnership for the transfer of property.

Provisions concerning the liability of a partnership and partners are modified to provide that a partner is jointly and severally liable for all partnership obligations and all actionable conduct of another partner that obligates the partnership, unless otherwise agreed. In an action against a partnership and the partners, a creditor who receives a judgment must first enforce the judgment against the partnership, and then against the partners' individual assets, with some exceptions. In addition, liability rules are changed to allow a partner to sue a partnership that has committed a tort that harms the partner and to clarify that the partnership is liable for property of a third party that is improperly taken by a partner but not actually received by the partnership.

Dissociation and Dissolution. Various provisions relating to dissociation of a partner and dissolution of the partnership are amended.

Dissociation of a partner does not automatically cause dissolution and liquidation of the partnership. A partnership that continues in business after the dissociation of a partner is legally the same business that existed prior to the dissociation. The list of events of dissociation and the circumstances under which a dissociation is wrongful are modified.

When a partnership elects to continue the business after an event of dissociation, the partnership must buy out the dissociated partner's interest in the partnership according to a buyout price based on a calculation specified in statute. The good will value of the partnership may be considered in determining the value of a wrongfully dissociated partner's interest. A process is provided for determining the value of a dissociated partner's interest when the partner and the partnership cannot agree on a buyout price.

The apparent authority of a dissociated partner to bind the partnership is limited to a maximum of two years following dissociation and may be terminated prior to two years by actual notice or 90 days after filing a notice of dissociation with the Secretary of State.

The list of events that may result in the dissolution and winding up of a partnership are amended to provide an opportunity for a partnership to cure an event causing dissolution, to allow a majority of partners to agree to continue a partnership that is dissolved under certain circumstances, and to allow a retroactive revocation of the dissolution by agreement of all the partners other than a wrongfully dissociating partner.

A partnership is bound by an act of a partner after dissolution that is appropriate for winding up the partnership or, if the other party did not have notice of the dissolution, for an act that would have bound the partnership prior to dissolution. A partner who is liquidating the partnership is authorized to engage in certain activities not ordinarily incident to winding up to preserve the business as a going concern or for other specified reasons.

Changes are made in the rules relating to settling of accounts in the liquidation process, including a provision that partners who are creditors are treated the same as other creditors, to the extent permitted by law, rather than placing partner creditors behind other creditors.

Conversions and Mergers. A partnership may convert into a limited partnership upon approval of all partners, or upon approval of fewer than all partners if authorized in the partnership agreement. A limited partnership may convert into a partnership upon the approval of all partners. A partnership or limited partnership that is converted remains for all purposes the same entity that existed prior to conversion. Rules are provided setting forth a partner's liability after conversion.

A partnership may merge with one or more partnerships, limited partnerships, limited liability companies, or

corporations pursuant to a merger plan. The plan must set forth the names of all merging companies and the surviving company, terms and conditions of the merger, and the manner and basis of converting the interests. Approval of the merger plan requires the approval of all the partners. If a limited partnership, limited liability company, or corporation is a party to the merger, the plan of merger must be approved in accordance with merger laws governing those entities. Details concerning the filing and effects of merger are provided. Merger of foreign and domestic partnerships, limited partnerships, limited liability companies, and corporations is allowed.

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

Limited Liability Partnerships. Various changes are made to the requirements relating to limited liability partnerships and foreign limited liability partnerships.

The limitation on the personal liability of a partner in a limited liability partnership is extended. A partner in a limited liability partnership is not personally liable for any obligation of the partnership, whether arising in contract, tort, or otherwise. The rules relating to rights and duties of partners and obligations and procedures relating to dissociation and dissolution of a partnership apply to limited liability partnerships.

The failure of a foreign limited liability partnership to register with the Secretary of State does not affect the validity of a contract entered into in this state or, by itself, waive the limitation of personal liability of a partner of the foreign limited liability partnership. The Secretary of State is designated the agent for service of process for a foreign limited liability company that transacts business in Washington without registering. Specific activities are listed that are not considered transacting business in the state, such as maintaining or defending an action, holding meetings of partners or carrying on internal affairs activities, or maintaining bank accounts. The Attorney General may maintain an action to restrain a foreign limited liability partnership from transacting business in the state in violation of the law.

Miscellaneous. The Secretary of State must adopt rules to implement the record keeping requirements of the RUPA and rules establishing fees for filing of statements and for the provision of copies, certified copies, certificates, and other services.

Various provisions of the Business Corporations Act, the Limited Partnership Act, and the Limited Liability Company Act are amended to authorize the merger of these entities with a domestic partnership or with any of the other entities.

The RUPA will apply to all partnerships effective January 1, 1999. Before January 1, 1999, the RUPA applies to any entity formed after the effective date of the act or any entity formed before the effective date of the act that elects to be governed by the act.

**Votes on Final Passage:**

House 96 0

Senate 45 3

**Effective:** June 11, 1998

**HB 2387**

C 104 L 98

Regulating shareholder rights under the Washington business corporation act.

By Representatives Sheahan, Constantine and Costa.

House Committee on Law & Justice

Senate Committee on Law & Justice

**Background:** A corporation is a form of business entity governed by statute. A corporation's articles of incorporation must list the classes of shares that may be issued by the corporation and the number of shares of each class that may be issued. If a corporation's articles of incorporation authorize the issuance of more than one class of shares, the articles must give each class a distinguishing designation and the preferences, limitations, and relative rights of each class must be described in the articles.

Several provisions of the corporation act govern the preferences, limitations, and relative rights of shares within a specified class. Two provisions allow the preferences, limitations, and relative rights of shares within a class to vary: one by allowing the preferences, limitations, and rights to be made dependent on facts ascertainable outside the articles of incorporation; and one by authorizing the board of directors to determine the preferences, limitations, and rights of a class of shares or a series within a class prior to their issuance. Another provision states that all shares of a class must have preferences, limitations, and relative rights that are identical to other shares.

A corporation may issue rights, options, or warrants for the purchase of the corporation's shares. The board of directors determines the terms under which the options, rights, and warrants may be issued.

The ability of corporations to adopt different preferences or limitations for shares and the ability to issue options, rights, and warrants for the purchase of shares enable corporations to adopt "shareholder rights plans," which are also referred to as "poison pills."

Many corporations have implemented shareholder rights plans as an anti-takeover mechanism. These plans enable a company to ward off hostile takeovers by making it difficult and more costly for the entity seeking to acquire the targeted corporation. Shareholder rights plans



might, for example, change the voting powers of certain shares within a class or series, or issue more shares to its shareholders at a substantial discount, if a person or entity attempting to gain control of the targeted company obtains a certain percentage share in the targeted company.

There is the potential for uncertainty as to the validity of shareholder rights plans under Washington law because of a lack of sufficient cross-references between the provisions that authorize a class of shares to have different preferences, limitations, and relative rights, and those provisions that state that all shares of a class must have identical preferences, limitations, and relative rights.

**Summary:** A clarification is made by adding cross-references to provisions of the corporations act that the preferences, limitations, voting powers, and relative rights of a class of shares or a series within a class, must be identical except as otherwise provided in law.

“Facts ascertainable outside the articles of incorporation” is defined to include, but not be limited to, the existence of a condition or the occurrence of an event, including a determination or action by any person or body, including the corporation, its board of directors, or an officer, employee, or agent of the corporation.

The board of directors is given specific authority to determine the terms and conditions relating to the exercise of share options, rights, or warrants, including the time or times, the conditions precedent, and the holders by whom the options, rights, or warrants may be exercised. These terms or conditions may preclude or limit the exercise of the options, rights, or warrants. In addition, they may be made dependent on facts ascertainable outside the documents relating to the creation of the options, rights, or warrants.

**Notes on Final Passage:**

House	90	0
Senate	44	0

**Effective:** June 11, 1998

**SHB 2394**

C 105 L 98

Consolidating general administration funds and accounts.

By House Committee on Appropriations (originally sponsored by Representatives Alexander, D. Schmidt, H. Sommers, Gardner, Doumit, Lambert and Thompson; by request of Department of General Administration).

House Committee on Appropriations  
Senate Committee on Ways & Means

**Background:** The Department of General Administration provides various services to state agencies including: engineering and architectural services; facilities maintenance; property leasing; goods and services procurement; mail processing; operation of the state motor pool; and man-

agement of insurance claims against the state. The department generates revenues through rates or fees for services and conducts most of its operations through the following appropriated and non-appropriated accounts:

- the motor transport account, used to operate the motor transport division, including salaries and wages, administrative expenses, overhead, the cost of replacement vehicles, and related expenses;
- the general administration management fund, used to pay all costs incurred by the department in operating real estate for state agencies;
- the facilities and services revolving fund, used to provide services, equipment, and supplies to state agencies;
- the central stores revolving fund, used to purchase and sell supplies to state agencies, and pay salaries and other costs related to operating central stores;
- the surplus property purchase revolving fund, used to acquire federal surplus property for resale to eligible donees, including state agencies, local governments and others; and
- the risk management account, used to operate the state’s self-insurance program.

The director may expend up to \$50,000 per biennium from the general administration management fund to cover unusual or unexpected expenses corrected with space occupancy or management that cannot be charged directly to any specific state agency. The director must transfer any surplus in the general administration management fund to the general fund.

**Summary:** The general administration services account is created in the custody of the state treasurer. Only the director of the Department of General Administration (GA) or the director’s designee may authorize expenditures from the account. The department must use the account for all activities previously budgeted and accounted for in the motor transport account, the general administration management fund, the facilities and services revolving fund, the central stores revolving fund, the surplus property purchase revolving fund, and the risk management account.

The director of the Office of Financial Management must approve any change in the method of calculating charges for services provided through the general administration services account that were previously provided through the facilities and services revolving fund.

The authority to spend up to \$50,000 per biennium to cover unusual or unexpected expenses is eliminated. The director of the GA no longer must transfer surplus moneys in the general administration management fund to the general fund.

Authority for the creation, deposit, or disbursement of moneys from the surplus property revolving fund and the central stores revolving fund is repealed.

**Votes on Final Passage:**

House 96 0  
 Senate 48 0

**Effective:** July 1, 1998

**HB 2402**

C 226 L 98

Authorizing the use of electronic copies for preservation of court record.

By Representatives Sheahan, Lambert, Hatfield, Thompson, McDonald and Dunn.

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

**Background:** The county clerk may destroy court documents if reproductions of the documents are kept in a manner reasonably assuring indefinite preservation. Reproductions may be maintained only on photographic film, microphotographic, photostatic, or similar reproduction. However, courts have a number of projects underway involving electronic records.

**Summary:** County clerks may store document reproductions electronically if either of the following conditions is met:

- the electronic reproductions are continuously updated, and if necessary, transferred to another medium to ensure that they are accessible through contemporary electronic or computerized systems; or
- the electronic reproductions are scheduled to be reproduced on photographic film, microphotographic, photostatic, or similar media.

When copies of a county clerk's public records are transferred to the state archives for storage, the archives may provide certified copies of those records only with the written permission of that county clerk. Once the records are transferred, and the county clerk gives written permission, copies made by the archives will have the same force and effect as if they were made by the county clerk. Finally, contracts can be made between the county clerk and state archives for reproduction and certification of the copies.

**Votes on Final Passage:**

House 96 0  
 Senate 47 0

**Effective:** June 11, 1998

**SHB 2411**

C 106 L 98

Refining statutes related to county treasurers.

By House Committee on Government Administration (originally sponsored by Representatives Alexander, Wolfe, D. Schmidt, DeBolt, Gardner, D. Sommers and Thompson).

House Committee on Government Administration  
 Senate Committee on Government Operations

**Background:** County treasurers perform a wide number of financial functions for the county and for other governments.

County treasurers collect property taxes imposed by all jurisdictions. The county treasurer pays a city the amount of road district property taxes that have been levied but not collected on any property annexed by the city. County treasurers auction property after the superior court has entered a judgment against the property for delinquent property taxes.

County treasurers disburse money by warrants issued and attested by the county auditor.

Local governments that create local improvement districts (LID's), and impose special assessments on benefitted land in the LID to finance public improvements, are authorized to segregate a special assessment that was imposed on a parcel if the parcel is divided. Such a segregation involves dividing the special assessment into smaller amounts and applying these amounts to each lot that is created out of the parcel.

The State Finance Committee (composed of the State Treasurer, Lieutenant Governor, and Governor) designates financial institutions in the state that may act as public depositories where public moneys may be deposited. Each county treasurer designates one or more of these selected financial institutions as public depositories for money held by the county.

Local governments are authorized to issue general obligation bonds whether or not the bonds are physical instruments. A special district that uses the county treasurer as its treasurer must notify the county treasurer at least 30 days in advance of authorizing general obligation bonds. Counties themselves, however, are not covered by this requirement to notify the treasurer.

County treasurers collect excise taxes imposed on real estate transactions. These taxes include the state's real estate excise tax and up to four different excise taxes that counties, cities, and towns may impose. A \$2 fee is collected on all transactions that are exempt from the state's excise tax on real estate transactions.

**Summary:** A variety of changes are made in laws relating to county treasurers.

Transfer of road district property taxes. At least 30 days before the effective date of a city's annexation of territory, the city must provide a list of annexed parcel

numbers to the county treasurer by certified mail. The county treasurer is only required to remit to the city those road district property taxes that are collected 30 days or more after receiving this notice.

Disbursal of moneys. The county auditor must attest to a transfer of money before the county treasurer may electronically transfer the money.

Segregation of special assessments. A copy of any segregation of special assessments that is approved by the board of commissioners of a PUD or a water-sewer district, or the county legislative authority, must be delivered to the county treasurer. The county treasurer segregates the special assessment after being paid a \$3 fee for each tract of land created as the result of dividing a parcel.

Authorizing bank accounts and bank card depository services. County treasurers must authorize all bank accounts and bank card depository services for a local government if the county treasurer acts as the treasurer for the local government.

General obligation bonds. The county legislative authority acts must notify the county treasurer at least 30 days in advance of issuing general obligation bonds.

Liens on delinquent water-sewer district charges. A lien arises on delinquent rates and charges and connection charges imposed by a water-sewer district when the district certifies the delinquency to the county auditor rather than the county treasurer.

Real estate excise taxes. A county, city, or town that imposes a real estate excise tax must send the county treasurer a copy of the ordinance initially imposing a real estate excise tax or altering the rate of a real estate excise tax at least 60 days prior to its effective date.

A total of \$2 is collected in the form of a tax and a fee whenever the calculation for the state's real estate excise tax is less than \$2.

Property taxes. Money is defined for purposes of property tax law as constituting coin or paper money issued by the United States, rather than gold and silver coin, gold and silver certificates, treasury notes, United States notes, and bank notes.

Statutes relating to tax-title property are codified into a single chapter of law. Several sections of law dealing with the management of tax-title property are repealed.

Short-term indebtedness. It is clarified that a regional transit authority (RTA) may issue short-term indebtedness under general laws.

**Votes on Final Passage:**

House	96	0	
Senate	47	0	(Senate amended)
House	95	0	(House concurred)

**Effective:** June 11, 1998

**EHB 2414**

C 68 L 98

Extending the time in which to comply with outdoor burning prohibitions.

By Representatives Pennington, Mielke, Alexander, Carlson, Honeyford, Chandler, Buck, Hatfield and Doumit.

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

**Background:** Consistent with the Washington Clean Air Act, it is the state's policy to reduce outdoor burning to the greatest extent practical. Outdoor burning without a permit is prohibited in certain areas of the state, including:

- any area where state or federal ambient air quality standards are exceeded for pollutants emitted by outdoor burning; and
- any urban growth area as designated by counties pursuant to the Growth Management Act, or any city of more than 10,000 people if the city threatens to exceed state or federal air quality standards and alternative disposal methods are reasonably available.

Outdoor burning permits are available for a variety of activities, including weed abatement, certain kinds of fire fighting instruction, certain agricultural activities, and the disposal of organic refuse from land clearing. Certain outdoor burning activities are exempted from permit requirements.

Outdoor burning in urban growth areas or in cities of over 10,000 will be entirely prohibited after December 31, 2000.

**Summary:** Cities with a population of 5,000 or more, and their associated urban growth areas, must comply with the prohibition on all outdoor burning after December 31, 2000, but cities with a population level of less than 5,000 and their associated urban growth areas that are not close to air quality nonattainment or maintenance areas have until December 31, 2006, to eliminate all outdoor burning.

**Votes on Final Passage:**

House	93	2	
Senate	45	0	(Senate amended)
House	95	1	(House concurred)

**Effective:** June 11, 1998

**ESHB 2417**

C 281 L 98

Authorizing local vehicle license fees adopted to fund specific projects.

By House Committee on Transportation Policy & Budget (originally sponsored by Representatives Pennington,

Mielke, Hatfield, Doumit, Ogden, Carlson, Alexander and Hankins).

House Committee on Finance  
 House Committee on Transportation Policy & Budget  
 Senate Committee on Transportation

**Background:** Counties are authorized to impose a vehicle license fee of up to \$15. The fee must be levied countywide. The fee is applied to all passenger-type vehicles, except "light" (6,000 pounds or less) pickup trucks. The revenues from this fee must be used for transportation purposes.

There is no equivalent local option license fee available for cities to levy.

**Summary:** Cities located in Cowlitz County may impose the local option vehicle license fee within city boundaries upon a majority vote of citizens. Residents living in the city boundary will not be charged the fee twice. The fee will expire when the bonded indebtedness on the transportation project is retired or at the end of the funding period proposed on the ballot proposition, whichever is sooner.

Both the existing county local-option vehicle license fee and the new city-imposed vehicle license fee will apply to passenger-type pickup trucks (6,000 pounds or less). (This corrects a drafting error in the original law.)

The local option vehicle registration fee does not apply for a vehicle's initial registration period.

**Votes on Final Passage:**

House	91	6	
Senate	30	15	(Senate amended)
House	93	5	(House concurred)

**Effective:** June 11, 1998

**HB 2429**  
FULL VETO

Providing for the operation of the state investment board.

By Representatives Huff, H. Sommers, Carlson, Wolfe and L. Thomas; by request of State Investment Board.

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

**Background:** The Legislature created the Washington State Investment Board in 1981 to administer public trust and retirement funds. Washington law requires the State Investment Board (SIB) to establish investment policies and procedures that are designed to maximize return at a prudent level of risk and that are sufficiently diversified. The statutory standard of care required of the SIB traditionally is referred to as the prudent person standard.

**Summary:** The standard of care for State Investment Board investments is modified. The SIB must make in-

vestment decisions based on what a prudent investor reasonably would do in a similar situation. The investment decision must be considered in terms of the investment strategy for the whole portfolio, which should incorporate reasonable risk and return objectives. The requirement for the SIB to diversify the investments of its funds is amended to allow discretion if the board determines that special circumstances exist which reasonably make the fund better served without diversifying.

**Votes on Final Passage:**

House	98	0
Senate	47	0

**VETO MESSAGE ON HB 2429**

March 27, 1998

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

Ladies and Gentlemen:

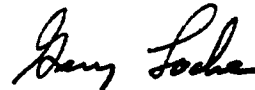
I am returning herewith, without my approval, House Bill No. 2429 entitled:

"AN ACT Relating to the operation of the state investment board;"

This legislation is identical to Senate Bill No. 6192 which I signed into law on March 11, 1998.

For this reason, I have vetoed House Bill No. 2429 in its entirety.

Respectfully submitted,



Gary Locke  
 Governor

**2SHB 2430**  
 C 69 L 98

Changing provisions relating to the advanced college tuition payment program.

By House Committee on Appropriations (originally sponsored by Representatives Huff, Carlson, Kenney, Radcliff and McDonald; by request of Committee on Advanced College Tuition Payment and Higher Education Coordinating Board).

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

**Background:** In 1997, the Legislature created the Washington Advanced College Tuition Payment Program. The program allows families to buy tuition units. The units are redeemable for future tuition at a Washington institution of higher education at no additional cost.

The program is administered by the Committee on Advanced Tuition. The committee is composed of the executive director of the Higher Education Coordinating Board, the director of the Office of Financial Manage-

## SHB 2431

ment, and the State Treasurer. Committee members are responsible for the governance and development of the program.

The Advance College Tuition Payment Program account exists in the Office of the State Treasurer. During the 1997 legislative session, \$350,000, was appropriated for operating expenses.

**Summary:** Several administrative issues relating to the Washington Advanced College Tuition Payment Program are clarified: (1) financial and commercial information supplied in relation to the purchase or sale of tuition units is exempt from public inspection and copying; (2) the Committee on Advanced Tuition Payment may maintain offices and employ personnel; and (3) committee members are immune from liability while performing the duties of their office. An appropriation is required for administration expenditures.

### Votes on Final Passage:

House	97	0
Senate	48	0

**Effective:** March 20, 1998

## SHB 2431

C 107 L 98

Refining provisions concerning the Southwest Washington Fair.

By House Committee on Appropriations (originally sponsored by Representatives DeBolt, Alexander, Mielke, Johnson and Pennington).

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

**Background:** The Southwest Washington Fair is categorized as a county and district fair but considered an agricultural fair for funding allocation purposes. In 1973, the commission that had managed the fair was abolished. Administration and control of all commission obligations were transferred to the Lewis County Board of Commissioners and title to all fair property was vested in the board.

The board is authorized to appoint a citizens' commission to advise and assist in carrying out the fair. The board chair is required to serve as the chair of the advisory committee.

The board is also authorized to acquire and improve real property for Fair purposes. Any surplus property may be sold or exchanged according to specified procedures.

Local governments may by ordinance or resolution create public corporations, commissions and authorities to perform specified functions and may transfer funds, property or services to such entities.

**Summary:** Provisions regarding management and operation of the Southwest Washington Fair are revised.

As an alternative to appointing an advisory committee, the Lewis County Board of Commissioners may appoint a designee to fulfill all of the board's obligations with respect to the fair. The chair of the board may, but is not required to, serve as the chair of any advisory committee that is appointed.

Fair property is under the jurisdiction of Lewis County and under the management and control of the board or its designee. Any exchange of surplus fair property must be conducted according to Lewis County property management regulations.

### Votes on Final Passage:

House	95	2
Senate	45	0

**Effective:** June 11, 1998

## HB 2436

C 108 L 98

Eliminating review and termination of the center for international trade in forest products and delaying review and termination of the office of public defense under the Washington sunset act.

By Representatives McMorris, Huff, Backlund, H. Sommers, Gardner, Wensman, Ogden, Regala and Alexander; by request of Joint Legislative Audit & Review Committee.

House Committee on Government Administration  
Senate Committee on Commerce & Labor

**Background:** The Washington Sunset Act of 1977 establishes a schedule for reviewing and terminating certain state agencies. A termination date is scheduled for each agency included in the act. One year before an agency's termination date, the Joint Legislative Audit and Review Committee (JLARC) reviews the agency and makes recommendations to the Legislature. The Legislature may allow the agency to terminate, may allow the agency to continue with another review scheduled for a later date, or may allow the agency to continue without scheduling further review. If the agency is allowed to terminate, it is given one year to conclude its affairs before the laws establishing the agency are repealed.

### The Center for International Trade in Forest Products.

The Center for International Trade in Forest Products (CINTRAFOR) was established in 1985. The center's responsibilities include developing and disseminating research and information to expand forest-based international trade. The CINTRAFOR last underwent sunset review in 1993. The report of the 1993 sunset review raised concerns that the center was not meeting the Legislature's intent to focus more closely on secondary manufacturing issues. Following the 1993 sunset review,

the Legislature modified the CINTRAFOR's enabling legislation to require the center to cooperate with community and technical colleges in developing a curriculum on wood products manufacturing. The Legislature also required that at least 50 percent of the center's executive policy board represent small- and medium-sized businesses.

CINTRAFOR is currently scheduled to terminate on June 30, 2000, following a Sunset Act review by the JLARC that is to be completed by June 30, 1999. The JLARC has recommended that the scheduled sunset review be canceled and that CINTRAFOR continue without further sunset review.

The Office of Public Defense. The Office of Public Defense was established in 1996 to administer criminal indigent appellate services. The Office of Public Defense is scheduled to be terminated on June 30, 2000, following a Sunset Act review by the JLARC that is to be completed by June 30, 1999. The JLARC has recommended that the review be postponed and the termination date for the office be moved to June 30, 2008.

**Summary:** The Center for International Trade in Forest Products is continued. No future sunset review or termination is scheduled.

The Office of Public Defense is continued. A new termination date of June 30, 2008, is scheduled, with a JLARC review scheduled for 2007.

**Votes on Final Passage:**

House	95	1
Senate	48	0

**Effective:** June 11, 1998

**ESHB 2439**

C 165 L 98

Providing for traffic safety education.

By House Committee on Transportation Policy & Budget (originally sponsored by Representatives D. Sommers, Costa, Benson, Sterk, Gombosky and O'Brien).

House Committee on Transportation Policy & Budget  
Senate Committee on Transportation

**Background:** The Legislature created the Washington Traffic Safety Commission (WTSC) to plan and supervise programs for the prevention of accidents on streets and highways. The commission also coordinates the development of traffic safety programs and works to promote and improve driver education.

The Department of Licensing (DOL) and driver training schools provide information on traffic safety in traffic education courses and instructional materials.

The DOL may require a driver to submit to an examination if the department determines that the driver is incompetent or otherwise not qualified to be licensed.

Following the examination, the department may suspend or revoke the license of the driver or issue the driver a license subject to restrictions.

**Summary:** The WTSC will work with stakeholders to develop an educational program on pedestrian safety and the safe operation of bicycles. The WTSC must report its conclusions to the Legislative Transportation Committee.

The bicycle and pedestrian safety education account is created in the state treasury. A one-time appropriation of \$100,000 is made from the Highway Safety Fund.

The DOL and driver training schools must provide information on the use of the left-hand lane by motor vehicles. Additionally, they must provide educational information on bicyclists' and pedestrians' rights and responsibilities.

When a driver is responsible for a crash resulting in the death of a person, the DOL must require the driver to submit to an examination. The examination must be completed within 120 days after the department receives the accident report. A driver responsible for a crash resulting in a serious injury may be retested by the DOL.

Bicycle equipment requirements for riding at night are changed.

**Votes on Final Passage:**

House	98	0	
Senate	49	0	(Senate amended)
House			(House refused to concur)

First Conference Committee

Senate	47	0	
House			(House refused to adopt)

Second Conference Committee

Senate	24	23	(Senate failed on final passage)
Senate			(Senate reconsidered)
Senate			(Conference committee relieved)
Senate	49	0	(Senate amended)
House	98	0	(House concurred)

**Effective:** June 11, 1998

**SHB 2452**

C 70 L 98

Defining medication assistance in community-based settings.

By House Committee on Health Care (originally sponsored by Representatives Backlund, Cody, Parlette, Kastama, DeBolt, Dyer, Lambert, Koster, Sherstad, Benson, Anderson and Zellinsky).

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

**Background:** Only practitioners with prescriptive authority specified by law may administer prescription or legend drugs. These include physicians, osteopathic physicians, physician assistants, dentists, podiatrists, veterinarians,

and, to a limited extent, advanced registered nurse practitioners, optometrists and naturopaths. Administration of legend drugs includes the direct application of a legend drug by injection, inhalation, ingestion or other means, to the body of a patient.

Patients may also administer their own legend drugs in consultation with the practitioner. But a physical or mental limitation may prevent them from self-administering their drugs and they may require some mechanical assistance. There is no consistent definition in law for medication assistance, which is generally the act of assisting patients to self-administer their own medications by a person other than a practitioner. Residents of boarding homes may receive medication assistance, and residents of adult family homes use enablers for facilitating the self-administration of their medications. Medication assistance can take different forms such as opening containers for the patient, or handing the container or medication to the patient.

**Summary:** A legislative statement is made that individuals residing in community-based settings, might need medication assistance because of a physical or mental limitation that prevents them from self-administering their own legend drugs. The right of an individual to refuse medications and the requirements for informed consent are not affected.

Medication assistance is defined in the Legend Drug Act as assistance rendered by a nonpractitioner to an individual residing in an adult family home, boarding home or residential care setting for the developmentally disabled, including an individual's own home to facilitate the individual to self-administer a legend drug or controlled substance. It includes reminding the individual, placing the medication in the individual's hand, or other means defined by rule. A nonpractitioner may help prepare legend drugs or controlled substances where a practitioner has determined that this is necessary and appropriate. Medication assistance does not include intravenous medications or injectable medications.

**Votes on Final Passage:**

House 97 0  
Senate 45 0

**Effective:** June 11, 1998

**SHB 2459**

C 140 L 98

Regulating public housing authorities in large jurisdictions.

By House Committee on Trade & Economic Development (originally sponsored by Representatives Veloria, Van Luven, Butler, Cody, Mason, Conway, McDonald, Kenney, Kastama, Dickerson and Keiser).

House Committee on Trade & Economic Development  
Senate Committee on Financial Institutions, Insurance & Housing

**Background:** The state's Housing Authorities Law, enacted in 1939, authorizes counties and cities to establish local public housing authorities to provide housing for persons of low-income. Providing public housing is accomplished through the administration of various federal, state, or local housing programs.

Public housing authorities are governed by a five-member commission. The commissioners are appointed by the mayor of a city or the governing body of the county establishing the housing authority. Commissioners generally serve five-year terms. They do not receive a salary, but are compensated for travel and other expenses they incur.

Commissioners and employees are prohibited from having any direct or indirect interest in any housing project, property, contract for materials or services to be furnished to the public housing authority. Commissioners and employees are required to disclose, in writing, if they have an interest in any property used or planning to be used for a housing project. The commissioner or employee cannot participate in any action by the public housing authority regarding the property. Failure to disclose an interest is considered misconduct in office.

**Summary:** The state's Housing Authority Law is revised regarding the appointment of commissioners in cities with a population of 400,000 or more and the conflict of interest provisions that govern commissioners and employees.

The required number of commissioners on a public housing authority board is increased from five to seven in a city with a population of 400,000 or more. At least two of the commissioners must be tenants who reside in a housing project that is owned by the public housing authority. The term of the public housing authority commissioners is for four years. A commissioner may be reappointed only after a public hearing of the city council.

The conflict of interest provisions for public housing authority commissioners and employees are expanded to include any appointee to a decision-making body of the public housing authority. A tenant of a public housing authority who serves as a commissioner, employee, or appointee to any decision-making body of the public housing authority may vote on any issue or decision, or

participate in any action of the housing authority unless a conflict of interest exists for that particular tenant.

**Votes on Final Passage:**

House	95	0	
Senate	48	0	(Senate amended)
House			(House refused to concur)
Senate	47	0	(Senate amended)
House	98	0	(House concurred)

**Effective:** June 11, 1998

## SHB 2461

C 71 L 98

Requiring a timely distribution of certain state forest land funds back to the counties.

By House Committee on Natural Resources (originally sponsored by Representatives Buck, Sump, Kessler, Schoesler, Benson, Koster, DeBolt, McMorris, Alexander, Gardner, Linville, Thompson and Mulliken).

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

**Background:** The Department of Natural Resources (DNR) manages "forest board lands" in 21 counties. The forest board lands come in two categories: forest board transfer lands and forest board purchase lands. The forest board transfer lands are forest lands that are largely acquired by counties through tax lien foreclosures, then transferred to state ownership for management by the DNR as state forest lands. The DNR manages approximately 545,000 acres of these lands. When a revenue-generating activity such as a timber sale occurs on the lands, the DNR may deduct up to 25 percent of the proceeds for administration, reforestation, and protection of the forest lands. The balance of the revenue goes to the respective counties and is distributed among various funds in the same manner as general tax dollars are distributed. Forest board purchase lands are acquired by the state by either purchase or gift. The DNR manages just under 78,000 acres of these forest lands. After a 50 percent deduction for the DNR, the revenue from these lands goes to the state general fund for the support of public schools and to the counties with the same distribution as the forest board transfer land revenues.

When revenues are generated from the forest board lands, the DNR receives the monies first. After deducting a percentage, the DNR transfers the monies to the State Treasurer, who then distributes funds to the counties.

**Summary:** With regard to the distribution of revenues to counties from forest board transfer and purchase lands, the Department of Natural Resources must certify to the State Treasurer the amounts to be distributed to the counties within seven working days of receipt of the money. The State Treasurer must distribute funds to the counties four

times per month, with no more than 10 days between each payment date.

**Votes on Final Passage:**

House	84	13
Senate	45	1

**Effective:** June 11, 1998

## HB 2463

C 227 L 98

Prescribing garnishee's processing fees.

By Representatives Sheahan, Costa and Mulliken.

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

**Background:** There are several ways a creditor may satisfy a judgment against a debtor. The garnishment process is a remedy that allows a creditor to obtain the debtor's property that is in the possession of a third party. The third party is referred to as the "garnishee" and has certain rights and obligations.

The garnishee may be an employer, if the creditor seeks to garnish a debtor's wages. The creditor may serve an employer with a writ of garnishment called a "writ of continuing lien on earnings" that allows the creditor to garnish a portion of the debtor's wages each pay period for a limited time.

Financial institutions, such as banks, may also be garnishees, when the creditor seeks to garnish a debtor's funds in a bank account. The creditor will serve a financial institution with a general writ of garnishment that orders the garnishee defendant to hold a specified amount for the creditor.

When a garnishee is served with a writ of garnishment, the garnishee must respond within a certain time by serving an "answer" on the creditor. The answer must state how much the garnishee owes the debtor and list the debtor's property that is in the garnishee's possession or control.

Prior to 1997, all garnishees were entitled to a \$10 processing fee when being served with a writ. In 1997, the Legislature amended the law to allow garnishees of writs of continuing lien on earnings to receive a \$20 processing fee. The law is now unclear whether garnishees receiving general writs of garnishment may collect a processing fee and, if so, the amount of the processing fee.

**Summary:** The legislative intent in the garnishment law is amended to reference broader garnishment situations than just the garnishment of an employee's wages. Garnishees receiving writs of garnishments, including writs, that are not writs of continuing lien on earnings are entitled to a \$20 processing or answer fee in the form of a check or money order.



## EHB 2465

### Votes on Final Passage:

House	95	1	
Senate	43	1	(Senate amended)
House	96	0	(House concurred)

Effective: June 11, 1998

## EHB 2465

C 72 L 98

Expanding the privileged communication from physician-patient to the health care provider and patient privilege.

By Representatives Dyer, Cody, Backlund, L. Thomas and Cooke.

House Committee on Health Care  
Senate Committee on Law & Justice

**Background:** A physician or osteopathic physician enjoys the physician-patient privilege, whereby the physician may not be compelled in a civil action before a court of law to disclose information acquired from a patient that was necessary in treating the patient.

This right of privileged or confidential communication does not extend, however, to other health providers under state law.

**Summary:** The right of privileged or confidential communication is extended to podiatric physicians, who may not be compelled to disclose in a civil action information acquired from a patient that was necessary to treat a patient.

### Votes on Final Passage:

House	95	0
Senate	44	0

Effective: June 11, 1998

## HB 2476

C 167 L 98

Providing a sales tax exemption for parts used for and repairs to farm machinery and implements used outside the state.

By Representatives Schoesler, Sheahan, Honeyford, Sump, Mulliken, Buck, Chandler, McMorris and Zellinsky.

House Committee on Finance  
Senate Committee on Agriculture & Environment

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

when items are purchased at retail in state. Sales tax is paid by the purchaser and collected by the seller.

Generally, nonresidents pay sales tax when they purchase and take possession of the goods in Washington. There are some exceptions: sales to nonresidents from states or Canadian provinces with sales tax rates below 3 percent; sales to nonresidents of vehicles and boats; and sales to nonresidents of farm machinery and implements. These exemptions require the nonresident purchaser to take the items out of Washington.

**Summary:** The nonresident farm machinery and implement sales tax exemption is extended to include parts for machinery and equipment and repair services for machinery, implements, and parts.

### Votes on Final Passage:

House	95	0
Senate	49	0

Effective: June 11, 1998

## ESHB 2477

C 228 L-98

Adding theatrical agencies to definition of employment agency.

By House Committee on Commerce & Labor (originally sponsored by Representatives Schoesler, McMorris, Chandler, Mulliken, Sump, Honeyford and Sheahan).

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

**Background:** Employment agencies must be licensed by the Department of Licensing and must comply with certain requirements covering the form and substance of contracts with customers, fees that may be charged for services, disclosure to customers of information about the agency and customer complaint procedures. An agency that operates without a license may be sued by its customers for amounts paid to the agency. A court may award the customer, as damages in a lawsuit, three times the amount paid and any attorney's fees and costs.

Theatrical agencies are specifically excluded from the requirements and regulations that apply to employment agencies. Among those businesses that are defined as theatrical agencies are modeling agencies. A modeling agency that obtains or attempts to obtain employment for customers in the field of entertainment or modeling is not subject to the licensing and penalty provisions that apply to employment agencies. In addition, proprietary schools are not subject to laws regulating and licensing employment agencies.

**Summary:** Theatrical agencies, including modeling agencies, are excluded from the licensing and regulatory requirements governing employment agencies. However, a person is not a theatrical agency, and is therefore subject

to the laws governing employment agencies, if the person charges an applicant a fee prior to: (1) procuring employment for the applicant; (2) providing information regarding where and from whom employment may be obtained; (3) allowing or requiring participation in an instructional class, audition or career counseling; or (4) allowing eligibility for employment through the person charging a fee.

Proprietary schools are exempt from laws governing employment agencies only to the extent of the activities for which they are otherwise licensed.

**Votes on Final Passage:**

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

**Effective:** June 11, 1998

**ESHB 2491**

C 340 L 98

Sharing extraordinary investment gains.

By House Committee on Appropriations (originally sponsored by Representatives Carlson, H. Sommers, Ogden, Conway, Wolfe, Lambert, D. Sommers, O'Brien, Schoesler, Alexander and Gardner; by request of Joint Committee on Pension Policy).

House Committee on Appropriations  
Senate Committee on Ways & Means

**Background:** Assets invested in state retirement funds have been experiencing growth in recent years substantially above the projected rate of 7.5 percent. The compound average rate of return for the last four years is 13.7 percent. Over the 1997 interim, the Joint Committee on Pension Policy (JCPP) studied ways of using these better-than-expected returns to fund benefit increases. As a result of this work, the JCPP recommended several gain-sharing bills to the 1998 Legislature.

The Teachers' Retirement System (TRS) Plan I and the Public Employees' Retirement System (PERS) Plan I are defined benefit plans, which means that members receive a formula-driven benefit at retirement. Members of TRS Plan I and PERS Plan I pay 6 percent of their salary toward the cost of their benefits. This contribution rate is set in statute and does not vary when benefits are increased or when investment earnings are greater or less than assumed.

TRS Plan I and PERS Plan I are closed retirement systems that experienced chronic under-funding in the 1970s and 1980s. PERS Plan I and TRS Plan I employer contribution rates are set at the level percentage of pay necessary to pay off the total costs of the systems by July 1, 2024. The current unfunded liability in TRS Plan I and PERS Plan I is \$5.2 billion. Better-than-expected investment returns are held in the pension trust funds. The

pension contribution rates paid by employers (including the state and local governments) have been adjusted downward when earnings are higher than expected. Earnings below the projected level of 7.5 percent could result in higher employer contribution rates.

**"Pop-Up" Benefit.** A retiree under the Judicial Retirement System, the Law Enforcement Officers' and Fire Fighters' (LEOFF) Plan II, TRS Plans I, II or III, or PERS Plans I or II may choose a lower monthly benefit in exchange for his or her spouse receiving a benefit after the retiree's death. This is called a survivor option. Members of the pension systems who retired after January 1, 1996, receive a "pop-up" in their benefit if their spouse dies first; that is, the benefit the retiree receives "pops-up" to the level the benefit would have been if the retiree had not chosen the survivor option. (Surviving spouses of retired LEOFF Plan I members automatically receive the same benefit the retiree received during his or her lifetime, so the "pop-up" is irrelevant to the LEOFF Plan I system.)

**Uniform COLA.** PERS Plan I and TRS Plan I retirees receive an annual cost-of-living adjustment, called the Uniform COLA, beginning at age 66. As of 1998, COLA is 63 cents per month, per year of service. The COLA increases by 3 percent each year. In 1999, PERS Plan I and TRS Plan I retirees will receive a COLA of 64 cents per month per year of service, in addition to the COLA amounts received in previous years.

**Summary:** When the compound average rate of investment returns on the pension funds over the previous four years exceeds 10 percent, half the earnings over 10 percent must be used to increase benefits and the other half must be used to accelerate the amortization of the Public Employees' Retirement System (PERS) Plan I and the Teachers' Retirement System (TRS) Plan I costs.

The first gain sharing occurs July 1, 1998, and funds the present actuarial value of a retroactive "pop-up" benefit for retirees who retired prior to 1996, as well as a ten cent increase in the Uniform COLA. Thereafter, gain sharing occurs January 1 of each even-numbered year whenever the four-year compound average rate of investment returns on the pension funds is more than 10 percent. After the initial July 1, 1998, gain sharing, all subsequent gain sharing takes the form of an increase in the Uniform COLA.

The Office of the State Actuary must calculate the amount of the Uniform COLA increase and inform the Department of Retirement Systems of the amount.

The Legislature reserves the right to repeal the gain-sharing provisions.

**Votes on Final Passage:**

House	97	1
Senate	48	0

**Effective:** April 3, 1998  
June 11, 1998 (Section 13)

**ESHB 2496**

C 246 L 98

Developing the critical path schedule for salmon recovery.

By House Committee on Appropriations (originally sponsored by Representatives Buck, Doumit, Anderson, Sump, D. Sommers, Clements, Butler, Schoesler, Honeyford, Thompson, D. Schmidt, Linville, Chandler, Johnson, Regala, Hatfield, O'Brien, Dickerson, Ogden, Cooper, Kessler, Gardner, Conway and Eickmeyer).

House Committee on Natural Resources  
House Committee on Appropriations  
Senate Committee on Natural Resources & Parks  
Senate Committee on Ways & Means

**Background:** The National Marine and Fisheries Service (NMFS) has listed some salmon and steelhead runs in the state as threatened or endangered under the federal Endangered Species Act. Other fish runs within Washington are likely to be listed in the near future. Washington will be required to develop a state plan for the NMFS that will lead to the recovery of these species.

The Conservation Commission is responsible for assisting conservation districts to carry out resource conservation programs and for developing a consolidated application process for permits for watershed restoration projects. The sea grant program at the University of Washington provides technical assistance to property owners regarding water quality issues related to Puget Sound. The Puget Sound Action Team prepares a work plan to maintain and enhance water quality in the Puget Sound. There is no requirement for these entities to be involved with salmon recovery.

**Summary:** State of the Salmon Report. Beginning in 2000, the Governor is required to submit a biennial state of the salmon report to the Legislature during the first week of December. The report may include a description of the amount of funds spent on salmon recovery in response to listings under the federal Endangered Species Act (ESA), and a summary of habitat projects including accomplishments in identifying and removing salmon passage barriers, the role of volunteer initiatives in salmon habitat restoration efforts, and salmon restoration efforts undertaken in the past two years.

The report may also include a summary of collaborative efforts with other states and Canada, harvest and hatchery management activities affecting salmon recovery, information regarding impediments to successful salmon recovery, information on the estimated carrying capacity of new habitat, and the number and types of violations of existing laws pertaining to water quality and salmon.

Salmon Recovery Office. A Salmon Recovery Office is created in the Governor's Office. The primary purpose of the office is to coordinate and assist in the development of salmon recovery plans for evolutionary significant

units, and submit those plans to tribal governments and federal agencies in response to the ESA.

The Salmon Recovery Office may also act as a liaison with the Congress, federally recognized Indian tribes, local governments, and the federal executive branch for issues related to the state's salmon recovery plans.

The Salmon Recovery Office expires on June 30, 2006.

Habitat Restoration Project Lists and Funding. Counties, cities, and tribal governments must jointly designate, by official resolution, the area for which a habitat restoration project list is to be developed and the lead entity responsible for submitting the list. The lead entity may be a county, city, conservation district, special district, tribal government, or other entity. The area covered by the habitat project list must be based at a minimum on a Water Resource Inventory Area (WRIA), combination of WRIs, an evolutionarily significant unit (ESU), or any other area agreed to by the counties, cities, and tribes. A definition is provided for a habitat project list, which includes, among other types of projects, habitat restoration projects.

The lead entity must establish a committee that includes representatives of counties, cities, conservation districts, tribes, environmental groups, business interests, landowners, citizens, volunteer groups, regional fish enhancement groups, and other restoration interests. The lead entity must compile a list of habitat restoration projects, establish priorities for individual projects, define the sequence for project implementation, identify potential funding sources, and submit the habitat restoration project list to the interagency review team for funding. Habitat projects must have a written agreement from the landowner on which the project is to be implemented. Habitat restoration project lists must be submitted to the interagency team by January 1 and July 1 of each year, beginning in 1999.

Critical pathways methodology must be used for development of the habitat project list and habitat work schedule. The critical pathways methodology must include a limiting factors analysis for salmon in the region, identify local habitat projects that sponsors are willing to undertake, identify how the projects will be monitored and evaluated, and describe the adaptive management strategy that will be used.

An interagency review team composed of representatives of the Conservation Commission, the Department of Transportation, and the Department of Fish and Wildlife dispenses funds for habitat restoration projects. If a lead entity is established for an area, the interagency review team may remove, but may not add, projects from a habitat project list. If there is no lead entity for an area, the interagency review team must rank and prioritize habitat restoration projects for the area, giving priority to projects that provide a greater benefit to salmon recovery, will be implemented in a more critical area, are the most cost-effective, have the greatest amount of match or in-kind

funding, and will be implemented by a sponsor with a successful record of project implementation.

The interagency review team may annually establish a maximum amount of funding available for any individual project, subject to available funding. The review team must attempt to assure a geographical balance in assigning priorities to projects. The review team may provide block grants to the lead entity subject to available funding. For fiscal year 1998, the agencies represented on the review team may authorize, subject to appropriation, expenditures for projects to restore salmon habitat before completion of the project lists.

**Independent Science Panel.** An independent science panel is created consisting of five scientists appointed by the Governor. The Governor is directed to request an institution such as the National Academy of Sciences to screen candidates for the panel. The institution must submit a list of the nine most qualified candidates to the Governor, the Speaker of the House of Representatives, and the Majority Leader of the Senate. Each of the legislators must remove one of the names from the list. The Governor must consult with tribal representatives and appoint five persons remaining on the nomination list to constitute the science panel. The panel members are appointed for four-year terms. The membership of the panel must reflect specified types of expertise, including habitat requirements of salmon. The panel is governed by generally accepted guidelines and practices governing independent science boards such as the National Academy of Sciences. The science panel is responsible for reviewing salmon recovery plans at the request of the Salmon Recovery Office.

**Puget Sound Action Team and Puget Sound Water Quality Management Plan.** A person representing federally recognized Indian tribes is added to the Puget Sound Action Team. Federal agency representatives are added to the Puget Sound Action Team as nonvoting members.

Recovery plans developed under the federal Endangered Species Act must be considered for inclusion into the Puget Sound Water Quality Management Plan. The Puget Sound work plan and budget must include specific actions and projects pertaining to salmon recovery plans.

**Mitigation Proposals.** The Department of Transportation, the Department of Fish and Wildlife, the Department of Ecology, and tribes must convene a work group to develop policy guidance for determining alternative mitigation opportunities within a watershed, and to evaluate mitigation alternatives for the development of habitat project lists.

**Technical Assistance.** The Conservation Commission, in consultation with local governments and tribes, is directed to invite government and private personnel with appropriate expertise to act as a technical assistance advisory group. The technical assistance advisory group is responsible for identifying the limiting factors for salmonids in the region. Technical assistance may only be provided by state agency personnel from existing full-time

equivalent employees unless specifically funded in the budget. The sea grant program at the University of Washington may provide technical assistance on a fee-for-service basis.

**Implementation.** The Governor is required to submit a summary to the Legislature of the implementation of the act by December 31, 1998, including recommendations that would further the success of salmon recovery.

**Votes on Final Passage:**

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

**Effective:** June 11, 1998

**HB 2499**

C 73 L 98

Extending the long arm statute to district court civil cases.

By Representatives Sheahan, Appelwick, McMorris, Radcliff, Alexander, Grant, O'Brien, Doumit, Ogden and Thompson.

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

**Background:** District courts are organized within the counties of the state. District courts are courts of limited jurisdiction, meaning that they only have jurisdiction over matters as specified by statute. The subject matter jurisdiction of district courts in civil causes of action is set forth in statute to include matters such as actions arising on contract, personal injury and property damage actions, and penalty actions. District courts are prohibited from exercising jurisdiction over some types of actions, such as actions involving title to real property and actions for false imprisonment, libel and slander. In addition, district courts may not exercise subject matter jurisdiction over claims that exceed \$35,000.

A district court's territorial jurisdiction is generally defined by the boundaries of the county. In criminal cases, a district court will have jurisdiction over the crime if the crime was committed within the county's boundaries. With respect to civil causes of action, the district court's territorial jurisdiction generally extends to causes of action that arise within the county or causes of action involving a defendant who resides in the county.

For the purposes of issuing civil process, such as writs of execution, attachment and garnishment, the Legislature has expanded a district court's territorial jurisdiction to include the entire state if the district court has the authority to hear the underlying cause of action. The district court does not have the authority to issue civil process outside the state.

**Summary:** The territorial jurisdiction of a district court for the purpose of issuing civil process is extended to in-

## HB 2500

clude out of state locations as permitted by statute or rule. District courts are not authorized to issue personal service of process to parties outside of the state in actions filed in small claims court or in civil infraction cases.

### Votes on Final Passage:

House	96	0
Senate	47	0

Effective: June 11, 1998

## HB 2500

C 205 L 98

Amending uniform act on fresh pursuit.

By Representatives Sheahan, Appelwick, McMorris, Radcliff, Alexander, Grant, O'Brien, Dournit, Ogden and Thompson.

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

**Background:** In 1943, the state adopted the Uniform Act on Fresh Pursuit. The act has not been amended since. The act allows police officers of another state to enter Washington in "fresh pursuit" of a person suspected of having committed a felony in the other state and to arrest the person in this state. Upon arrest, the suspect is to be taken without unnecessary delay to a judge in the Washington county of arrest. If the judge determines the arrest was lawful, the suspect is to be confined awaiting extradition.

"Fresh pursuit" is defined for purposes of the act to include the common law meaning of the term, and also to include the pursuit of a person who reasonably is suspected of having committed a felony. In order to be "fresh" the pursuit need not be instant, but must be without unreasonable delay.

At common law, "fresh pursuit" applies to felonies and requires that the officer attempt to stop the suspect, and that the suspect try to escape or at least know he is being pursued while still in the officer's jurisdiction.

In Washington, as in most states, drunken driving and reckless driving are not felonies.

**Summary:** The Uniform Act on Fresh Pursuit is amended to allow pursuit into Washington of persons suspected of drunken or reckless driving in another state.

### Votes on Final Passage:

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

Effective: June 11, 1998

## EHB 2501 PARTIAL VETO

C 282 L 98

Exempting wholesale auto auctions from certain regulations.

By Representatives Zellinsky, Robertson, L. Thomas and Carrell.

House Committee on Transportation Policy & Budget  
Senate Committee on Transportation

**Background:** Washington law regulates the sale and purchase of vehicles by motor vehicle dealers, hulk haulers and vehicle wreckers. Those regulations do not include wholesale motor vehicle auction dealers.

**Summary:** A wholesale motor vehicle auction dealer is defined as any person or firm offering motor vehicles for sale by competitive bidding at a permanent location and at regularly scheduled dates and times. Wholesale motor vehicle auction dealers may sell any classification of motor vehicle. The dealers may only sell to motor vehicle dealers and vehicle wreckers licensed in Washington or another state. However, a wholesale auction dealer may sell a vehicle belonging to the United States government or to the state of Washington to nonlicensed persons, as may be required by the contracting public agency.

A vehicle dealer is not subject to license suspension for the sale of a vehicle that does not have a valid written service agreement, if the sale was made by a wholesale motor vehicle auction dealer to a licensed franchise motor vehicle dealer of the same make.

Additionally, a vehicle dealer is not subject to license suspension for noncompliance with the standards set by Washington state or the federal government pertaining to the construction or safety of vehicles, if a wholesale auto auction dealer sold the vehicle to a licensed vehicle dealer or wrecker. If a wholesale auction dealer has knowledge that the vehicle is wrecked, the dealer must disclose that information on the bill of sale.

Salvage pool operators do not constitute wholesale motor vehicle auction dealers.

### Votes on Final Passage:

House	96	0
Senate	46	0 (Senate amended)
House	98	0 (House concurred)

Effective: June 11, 1998

**Partial Veto Summary:** The definition of wholesale motor vehicle auction dealer is removed from the bill.

### VETO MESSAGE ON HB 2501

April 2, 1998

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

Ladies and Gentlemen:

I am returning herewith, without my approval as to sections 1, 3, and 5, Engrossed House Bill No. 2501 entitled:

"AN ACT Relating to wholesale motor vehicle auctions;"

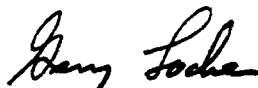
Engrossed House Bill No. 2501 modifies state law relating to wholesale motor vehicle auction dealers.

Sections 1, 3, and 5 of the bill each contains the definition of "wholesale motor vehicle auction dealer," which is technically flawed. The definition would include all firms, wholesale and retail, that offer motor vehicles for sale by competitive bidding at a permanent location and with regularly scheduled dates. This would unintentionally force such retailers, as well as wholesalers, to sell only to motor vehicle dealers and vehicle wreckers. That result would limit the options available to consumers and likely result in some dealers operating illegally.

For these reasons, I have vetoed sections 1, 3, and 5 of Engrossed House Bill No. 2501.

With the exception of sections 1, 3, and 5, Engrossed House Bill No. 2501 is approved.

Respectfully submitted,



Gary Locke  
Governor

**HB 2503**  
C 74 L 98

Authorizing consideration of the income level of customers when setting rates and charges for a storm water control facility.

By Representatives Robertson, Sullivan and Carrell.

House Committee on Government Administration  
Senate Committee on Energy & Utilities

**Background:** County legislative authorities are authorized to fix by resolution the rates and charges for furnishing storm water control services. These rates and charges may be assessed against anyone who receives services or benefits from any storm water control facility or who contributes to an increase in surface water runoff.

When fixing rates and charges, counties have discretion to consider five factors:

- the services furnished;
- the benefits received;
- the character and use or the water runoff characteristics of the land being served;
- the nonprofit public benefit status of the land user; or
- any other matters presenting a reasonable difference as a ground for distinction.

**Summary:** Counties are authorized to consider a sixth factor when fixing rates for storm water control facilities. A county legislative authority may consider the income level of persons provided storm water control benefits, including senior citizens and disabled persons.

**Votes on Final Passage:**

House	96	0	
Senate	43	0	(Senate amended)
House	95	0	(House concurred)

Effective: June 11, 1998

**ESHB 2514**  
**PARTIAL VETO**  
C 247 L 98

Providing for integrated watershed management.

By House Committee on Appropriations (originally sponsored by Representatives Chandler, Linville, Mastin, Parlette, Koster, Anderson, Regala and Cooper).

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

**Background:** Water Resource Management. With the adoption of the surface water code in 1917 and the groundwater code in 1945, new rights to the use of water may be established under a permit system. Certain uses of groundwater not exceeding 5,000 gallons per day are exempted from this permit requirement, however. Other laws authorize the state to establish minimum flows and levels for streams and lakes. The permit system and the state's laws for managing water resources are administered by the Department of Ecology (DOE). The DOE also limits the discharge of pollution to the surface and ground waters of the state.

Water Resource Planning. The groundwater code permits the DOE to designate and manage groundwater areas, sub-areas, or depth zones to prevent the overdraft of groundwaters. The code allows groundwater management studies to be initiated locally and allows local governments to assume the lead agency role in developing local groundwater management programs. The Water Resources Act directs the DOE to develop a comprehensive state water resources program for making decisions on future water resource allocation and use. The act permits the DOE to develop the program in segments. Under the act, the DOE has divided the state into 62 water resource inventory areas (WRIAs).

The DOE may award grants to planning units for watershed planning, but there is no statutory criteria which specifies what constitutes a planning unit or an acceptable watershed plan.

**Summary:** Local governments may choose to conduct watershed planning. The scope of the watershed planning must include water quantity elements, and may include elements pertaining to water quality, the coordination or development of protection or enhancement of fish habitat, and the setting of minimum instream flows in the water-

shed. Watershed planning may be conducted on a single WRIA or multi-WRIA basis.

Initiating Watershed Planning. Watershed planning may be initiated for a single WRIA with the concurrence of all counties within the WRIA, the largest city or town within the WRIA, and the water supply utility obtaining the largest quantity of water from the WRIA. In a multi-WRIA area, watershed planning may be initiated with the concurrence of all counties within the multi-WRIA area, the largest city or town within each WRIA, and the water supply utility obtaining the largest quantity of water in each WRIA. These entities designate the lead agency for the planning effort and indicate how the planning effort will be staffed. If all these entities agree to proceed with watershed planning, they must invite any affected Indian tribes within the management area to participate. The tribes that accept the invitation become part of the initiating governments.

The initiating governments must work with state, local, and affected tribal governments in developing a planning process. The initiating governments may hold public meetings to develop a proposed composition of the planning unit and a proposed scope of work. The proposed composition of the planning unit must provide for representation of a wide range of water resource interests.

State agency representation on the planning units is determined by the initiating governments in consultation with the Governor's Office. Technical assistance by the state may only be provided at the request of and to the extent desired by the planning unit. State agencies may organize and agree on their representation on a planning unit.

Coordinating the Work of the Planning Unit. A planning unit must review the historical data such as fish runs, weather patterns, land use patterns, seasonal flows, and geographical characteristics of the management area, and also review existing planning, projects, and activities regarding natural resource management or enhancement in the management area. The planning unit must incorporate products of any efforts that are either completed or ongoing, as appropriate, in order not to duplicate efforts.

The planning unit is also encouraged to identify projects and activities in the area that it believes will likely serve short-term or long-term management goals and warrant immediate financial assistance. If there are multiple projects, the planning group must give consideration to ranking projects that have the greatest benefit and schedule those projects to be implemented first.

Water Quantity Component. The water quantity component of watershed planning must include an assessment of water supply and use in the management area and the development of strategies for future use. The assessment must include: an estimate of the surface and ground water present in the management area; an estimate of the surface and ground water available in the management area, taking into account seasonal and other variations; an estimate of the amount of water in the management area repre-

ented by claims in the water rights registry, water use permits, certificated rights, existing minimum instream flow rules, federally reserved rights, and any other rights to water; an estimate of the surface and ground water actually being used in the management area; an estimate of the water needed in the future for use in the management area; and an estimate of the surface and ground water available for further appropriation, taking into account minimum instream flows established or that will be established in the management area, including data necessary to evaluate necessary flows for fish.

The strategies for increasing water supplies in the management area may include, among other strategies, use of reclaimed water, aquifer recharge and recovery, and water conservation. The purpose of the strategies is to have sufficient water to satisfy minimum instream flows for fish and to provide for future out-of-stream uses.

Water Quality and Habitat Components. The watershed planning component for water quality, if included by the initiating governments, must contain: an examination, based on existing government studies, of the degree to which legally established water quality standards are being met in the management area; an examination based on existing government studies of the causes of water quality violations in the management area; an examination of the legally established characteristic uses of each of the non-marine bodies of water in the management area; an examination of any total maximum daily load (TMDL) established for nonmarine bodies of water in the management area, unless a TMDL process commenced in the management area before the watershed planning began; and recommended means of monitoring whether actions taken to implement the approach to improve water quality are sufficient to achieve compliance with water quality standards.

If the initiating governments include a habitat component as part of the watershed planning process, the watershed plan must be coordinated or developed to protect or enhance fish habitat in the management area. Planning for habitat must be integrated with strategies developed under other processes to respond to listings of fish species under the federal Endangered Species Act (ESA).

Instream Flows. The initiating governments may choose by a majority vote to include a minimum instream flow component as part of the watershed plan. If minimum instream flows have already been set for a stream, a unanimous vote of all government members and tribes on the planning unit is required to request the DOE to modify the flows. If minimum instream flows have not been set, the department is directed to attempt to achieve consensus and approval among the members of the planning unit regarding the instream flows. Approval of instream flows is achieved if all government and tribal members on the planning unit who are present for a recorded vote unanimously agree to support the proposed flows, and a majority of the other interests on the planning unit vote in favor of the proposed flows.

The priority date for new minimum instream flows is established at two years after the date when the planning unit first received funding from the DOE, except that the planning unit may establish some other priority date by a unanimous vote. The priority date cannot be later than the effective date of the rule establishing the flow. The department must consult with affected tribes in the management area before setting instream flows. Flows which have already been established, but which are modified, retain the same priority date previously established by rule for that portion of the minimum flow. If approval is not achieved within four years, the DOE may promptly initiate rule-making to establish minimum instream flows for these streams. The DOE has two years to set the instream flows when approval is not achieved.

The DOE must use rulemaking to set minimum instream flows. The DOE may adopt these rules either by the regular rules adoption process, the expedited rules adoption process, or through a rules adoption process that uses the public hearings and notice provided by the planning unit and the county to the greatest extent possible. Such rules do not constitute significant legislative rules, and do not require the preparation of small business economic impact statements.

Approval of Watershed Plan. Approval of a watershed plan by the planning unit is achieved if there is agreement by all the units of government on the planning unit and a majority of nongovernmental interests on the planning unit also approve. The planning unit submits the watershed plan to each of the counties with territory in the management area. If the planning unit receives funding from the DOE beyond the initial organizing grant, a proposal approved by the planning unit must be submitted to the counties for approval within four years of the date that funding was first received.

The legislative authority of each of the counties with territory in the management area must provide public notice of and conduct at least one public hearing on the watershed management approved by the planning unit. After the public hearings, the county legislative authorities must convene a joint session to consider the watershed plan. The counties may approve or reject the watershed plan, but may not amend it. The watershed plan must be approved by each of the county legislative authorities with territory in the management area.

If a proposed integrated watershed management is not approved, it is returned to the planning unit with recommendations for revisions. If approval of the revised plan is not achieved, the process is terminated.

A planning unit cannot add an element to its watershed plan that creates an obligation for a unit of government unless the members of the planning unit appointed to represent that unit of government agree to adding the element that creates the obligation, as evidenced by a recorded vote. If the watershed plan is approved by the planning unit and the counties, and the plan creates obligations for state agencies, the obligations are binding on the state

agencies and the agencies must adopt implementing rules and take other actions to fulfill their obligations as soon as possible. State agencies must also adopt by rule the obligations that are binding upon county governments. The counties must adopt any necessary implementing ordinances and take other actions to fulfill obligations that are binding upon them.

Limitations on Watershed Plans. Watershed plans developed in this manner may not contain provisions that: (1) are in conflict with state statute, federal law, or tribal treaty rights; (2) impair or diminish in any manner existing water rights; (3) require a modification in the basic operations of a federal reclamation project, the water right of which has a priority (seniority) date that is earlier than the effective date of the act, or alter in any manner whatsoever the quantity of water available under the water right for the project; (4) affect an ongoing general adjudication of water rights; (5) modify a waste discharge permit issued under water pollution laws; (6) modify or require the modification of activities or actions taken or intended to be taken under a habitat restoration work schedule; or (7) modify or require the modification of activities or actions taken to protect or enhance fish habitat if the actions are part of an approved habitat conservation plan or similar agreement, or part of a water quality program adopted by an irrigation district or a board of joint control.

These provisions may not create any obligations or restrictions on forest practices that are in addition to or inconsistent with the Forest Practices Act and its implementing rules. Watershed plans may contain recommendations for changing existing local ordinances or state rules, but may not change the ordinances or rules. These provisions may not be interpreted as authorizing or directing the DOE to establish a moratorium on water rights processing. The DOE may not conduct water and water resources related development planning or comprehensive state water resources program planning that conflicts with these provisions.

Financial Assistance. The DOE must develop and administer a grant program to provide direct financial assistance to planning units. Three separate grants may be awarded: initial organizing grants of up to \$50,000 for a single WRIA and up to \$75,000 for a multi-WRIA; grants of up to \$250,000 per WRIA for watershed assessments; and grants of up to \$250,000 per WRIA for the development of a watershed plan. The DOE is directed to use the statutory eligibility criteria rather than rules, policies, or guidelines when evaluating grant applications.

Except for the original organizing grant, preference is to be given to applications in the following order of priority: (1) applications from existing planning groups that have been in existence for at least one year; (2) applications from multi-WRIAs that propose to address protection and enhancement of fish habitat in watersheds that have aquatic species listed or proposed to be listed as endangered or threatened under the ESA, and for which there is evidence of an inability to supply adequate water



for population and economic growth; (3) applications from single WRAs that propose to address fish habitat in watersheds with ESA listings or proposed listings, and for which there is evidence of an inability to supply adequate water for population and economic growth; (4) applications from multi-WRAs that propose to address fish habitat in watersheds with ESA listings, and for which there is evidence of an inability to supply adequate water for population and economic growth; and (5) applications from single WRAs that propose to address fish habitat in watershed with ESA listings, and for which there is evidence of an inability to supply adequate water for population and economic growth.

The DOE may not impose any local matching requirements as a condition for grant eligibility or as a preference in receiving a grant.

**Votes on Final Passage:**

House	86	10	
Senate	43	4	(Senate amended)
House	88	10	(House concurred)

**Effective:** June 11, 1998

**Partial Veto Summary:** The Governor vetoed sections which would prohibit the DOE from conducting water-related planning under other statutes that conflict with watershed plans developed under this act, and which stated that nothing in the act authorized or directed the DOE to establish a moratorium on water rights processing.

**VETO MESSAGE ON HB 2514-S**

*April 1, 1998*

*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 10 through 14, Engrossed Substitute House Bill No. 2514 entitled:*

*"AN ACT Relating to watershed management;"*

*ESHB 2514 establishes a watershed management process to develop in-stream flow levels, water quality and habitat plans. A primary purpose of the watershed management planning under this bill is to address listed and soon-to-be listed salmon stocks under the federal Endangered Species Act, as well as finding ways to meet the needs of those who rely upon out-of-stream uses of water.*

*This bill has the potential to resolve the long-standing stalemate over setting in-stream flow levels in Washington and to resolve other important issues dealing with water quality and fish habitat. I commend the Legislature for its leadership in this regard.*

*ESHB 2514 makes a strong choice to rely on watershed planning processes to resolve these issues. Primary responsibility lies with the planning units authorized by this bill to meet the requirements of state and federal law. Given the status of our water and fisheries resources, we cannot afford to approach these problems without a sense of urgency and determination. If progress is not being made in this area, I am prepared to utilize existing authority to protect our water and fish habitat, and will be prepared to propose further legislative changes next year.*

*ESHB 2514 has one problem in that tribal governments are relegated to a secondary role throughout the planning process, despite treaty rights and fishery co-management responsibilities. To address that problem, I am directing the Department of Ecology to consult with affected tribes, including those with usual*

*and accustomed territory or ceded lands, before committing to obligate the state on any particular in-stream flow levels or other issues that affect tribal treaty rights and co-management responsibilities.*

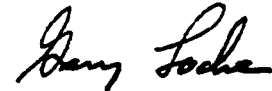
*Section 10 of this bill would prohibit the Department from establishing a moratorium on water right processing while planning is underway. In some select instances, the Department of Ecology may need to impose a moratorium on water right processing in order to preserve options for future water allocations by the watershed planning unit.*

*Sections 11 through 14 would require that plans developed under this bill preempt water-related planning processes established under other statutes. This language would remove any flexibility of the state to use other authorities to correct any deficiencies that emerge from plans adopted under the process provided in this bill. If such plans turn out to be inadequate due to new information and situations, the state would be prohibited by these sections from correcting the problems.*

*For these reasons, I have vetoed sections 10 through 14 of Engrossed Substitute House Bill No. 2514.*

*With the exception of sections 10 through 14, Engrossed Substitute House Bill No. 2514 is approved.*

*Respectfully submitted,*



*Gary Locke  
Governor*

**SHB 2523**  
C 43 L 98

Regarding fire training activities.

By House Committee on Agriculture & Ecology (originally sponsored by Representatives Chandler, Linville, Mulliken, Schoesler, Hatfield, Cooper, Skinner and Clements).

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

**Background:** The Washington Clean Air Act requires burning permits for a variety of intentional outdoor burning activities. The intent of the permits is to require that certain conditions be met, including limiting burning to days when air quality is not impaired, limiting the kinds of materials that can be burned, and limiting the conditions where the burning can occur. Several kinds of permits are available, including those that must be obtained prior to weed abatement, certain kinds of fire fighting instruction, and certain agricultural activities and those for certain limited outdoor burning activities, such as disposing of organic refuse from land clearing.

Burning certain materials outdoors is prohibited, including materials such as garbage, petroleum products, or any substance, other than natural vegetation, that normally emits dense smoke or obnoxious odors.

A burning permit is not required for aircraft crash fire training conducted in compliance with several conditions pertaining to the type of facilities that may engage in such training and with certain air quality conditions. These

training activities are exempted from the prohibition on burning petroleum products. The permit exemption sunsets on July 1, 1998, or the date upon which the North Bend fire training center is fully operational.

**Summary:** The exemption from the burning permit requirement for aircraft crash fire training is amended by adding a requirement that a facility be operated in a manner that will minimize, to the extent possible, the air contaminants generated during operation. Written approval from the department or local air pollution control authority is required prior to the commencement of initial operation of training. Such approval will be provided if training is conducted in compliance with the required conditions. The burning of petroleum in conjunction with aircraft crash rescue fire training is authorized without a limited outdoor burning permit. A limited outdoor burning permit is required to burn prohibited materials in conjunction with fire fighting instruction or other actions to protect public health and safety.

**Votes on Final Passage:**

House	96	0
Senate	48	0

**Effective:** June 11, 1998

## SHB 2529

C 109 L 98

Assisting small business exporters.

By House Committee on Trade & Economic Development (originally sponsored by Representatives Van Luven, Voloria, McDonald, Kenney, Tokuda, Dickerson, Mason, Kessler, Constantine, Thompson and Ogden; by request of Department of Community, Trade, and Economic Development).

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

**Background:** The Small Business Export Finance Assistance Center was created in 1983 as a nonprofit corporation to provide financial and technical assistance to small and medium-sized Washington businesses in exporting their goods and services. The center is governed and managed by a 19-member board of directors. Members are appointed by the Governor and confirmed by the Senate for 6-year terms

The center may: (1) make loans to Washington businesses with annual sales of \$25 million or less for the purpose of financing goods or services to buyers in foreign countries, provided that the loans do not compete with or substitute for loans available through private financial institutions; (2) provide loan guarantees on private loans to businesses with annual sales of \$100 million or less for the purpose of financing goods or services to buyers in foreign countries; (3) provide export financial counseling

to Washington exporters with annual sales of \$100 million or less, provided the counseling is not available from a Washington for-profit business; and (4) contract with the federal government to become a program administrator for federal risk insurance.

The center may not use state funds to make loans or any payments under a loan guarantee agreement. Debts of the center are its sole debts and may only be satisfied with its resources. The center may charge fees for counseling services. The state is not responsible for debts of the center.

**Summary:** The Small Business Export Finance Assistance Center board of directors is reduced from 19 members to seven members. Members are appointed to the board, with advice from board members, by the Governor. The terms of the board members are reduced from six-year terms to four-year terms. When possible, appointments to the board must reflect a geographic balance and diversity of the state.

The membership of the board of directors is revised to include: (1) the director of the Department of Community, Trade, and Economic Development, or the director's designee; (2) a representative of a large financial institution engaged in financing export transactions in Washington; (3) a representative of a small financial institution engaged in financing export transactions in Washington; (4) a large exporting company located in Washington; (5) a small exporting company located in Washington; (6) a representative of organized labor in a trade involving international commerce; and (7) a representative at large.

The provisions establishing the center's powers and duties are revised. The center may: (1) assist businesses with annual sales of \$200 million or less in obtaining loans and loan guarantees from financial institutions to finance the export of goods and services from Washington; (2) provide export finance and risk mitigation counseling to Washington exporters with annual sales of \$200 million or less, provided the counseling is not available from a Washington for-profit business; (3) assist in obtaining export credit insurance or other forms of foreign risk mitigation to facilitate the export of goods and services from Washington; (4) allow use of the center as a teaching resource to both public and private sponsors of workshops/programs on financing and risk mitigation aspects of exporting from Washington; and (5) develop a comprehensive inventory of public and private export-financing resources, including information on country specific resources and payment terms.

**Votes on Final Passage:**

House	96	0	
Senate	49	0	(Senate amended)
House	96	0	(House concurred)

**Effective:** June 11, 1998

HB 2534

C 75 L 98

Waiving operating fees for students registered for a doctor of pharmacy.

By Representatives Parlette, Carlson, Anderson, Wensman, Alexander and Doumit.

House Committee on Higher Education  
Senate Committee on Higher Education

**Background:** Governing boards at the state institutions of higher education charge and collect tuition from students registering at the institution for any quarter or semester. Full-time students registered for more than 18 credit hours are charged an additional operating fee for each credit hour over 18. Institutions may exempt all or a portion of the additional operating fee for students registered in a first professional program in medicine, dental medicine, veterinary medicine, or law, or students registered exclusively in required courses in vocational preparatory programs.

**Summary:** Institutions of higher education may exempt the additional operating fee for doctor of pharmacy students enrolled for more than 18 credit hours.

**Votes on Final Passage:**

House	96	0
Senate	49	0

**Effective:** June 11, 1998

HB 2537

C 44 L 98

Regulating sanitary control of shellfish.

By Representatives Butler, Romero, Buck, Hatfield and Kessler; by request of Department of Health.

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

**Background:** Any person who operates a shellfish operation must hold a license issued by the Department of Health. The license is issued only for the person named in the application for that shellfish operation and is not transferable unless the director of the department approves. A "shellfish operation" includes any activity related to harvesting, transporting, or processing of shellfish in commercial quantities or for sale for human consumption.

Any person who culls, shucks, or packs shellfish in the state in a commercial quantity or for sale for human consumption must also hold a certificate of approval from the Department of Health for the particular shellfish growing area or shellfish operation. The certificate of approval is issued for a time period not to exceed one year, and may be revoked at any time the establishment or operation does not comply with the sanitary requirements adopted

by the State Board of Health. There are, however, no penalties that attach when a person, whose license or certificate of approval is revoked, suspended, or denied, actively participates in shellfish operations.

**Summary:** If a person's certificate of approval or license to harvest, transport, process, cull, shuck, pack, or ship shellfish in commercial quantities or for sale for human consumption is suspended, revoked or denied because that person violated a provision of law regulating the sanitary control of shellfish, then that person is prohibited from participating to any degree in a licensed or certified shellfish operation, including being in charge of, being employed by, or managing the shellfish operation. In addition, a person whose certificate of approval or license is suspended, revoked or denied due to a violation of the shellfish laws may not participate in the harvesting, shucking, packing, or shipping of shellfish in commercial quantities or for sale for human consumption. These prohibitions apply only during the time period in which the person's license or certificate of approval is denied, revoked, or suspended.

**Votes on Final Passage:**

House	96	0
Senate	44	0

**Effective:** June 11, 1998

HB 2542

FULL VETO

Allowing rural counties to remove themselves and their cities from planning requirements under the growth management act.

By Representatives Mulliken, Thompson, Cairnes, DeBolt, McMorris, Sherstad, Koster, Mielke, Sump, Bush, Johnson, D. Sommers and Schoesler.

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

**Background:** The Growth Management Act (GMA) was enacted in 1990 and 1991. The GMA establishes requirements for all counties in the state, and imposes additional requirements for the faster growing counties. A city follows the lead of the county in which it is located. Counties and cities subject to all the requirements of the GMA are typically referred to as counties and cities that plan under the GMA.

Requirements for counties and cities that plan under the GMA. The primary requirements for counties and cities that plan under the GMA are the:

- identification and protection of critical areas;
- identification and conservation of agricultural, forest, and mineral resource lands;
- adoption of a county-wide planning policy;

- designation of urban growth areas in which urban growth is encouraged and outside of which growth can occur only if it is not urban in nature;
- adoption of a comprehensive plan, to include a housing element, a rural element, and other elements; and
- adoption of development regulations implementing the comprehensive plan.

A county is required to plan under the GMA if the county meets either of two sets of population and 10-year growth criteria, as determined by the Office of Financial Management (OFM):

- The county has a population of 50,000 or more and the county's population increased by at least 17 percent in the past 10 years. Legislation enacted in 1995 increased the minimum 10-year rate of growth to 17 percent and applied this change prospectively; or
- The county has a population of less than 50,000 and the county's population increased by at least 20 percent in the past 10 years.

A one-time window allows the smaller counties to remove themselves from the planning requirements of the GMA. For counties with a population of less than 50,000 that were initially required to plan under the GMA, the county legislative authority had until December 31, 1990, to remove the county and cities in the county from the requirements. A county with a population of less than 50,000 that is later found by OFM to meet the requisite 10-year growth factor has 60 days from the date OFM certifies that it meets the criteria to remove itself and its cities from the requirements.

In addition to the counties required to plan, a county legislative authority not covered by the growth criteria may adopt a resolution bringing the county under the planning requirements.

Once a county plans under the GMA, the county and cities located in the county remain subject to the planning requirements.

Requirements for other counties and cities. All counties and cities are required to designate and protect critical areas and designate (but not conserve) natural resource lands.

**Summary:** Counties meeting specified criteria may remove themselves and their cities from the requirement to plan under the GMA by following described procedures.

Counties eligible are those with a population under 50,000 that either: 1) chose to plan under the GMA; or 2) were eligible to remove themselves from the planning requirements under the one-time window. (Counties meeting these criteria are: Columbia, Douglas, Ferry, Franklin, Garfield, Jefferson, Kittitas, Mason, Pacific, Pend Oreille, San Juan, and Stevens.)

The procedure for removal requires the county legislative authority, by December 31, 1998, to adopt a resolution of intent to remove and submit the resolution to the cities. The cities have 60 days to act on the resolution. If a majority of the cities (the city, if only one city) concur

in the resolution of the county, removal is accomplished. If a majority of the cities (or the city, if only one) do not concur within 60 days, removal may be accomplished if a majority of the voters in the county approve the resolution at the next general election.

The 50,000 population threshold for counties to be required to plan under the GMA if they have a 10-year growth rate exceeding 17 percent is changed to 60,000. Counties with a population under 60,000 must have a 10-year growth rate over 20 percent to be required to plan.

A county that removes itself (and its cities) from the planning requirements must continue to designate and protect critical areas and designate resource lands.

If a county removes itself from the GMA planning requirements, any claim pending before a growth management hearings board or a court relating to the planning requirements must be dismissed.

**Votes on Final Passage:**

House	63	35	
Senate	30	18	(Senate amended)
House	70	28	(House concurred)

**VETO MESSAGE ON HB 2542**

April 2, 1998

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. 2542 entitled:

"AN ACT Relating to allowing rural counties to remove themselves and their cities from the planning requirements of the growth management act;"

HB 2542 would allow any county with a population less than 50,000 — and that either opted into the requirements of the Growth Management Act (GMA), or originally had the opportunity to opt out of GMA — a new opportunity to remove itself and its cities from the requirements to plan under GMA.

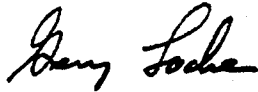
We have seen great progress in counties that are planning under the GMA. Many of the counties who would be eligible to opt out under this bill have experienced rapid growth. Even in small rural counties, residents are concerned about growth and the loss of rural areas, and want to preserve the quality of life that attracted them to those areas in the first place. The GMA allows our communities to plan for good and efficient economic growth while preserving our state's spectacular natural features.

This bill would go too far. It would allow some counties that have experienced rapid growth to opt out. In fact, with the exception of two counties, all of the counties that opted in would have been required to plan under the GMA anyway, as a result of their 10-year population growth factors being higher than 20%. This bill would also allow counties to opt out over the objections of their cities. Even in those counties that opted in, cities have invested tremendous amounts of time and money, and have made land use and capital decisions based on GMA. Cities must have a role in the counties' decision to opt out.

# SHB 2544

*For these reasons, I have vetoed House Bill No. 2542 in its entirety.*

*Respectfully submitted,*



Gary Locke  
Governor

## SHB 2544 PARTIAL VETO C 283 L 98

Funding the state retirement systems.

By House Committee on Appropriations (originally sponsored by Representatives H. Sommers, Sehlin, Ogden, D. Sommers, Carlson, Conway and O'Brien; by request of Joint Committee on Pension Policy).

House Committee on Appropriations  
Senate Committee on Ways & Means

**Background:** Legislation passed in 1989 requires that pension contribution rates be set at the level percentage of pay needed to fully amortize the total costs of the Public Employees' Retirement System (PERS) Plan 1, the Teachers' Retirement System (TRS) Plan 1, the Law Enforcement Officers' and Fire Fighters' (LEOFF) Retirement System Plan 1, and the unfunded liability of the Washington State Patrol Retirement System by June 30, 2024. Pension contribution rates must also be set so as to continue to fully fund PERS Plan II and LEOFF Plan II, and TRS Plans II and III. In addition to these requirements, the statutes state that the rate-setting process is also intended to achieve the goal of establishing predictable long-term employer contribution rates which will remain a relatively constant proportion of future state budgets.

In odd-numbered years, the Economic and Revenue Forecast Council adopts the following long-term economic assumptions to be used by the state actuary in conducting actuarial valuations of the state-administered pension systems: growth in system membership; growth in salaries; growth in inflation; and investment rate of return. In even-numbered years, based on the results of the actuarial valuations, the Economic and Revenue Forecast Council adopts the pension contribution rates to be used in the ensuing biennium.

The Economic and Revenue Forecast Council is a six-member council consisting of four legislators, the director of the Office of Financial Management, and the director of the Department of Revenue.

The state actuary is the executive head of the Office of the State Actuary, which is an office within the legislative branch. The state actuary is appointed by the Joint Committee on Pension Policy.

The Joint Committee on Pension Policy (JCPP) is a statutorily-created legislative committee consisting of eight members appointed by the president of the Senate, four from each party, and eight members appointed by the speaker of the House of Representatives, four from each party.

**Summary:** The Pension Funding Council is created and consists of the director of the Department of Retirement Systems, the director of the Office of Financial Management, and the chair and ranking minority members of the House Appropriations Committee and the Senate Ways and Means Committee. The Pension Funding Council must adopt changes to the following long-term economic assumptions: growth in system membership; growth in salaries; growth in inflation; and investment rate of return. Every two years, beginning September 1998, the Pension Funding Council must adopt pension contribution rates to be used in the ensuing biennial period.

The Pension Funding Council is also responsible for soliciting and administering a biennial actuarial audit of the actuarial valuations used for rate-setting purposes. The audit must be conducted concurrently with the preparation of the actuarial valuation performed by the state actuary.

A pension funding work group is created and consists of one staff person selected by the executive head or chairperson of the following agencies or committees: the Department of Retirement Systems, the Office of Financial Management, the State Investment Board, the Senate Ways and Means Committee, the House Appropriations Committee, and the Economic and Revenue Forecast Council. The work group provides staff support to the Pension Funding Council. The state actuary provides information related to economic assumptions and contribution rates to the work group. The work group must seek out recommendations from affected employee and employer groups and must conduct an open public meeting on their recommendations.

### Votes on Final Passage:

House	91	7
Senate	31	18

**Effective:** June 11, 1998

**Partial Veto Summary:** The Governor's veto results in requiring the pension funding council to adopt changes to long-term economic assumptions in September of every odd-numbered year. Without the veto, the council could adopt changes to economic assumptions at any time, although the council can adopt changes to the pension contribution rates in September of even-numbered years only. The veto also results in the need for five votes, rather than four, to adopt changes in the assumptions.

VETO MESSAGE ON HB 2544-S

April 2, 1998

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

Ladies and Gentlemen:

I am returning herewith, without my approval as to section 5, Substitute House Bill No. 2544 entitled:

"AN ACT Relating to funding of the state retirement systems;"

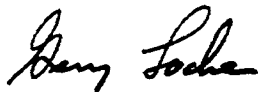
Substitute House Bill No. 2544 makes several improvements to the state retirement system funding statutes. It creates a Pension Funding Council to adopt long-term economic assumptions and contribution rates, and a work group to support that council. It also establishes an open process for reviewing possible changes to assumptions and contribution rates and requires a periodic actuarial audit of the valuation reports used to set contribution rates. I commend the Joint Committee on Pension Policy for developing this broadly supported proposal.

Section 5 of this bill would eliminate the current requirements that long-term economic assumptions be changed only as part of a regular two-year cycle, and would reduce the number of votes needed to make a change in the assumptions from five to four. These changes would create a risk that adjustments in long-term economic assumptions could be made to address short-term budget problems, rather than focusing on the appropriate goal of funding pensions in a responsible long-term manner.

For this reason I have vetoed section 5 of Substitute House Bill No. 2544.

With the exception of section 5, Substitute House Bill No. 2544 is approved.

Respectfully submitted,



Gary Locke  
Governor

HB 2550  
C 284 L 98

Regulating the charitable gift annuity business.

By Representatives L. Thomas and Wolfe; by request of Insurance Commissioner.

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

**Background:** The Insurance Commissioner may grant a certificate of exemption to any insurer or educational, religious, charitable, or scientific institution conducting a charitable gift annuity business that meets several criteria.

The holder of a certificate of exemption must establish and maintain a reserve fund. The size of this reserve fund must be adequate to cover future payments under the holder's charity gift annuity contracts. Under no circumstances may the fund be smaller than an amount computed in accordance with the standard of valuation based on the 1971 individual mortality table or any modification to the table approved by the commissioner.

If the Insurance Commissioner finds that a holder does not meet the criteria, the commissioner may revoke, suspend or refuse to grant a certificate of exemption. In addition, if the commissioner finds that the holder is violating the insurance code's requirement of good faith and/or fraud provisions, the commissioner may revoke the holder's certificate of exemption.

A certificate of exemption grants the holder exemption from most of the provisions of the insurance code. However, the holder is not exempt from the provisions requiring: good faith, honesty and equity in all insurance matters; prohibiting unfair practices and frauds; addressing hearings and appeals; and setting forth the enforcement duties of the Insurance Commissioner.

**Summary:** An insurer or institution conducting a charitable gift annuity business must have and maintain minimum unrestricted net assets of \$500,000 to be eligible for a certificate of exemption.

Also, instead of a reserve fund, the holder of a certificate of exemption must establish and maintain a separate trust fund. The size of the trust fund depends on when the holder issued its charitable gift annuity contracts. For contracts issued prior to July 1, 1998, the amount may not be less than an amount computed in accordance with the standard of valuation based on the 1971 individual annuity mortality table. The Insurance Commissioner may not approve a modification of this table. For contracts issued on or after July 1, 1998, the amount may not be less than an amount calculated according to the standards set forth in the insurance code for other annuities. The holder must also maintain a surplus of 10 percent of the combined amounts as calculated above. The assets in the trust fund must:

- be invested in a manner that assures sufficient value, liquidity, and diversity to meet outstanding obligations;
- be segregated from the other funds of the holder;
- be invested under a prudent non-speculative standard for a similar enterprise; and
- be exempt from any liabilities of the holder.

The commissioner may revoke, suspend, or refuse to grant a certificate of exemption if allowing the insurer or institution to continue to issue annuities would be hazardous to annuity contract holders and the people of the state. The commissioner may levy fines in addition to or in lieu of revoking, suspending, or refusing to grant a certificate of exemption.

The holder of a certificate of exemption is subject to the provisions dealing with mergers, rehabilitation, and liquidation. The holder also may not transact a variable annuity business.

**Votes on Final Passage:**

House	96	0	
Senate	42	0	(Senate amended)
House	96	0	(House concurred)

Effective: June 11, 1998

ESHB 2551

C 285 L 98

Allowing utilities to take actions, such as requiring deposits, to ensure payment.

By House Committee on Energy & Utilities (originally sponsored by Representative Crouse).

House Committee on Energy & Utilities  
Senate Committee on Energy & Utilities

**Background:** Utilities operated by municipalities and other political subdivisions of the state are authorized to place liens for charges due but unpaid against the property to which utility services are provided. Examples are liens for municipal water, sewer, and electricity services, and for water-sewer district or irrigation district services.

Different kinds of governmental utilities have different lien provisions. The differences involve the method of enforcing the lien, the number of months of unpaid charges that may be subject to a lien, the priority status of the lien, and how the lien is perfected. In addition, similar utilities that are subject to the same lien laws vary greatly in size and have significantly different billing systems.

Utility liens are a source of tension between owners of rental property and utilities. Some owners of rental property would like to receive duplicate billings for services provided to rental units, or to be notified when an account is delinquent, because the owners may become liable for accounts that they are unaware are in arrears.

While some governmental utilities already send duplicate bills, some utilities report that their billing systems cannot feasibly generate duplicate bills, and that the utilities may not know which accounts involve rental properties. In addition, utilities report a split of opinion among their attorneys about whether utilities are authorized to collect deposits.

There is no explicit authority for governmental utilities to allocate partial payments on past due accounts in accordance with utility priorities, where consolidated bills are issued for more than one utility service. Water-sewer districts may not terminate service until an account is delinquent for sixty days.

**Summary:** A municipal utility, water-sewer district, or irrigation district may provide duplicates of tenant utility service bills to owners of rental property, or may notify an owner that a tenant's account is delinquent. However, the utility or district must notify an owner (or the owner's designee) of a tenant's delinquency, if the owner or designee has made a written request that the utility do so. The owner or designee must identify the property as rental property, and provide a mailing address. The utility or district is to notify the owner or designee in the same manner that the utility or district notifies the tenant of the tenant's delinquency or by mail. A utility or district providing a real property owner or the owner's designee with a duplicate of a tenant's bill, or a notice that the tenant's

utility account is delinquent, must notify the tenant of the fact.

After January 1, 1999, if a utility or district fails to notify the owner or designee of a tenant's delinquency after receiving a written request to do so, the utility or district may not place a lien on the property for the tenant's delinquent bill.

A utility or district may require deposits from customers, but failure to require deposits does not affect the validity of a utility lien. Also, the utility or district may determine how to allocate partial payments on past due accounts.

The length of time an account must be delinquent before a water-sewer district may terminate service is reduced from 60 to 30 days.

**Votes on Final Passage:**

House	98	0	
Senate	40	5	(Senate amended)
House	98	0	(House concurred)

**Effective:** June 11, 1998

HB 2553

C 110 L 98

Extending the prohibition on filing for a tariff on mandatory measured telecommunications service.

By Representatives Crouse, Morris, DeBolt, Kessler, Cooper, Benson, Mielke, Dunshee, Hankins, Delvin, Zellinsky, Constantine, Kastama, O'Brien, Conway, Dickerson and Mason.

House Committee on Energy & Utilities  
Senate Committee on Energy & Utilities

**Background:** Most telephone customers in Washington pay a flat monthly rate for local telephone service. Many of the local exchange companies offer their customers the option of paying for local calls on a per call basis. This practice is commonly known as local measured service. Under this option, the telephone customer pays a lower monthly rate and then pays for the calls actually made, based on the time of day, length of call, and in some cases, the distance of the call.

Telecommunications service providers file tariffs, or in some cases price lists, with the Washington Utilities and Transportation Commission (WUTC). In 1984, the Legislature temporarily prohibited the WUTC from approving telecommunications tariffs that include mandatory local measured service. The prohibition does not explicitly apply to price lists. The prohibition also does not apply to mobile services, pay telephone services, or to any other service that has traditionally been offered on a measured basis.

The prohibition, which has been extended a few times, most recently in 1993, expires June 1, 1998.

**Summary:** The prohibition restricting the WUTC from approving telecommunications tariffs imposing mandatory local measured service is extended for three years until June 1, 2001, and is explicitly made applicable to filings of price lists.

**Votes on Final Passage:**

House	95	1
Senate	47	0

**Effective:** June 11, 1998

**SHB 2556**  
**PARTIAL VETO**

C 314 L 98

Making changes concerning the federal child abuse prevention and treatment act.

By House Committee on Children & Family Services (originally sponsored by Representatives Cooke, Tokuda and O'Brien; by request of Department of Social and Health Services).

House Committee on Children & Family Services  
House Committee on Appropriations  
Senate Committee on Human Services & Corrections  
Senate Committee on Ways & Means

**Background:** The U.S. Congress recently passed two acts relating to child abuse and adoption. The acts are known as the Child Abuse Prevention and Treatment Act Amendments of 1996 (CAPTA) and the Adoption and Safe Families Act of 1997. These acts amended federal grant programs that provide funds to states for family preservation, foster care, adoption, and child abuse prevention and treatment. To be eligible for continued funding under these grant programs, states must make statutory changes to their child abuse and neglect statutes. The statutory changes are required to be in effect by October 1, 1998.

Consistent with the requirements of the CAPTA legislation, the Family Policy Council assists in coordinating the state's efforts in providing services to children and families. The council's membership includes the chief administrator of the Superintendent of Public Instruction, the Department of Health, the Department of Social and Health Services, the Employment Security Department, the Department of Community, Trade, and Economic Development, and one legislator from each caucus of the House of Representatives and the Senate.

The council's duties were expanded in 1994 to include the implementation and oversight of the Community Public Health and Safety Networks. The networks were created to empower citizens to exercise their influence over local policy and programs dealing with children and families. A network consists of 23 members, 13 of which must be citizens with no fiduciary interest in any organiza-

tion concerning health, education, social service, or criminal justice. The networks' expenditures for planning and administrative duties are limited to 10 percent of available state funds.

The CAPTA legislation also requires states to establish citizen review panels. The purpose of these panels is to provide new opportunities for citizens to play an integral role in ensuring that states are meeting their responsibilities of protecting children from abuse and neglect. Each citizen review panel must evaluate the extent to which the state is effectively fulfilling its child protection duties in accordance with federal law. Washington may use existing entities to act as citizen review panels as long as the existing entities perform the functions mandated in the federal act.

An issue in the prevention and treatment of child abuse or neglect is drug or alcohol-affected infants. Medical evidence suggests that prenatal drug and alcohol exposure places the child at high risk of having medical, psychological, and social problems after birth. Drug-affected infants are often born prematurely, and have low birth weights and other significant medical problems. The DSHS may take custody of infants who show evidence of drug or alcohol exposure, but the fact that the infant is drug-affected, by itself, is not grounds for finding that the child is a dependent child.

Physicians are not required to test newborn infants to discover if the child is drug-affected or suffers from fetal alcohol syndrome.

**Summary:** Amendments to Conform State Law to CAPTA. The policy goal of Washington's dependency chapter is altered to emphasize that in providing "reasonable efforts" to reunify families, the paramount concern is the health and safety of the child.

If specified aggravating circumstances exist, dependency courts are not required to find that reasonable efforts have been made to eliminate the need to remove a child from the home. Two aggravated circumstances are added to the current list: (1) the conviction of a parent of attempting, soliciting, or conspiring to commit any of the other listed circumstances; and (2) the abandonment of a child three years old or younger. In certain circumstances, dependency courts may consider a tribe's reasonable efforts to reunify an Indian child and the child's parents.

A custodial agency caring for a child is relieved of the obligation to make reasonable efforts to reunify the parent and child if such reunification efforts are inconsistent with the child's permanency plan created by the agency.

If reasonable efforts at reunification are not required, a dependency court must hold a permanency planning hearing within 30 days and reasonable efforts must be made to permanently place the child in a timely manner.

The foster parents, pre-adoptive parents, or relatives currently providing care to a dependent child must be given the opportunity to provide input to the judge who is overseeing implementation of a child's permanency plan.



The court must notify the caretakers of all review hearings. This right to an opportunity to be heard and to receive notice does not grant status as a party in the proceedings for these individuals.

The age of a child is eliminated as the determining factor for when a permanency planning hearing is required. Regardless of age, a court must hold a hearing no more than 12 months after the date of the child's removal from home.

Additional grounds for termination of parents' rights are created. A court may terminate parental rights if it is proved beyond a reasonable doubt that a child is dependent, and that the parent has attempted, conspired, or committed first or second degree murder or first or second degree manslaughter of the parent's child, or committed first or second degree assault against the child, or another child. If a child is abandoned, the state must prove the abandonment beyond a reasonable doubt.

Child care related licensing and employment decisions by the department may not be based on unfounded child abuse or neglect reports.

All persons named in founded reports of child abuse or neglect have the right to seek review of the finding. A review procedure is created. A person seeking review of the finding may request the department for a review within 20 days of receiving notice of the finding. Management level staff in the Children's Administration must conduct the review. If appropriate, the finding may be changed. Within 30 days of receiving the notice of the decision, the person may request an adjudicative hearing. This hearing, as well as the original review, are confidential. If the person is dissatisfied with the hearing decision, the person may challenge the decision in court. However, if the requestor does not request a review or a hearing according to these time lines and procedures, he or she forfeits all rights to challenge the findings.

Notifications of allegations of abuse or neglect are made by certified mail, return receipt requested.

For the purpose of defining the department's authority to investigate child abuse and neglect reports, the definition of child abuse and neglect is changed to conform with federal law.

**Family Policy Council.** The Family Policy Council's legislative membership is expanded from four members to eight members.

Network members must sign a declaration indicating whether they have a fiduciary interest in any agency.

The council may recommend to the Legislature ceilings for network planning and administrative tasks spending.

**Citizen review panels.** The Washington Institute of Public Policy will study the creation of citizen review panels to oversee the department's child abuse prevention and treatment activities. The institute will examine whether having the panels evaluate specific cases is effective, whether the panels should have the authority to disclose

evidence of civil infractions, and what level of access to state records is appropriate.

**Adoption Support.** Funds received from the adoption support program shall not be considered in determining a family's eligibility for the basic health plan.

**Drug-affected infants.** A process is established to test, report, and provide care for drug-affected and alcohol-affected infants. Mothers of these infants are given the choice of chemical dependency treatment or having a dependency petition filed for removal of their child. The consequences for giving birth to a drug or alcohol-affected child increase as a woman has additional drug or alcohol-affected infants. On the birth of a second child, the woman must use long-term pharmaceutical birth control and enter into treatment. After the birth of a third child, the court may enter a dependency order on all drug-affected children born before the third child. The court may also find the third child dependent without first requiring reasonable efforts at reunifying the mother and child. The court may then move directly to termination of the mother's parental rights.

Model projects are established to provide services to the mothers of drug or alcohol affected children. The Department of Health must develop a plan for increasing services to pregnant women at risk of giving birth to drug or alcohol affected infants.

**Votes on Final Passage:**

House	98	0	
Senate	46	3	(Senate amended)
House			(House refused to concur)

**Conference Committee**

Senate	48	0
House	98	0

**Effective:** April 3, 1998 (Sections 14-16)  
 June 11, 1998  
 October 1, 1998 (Section 9)  
 January 1, 1999 (Sections 18-24, 26-28, 30-39, & 41-44)

**Partial Veto Summary:** The Governor vetoed the expansion of the membership of the Family Policy Council. Also vetoed were sections regarding the process for the testing, reporting and providing legal protection for drug-affected or alcohol-affected infants. The vetoed provisions include the sections requiring medical personnel to report drug or alcohol affected infants and the sections creating a mechanism to subject mothers of these infants to the dependency process if they do not enter chemical dependency treatment. Similarly, the legal consequences for giving birth to a second and third drug or alcohol affected infant were stricken from the bill.

VETO MESSAGE ON HB 2556-S

April 3, 1998

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, 18, 19, 20, 21, 22, 23, 24, 26, 27, 28 and 39, Substitute House Bill No. 2556 entitled:

"AN ACT Relating to amendments concerning the child abuse prevention and treatment act and the adoption and safe families act;"

This bill enacts changes in state law required to conform with federal mandates. It also addresses a number of other matters, including the Family Policy Council and Community Health and Safety Networks, citizen review panels for child abuse and neglect, a definition of "income" within the Basic Health Plan, and dependency matters related to drug- and alcohol-affected infants and their mothers.

I have vetoed the following sections of SHB 2556:

Section 11. The 1994 Youth Violence Reduction Act describes specific roles and responsibilities for the Family Policy Council, and provides for representation from both the executive and legislative branches of government. Since the Legislature already has the authority to exercise its powers of oversight for the council, it is not necessary to amend the council's structure.

Section 19 describes the requirements for testing an infant when a physician or nurse caring for the child believes that the infant was born drug-affected, for notifying DSHS, and for retaining the infant in a birthing facility or in a pediatric center during withdrawal. Section 26 is the comparable language for a newborn suspected of being alcohol-affected. I support the purposes of these sections. However, there are serious questions relating to the efficacy of the medical approaches and the requirements that would be imposed by these sections.

The activities and aims of sections 18, 20, 21, 22, 23, 24, 27, 28 and 39 are defined with reference to sections 19 and 26. Without these latter two sections, the former sections are left without purpose.

I have other concerns about the above sections as well. The intent section, section 18, might be read to say that, beginning with the birth of a woman's third child, it is unreasonable to continue efforts to reunify drug-affected babies with that mother. I am certain that the sponsors of this bill did not intend for that interpretation.

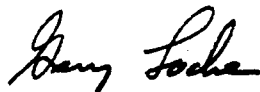
Sections 20, 21, 23, 24, 27 and 39 are premised upon a foundation that giving birth to a drug-affected baby is sufficient to establish dependency. This foundation is not supported in RCW 13.34, the dependency statutes. These sections need to be crafted better to work with RCW 13.34. Sections 22 and 28 are contrary to Civil Rule 41(a) which permits a plaintiff to have an action dismissed by the court.

I urge the sponsors of this bill to work with the appropriate medical professional organizations and state agencies to perfect this legislation.

For these reasons, I have vetoed sections 11, 18, 19, 20, 21, 22, 23, 24, 26, 27, 28 and 39 of Substitute House Bill No. 2556.

With the exception of sections 11, 18, 19, 20, 21, 22, 23, 24, 26, 27, 28 and 39, Substitute House Bill No. 2556 is approved.

Respectfully submitted,



Gary Locke  
Governor

HB 2557

C 229 L 98

Concerning judicial review for certain out-of-home child placements.

By Representatives Tokuda, Cooke and O'Brien; by request of Department of Social and Health Services.

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

**Background:** Until 1997, developmentally disabled children whose parents were incapable of caring for them were considered dependent children and were placed in the care of the Children's Administration. In the 1997 session, the dependency laws were modified to eliminate these children from the definition of dependent children.

At the same time, the law created voluntary placement agreements to allow developmentally disabled children to receive the same services as had been provided to them by the Children's Administration pursuant to dependency findings. These agreements were created to avoid requiring to say they are unable to care for their child. The agreements permit a disabled child's parents to contract with the Children's Administration to place their child in out-of-home care. Procedures were created to insure judicial oversight of the placement. One component of this oversight was a judicial determination, made within 180 days of placement, that such a placement is in the best interests of the child.

**Summary:** The Department of Social and Health Services is required to give notice to parents in writing that the parents have a right to civil action to obtain out-of-home placement in cases where the department does not accept a voluntary placement agreement.

If an out-of-home placement will terminate within 180 days, a judicial determination that the out-of-home placement is in the best interests of the child need not be obtained.

Grammatical corrections are made.

**Votes on Final Passage:**

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

**Effective:** June 11, 1998

HB 2558

C 141 L 98

Correcting statutory references.

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

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

**Background:** An incorrect internal reference to the definition of a dependent child is found in two places in the Revised Code of Washington.

**Summary:** The two incorrect internal references to the definition of a dependent child are corrected. The language surrounding the internal references is clarified.

**Votes on Final Passage:**

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

**Effective:** June 11, 1998

SHB 2560

C 45 L 98

Regulating trust companies.

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

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

**Background:** A trust is a form of property ownership that separates responsibility/control of the property from the benefits of ownership. A trust company is a corporation organized under the laws of the state engaged in trust business. In general terms, "trust business" means executing trusts of every description not inconsistent with the law. Trust companies also have all the powers and privileges conferred on banks.

State laws concerning community reinvestment, consumer protection, fair lending, intrastate branching, and antitrust apply to all bank branches in Washington, including out-of-state banks. Washington bank branches located in other states are granted the powers allowed by the host state to bank branches in that state, unless a particular power is prohibited by Washington law. The director of the Department of Financial Institutions may waive the Washington prohibition if the director finds the particular power does not threaten the safety and soundness of the bank.

When trust companies merge, dissenting shareholders are entitled to the value of their shares. Three appraisers

determine the value of the dissenters' shares. The resulting trust company (the product of the merger) pays the expenses of the appraisal.

**Summary:** Unless authorized by federal or state law, Washington will not allow out-of-state companies may not engage in trust business in Washington on more favorable terms than Washington companies enjoy in the home state of the out-of-state company. Furthermore, on approval of the director of the Department of Financial Institutions, Washington trust companies have the same powers as national trust companies. However, when exercising those powers, trust companies are subject to the same restrictions, limitations, and requirements of law as national trust companies.

In a trust company merger, the resulting trust company does not bear the cost of the appraisal.

**Votes on Final Passage:**

House	96	0
Senate	48	0

**Effective:** June 11, 1998

HB 2566

C 315 L 98

Extending the retail sales tax exemption for sales of laundry service.

By Representatives Alexander, Linville, DeBolt, Morris and Thompson.

House Committee on Finance  
Senate Committee on Ways & Means

**Background:** The sales tax is imposed on retail sales of most items of tangible personal property and some services. Services subject to sales tax include the installing, repairing, cleaning, altering, imprinting, or improving of tangible personal property. The combined state and local sales tax rate is between 7 and 8.6 percent, depending on location.

Although some types of services are defined as retail sales, others are not. Medical, legal, accounting, engineering, motion pictures, veterinary, cable television, and hair cutting services are examples of services that are not subject to sales tax.

Washington's major business tax is the business and occupation (B&O) tax. In 1997, the Legislature eliminated the distinction between financial services, selected business services, and other services and consolidated these activities into a single tax rate. These changes take place July 1, 1998. After July, the principal B&O tax rates are:

Manufacturing, wholesaling, and extracting	0.484%
Retailing	0.471%
Services	1.5%

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.

The retail sales tax and the B&O tax use the same definition of retail sale. A business pays the 0.471 percent retailing B&O tax on its gross receipts earned from making sales at retail. If a service is not defined as a retail sale, then a business pays the 1.5 percent service B&O rate on its gross receipts earned from providing the service.

Generally, laundry services involve the cleaning of tangible personal property and are subject to sales tax. Nonetheless, sales of laundry service by nonprofit hospital associations, composed exclusively of nonprofit hospitals, to its members are excluded from the definition of a retail sale.

**Summary:** The sale of laundry service by any person to a nonprofit health care facility is not a retail sale. (As a result, these services are not subject to sales tax, and the B&O tax rate for providers of these services increases from the 0.471 percent retailing rate to the 1.5 percent service rate.)

**Votes on Final Passage:**

House	89	7
Senate	43	0

**Effective:** June 11, 1998

**HB 2568**

C 111 L 98

Terminating state motor vehicle management programs.

By Representatives Smith, D. Schmidt, Gardner, Doumit and Thompson; by request of Department of General Administration.

House Committee on Government Administration  
Senate Committee on Government Operations

**Background:** The Department of General Administration furnishes motor vehicle transportation services to all state agencies, including providing motor vehicles on a temporary or permanent basis and operating motor pools in Olympia, Seattle, and other locations. An agency that receives transportation service pays a rental or mileage charge to the Department of General Administration.

Institutions of higher education are authorized to acquire and maintain passenger motor vehicles following guidelines established by the Department of General Administration.

An operational unit of the Department of General Administration is authorized to: (1) adopt a statewide information system on the acquisition, maintenance, and disposal of state-owned passenger motor vehicles; (2) develop a statewide system to purchase and distribute motor vehicle fuel for state employees operating state-owned

passenger motor vehicles; (3) develop a plan, in conjunction with the Department of Ecology, to inspect and replace state-owned fuel storage tanks, if necessary; and (4) develop standards for replacing passenger motor vehicles.

The director of the Office of Financial Management establishes overall policies governing the acquisition, operating management, maintenance, repair, and disposal of all passenger motor vehicles owned or operated by all state agencies.

**Summary:** Statutes are revised relating to some of the Department of General Administration's authority over state-owned passenger motor vehicles.

Statutes are repealed relating to the Department of General Administration's authority to: (1) adopt a statewide information system on state-owned passenger motor vehicles; (2) establish a statewide system to purchase and distribute motor vehicle fuel for state employees operating state-owned passenger motor vehicles; (3) develop a plan to inspect and replace state-owned fuel storage tanks, if necessary; and (4) develop standards for replacing passenger motor vehicles.

New statutory provisions are added clarifying the authority of the Department of General Administration to adopt operations guidelines, procedures, and standards for other state agencies and institutions of higher education that are authorized to provide their own passenger motor vehicles.

**Votes on Final Passage:**

House	96	0
Senate	46	0

**Effective:** June 11, 1998

**HB 2575**

C 30 L 98

Clarifying restrictions on public disclosure commission members' activities.

By Representatives Pennington, D. Schmidt, Lisk, Skinner, Honeyford, Carlson, Kessler and Mulliken.

House Committee on Government Administration  
Senate Committee on Government Operations

**Background:** The Public Disclosure Commission (PDC) is a five-member board appointed by the Governor with the consent of the Senate. PDC members are appointed for five-year terms.

PDC members are prohibited from engaging in any of the following activities:

- holding or campaigning for public office;
- serving as an officer of any political party or political committee;
- permitting the member's name to be used in any election campaign;

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- participating in any way in any election campaign; or
- lobbying or employing or assisting a lobbyist with limited exceptions.

“Public office” includes any federal, state or local elective office. An “election campaign” is defined generally as any campaign supporting or opposing a candidate or ballot proposition.

**Summary:** The provisions establishing the PDC are amended to clarify that the statutory prohibitions on PDC members’ activities apply both within and outside the state of Washington. Organizational changes are made, and references to appointment and initial terms of PDC members are deleted.

### Votes on Final Passage:

House	93	4
Senate	27	20

**Effective:** June 11, 1998

## SHB 2576

C 46 L 98

Negotiating land transfers involving manufactured or mobile homes.

By House Committee on Commerce & Labor (originally sponsored by Representatives Honeyford, Hatfield, Mulliken, Grant, Conway, O’Brien, Bush, Boldt, Mielke, Delvin, Backlund, Ogden and Koster).

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

**Background:** A licensed real estate broker may negotiate a sale or transfer of a used mobile home as part of a real estate transaction involving property on which the mobile home is located. The transaction must be on behalf of the legal or registered owner of the used mobile home. This transaction does not subject the real estate broker to licensing requirements of the vehicle dealer licensing law unless the broker is acting as an agent of the vehicle dealer.

The real estate broker licensing law prohibits real estate brokers from sharing a commission with a person who is not a licensed broker.

**Summary:** A licensed real estate broker is authorized to negotiate the sale, lease or other transfer of a new mobile or manufactured home in conjunction with the sale of real property. A licensed real estate broker may share a commission with a licensed manufactured home retailer for transactions involving the sale or lease of a manufactured home in conjunction with the sale or lease of land.

### Votes on Final Passage:

House	96	0
Senate	46	1

**Effective:** June 11, 1998

## HB 2577

C 76 L 98

Using and administering the Hanford area economic investment fund.

By Representatives Hankins and Delvin.

House Committee on Energy & Utilities  
Senate Committee on Energy & Utilities

**Background:** In 1991, the Legislature established the Hanford Area Economic Investment Fund (HAEIF) and required generators of low level radioactive waste to pay a surcharge of \$6.50 on each cubic foot of waste they disposed at the commercial disposal site located on the Hanford Reservation. The site operator collects the surcharges and forwards them to the state Department of Ecology, which remits \$4.50 of the surcharge to the HAEIF and sends the remaining \$2.00 to Benton County where the disposal site is located. The fund balance as of December 31, 1997, was \$2,117,976.57.

Moneys in the fund can only be spent pursuant to recommendations of the Hanford Area Economic Investment Fund Committee (established by the Legislature to oversee the fund), and with the approval of the director of the Department of Community, Trade, and Economic Development (DCTED).

Specifically, the funds can be used for the Hanford area revolving loan funds, infrastructure projects, and other economic development and diversification projects. “Hanford area” is defined as Benton and Franklin counties. In addition, while up to 5 percent of the moneys in the fund may be used for program administration, the law does not explicitly authorize the use of HAEIF funds to reimburse the Office of the Attorney General for costs incurred on behalf of the HAEIF Committee. State boards and committees are required to use the services of the Attorney General’s Office.

Among its other authorities, the HAEIF Committee may make the following recommendations to the DCTED: (1) recommendations for administering the program, including the terms and rates of loans, and criteria for awarding grants, loans, and financial guarantees; (2) a strategy for spending the funds; and (3) up to two projects for funding each calendar year. While the director of the DCTED must approve projects prior to the actual expenditure of funds, current law is silent as to which entity (the committee or the DCTED) may actually establish and administer a revolving fund or make grants using HAEIF moneys.

At the time the HAEIF Committee was created, it was assumed the local associate development organization would provide the staffing. This turned out not to be the case, and the committee has contracted with a local businesswoman for administrative support services.

**Summary:** The committee may establish and administer a revolving fund, and may make grants from the Hanford

Area Economic Investment Fund (HAEIF). The director of the DCTED still must approve the funding of projects prior to the expenditure of HAEIF funds, and projects must continue to meet existing statutory criteria.

Moneys from the HAEIF may be used for reasonable costs incurred by an assistant attorney general in support of the committee, and such expenditures are not subject to the 5 percent cap for program administration.

Statements that the local associate development organization will staff the committee are removed from existing statutes.

**Votes on Final Passage:**

House 96 0  
Senate 47 0

**Effective:** June 11, 1998

**ESHB 2596**

C 112 L 98

Clarifying that master planned resorts may obtain facilities, utilities, and services from outside service providers.

By House Committee on Government Reform & Land Use (originally sponsored by Representatives Chandler, Reams, Gardner, Lantz and Mulliken).

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

**Background:** The Growth Management Act (GMA) authorizes development of master planned resorts, which are self-contained and fully integrated planned unit developments in a setting of significant natural amenities with primary focus on destination resort facilities consisting of short-term visitor accommodations associated with on-site recreational facilities. Other residential uses may be included within the boundaries of master planned resorts if those uses are integrated into and support the on-site recreational nature of the resorts.

One of the criteria specified for approval of master planned resorts is the determination that on-site and off-site infrastructure impacts have been fully considered and mitigated.

**Summary:** Master planned resorts are expressly authorized to use capital facilities, utilities and services (including sewer, water, storm water, security, fire suppression and emergency medical) from outside service providers. Any capital facilities, utilities and services provided on-site are limited to those meeting the needs of master planned resorts. Master planned resorts bear the full costs related to service extensions and capacity increases directly attributable to the resorts.

Outside service providers and master planned resorts may agree to share capital facilities, utilities and services.

Any shared facilities and utilities may serve only master planned resorts and urban growth areas.

All waters or use of waters are to be regulated and controlled by the water code and the groundwater code. The authorization for master planned resorts to use or share facilities, services and utilities with outside service providers does not: affect priority for or issuance of water rights permits; alter the place of use for a water right; or affect or impair any existing water right.

In addition to the infrastructure impacts determination, master planned resorts may be approved only after a determination that on-site and off-site service impacts are fully considered and mitigated.

An intent section specifies that these changes to master planned resort statutes are based on recommendations from the 1994 Department of Community, Trade and Economic Development Master Planned Resort Task Force.

**Votes on Final Passage:**

House 75 20  
Senate 42 6 (Senate amended)  
House 74 22 (House concurred)  
House 76 20 (House reconsidered)

**Effective:** June 11, 1998

**HB 2598**

C 174 L 98

Modifying property tax exemptions for nonprofit organizations.

By Representatives Radcliff, McDonald, Pennington, Dickerson, Mastin, Dunshee, O'Brien, Mulliken, Cole, Conway, Mason, Wood and Ogden.

House Committee on Finance  
Senate Committee on Ways & Means

**Background:** All property is subject to the property tax each year based on the property's value unless a specific exemption is provided by law.

Several property tax exemptions exist for nonprofit organizations. Some exemptions apply only to property owned by a nonprofit organization, and other exemptions apply to property either owned or leased by a nonprofit. When a nonprofit organization receives a tax exemption for leased property, the benefit of the property tax reduction, in the form of reduced lease rents, must inure to the nonprofit organization. Examples of some nonprofit property tax exemptions are:

Exempt on Owned Property Only

- Character building, benevolent, protective or rehabilitative social service organizations
- Churches and church camps
- Youth character building organizations
- War veterans' organizations
- Water distribution property

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- Nonprofit nature conservancy organizations
- Public assembly halls
- Medical research or training facilities
- Art, scientific, or historical collections
- Sheltered workshops
- Fair associations
- Humane societies

### Exempt on Owned or Leased Property

- Free public libraries
- Orphanages
- Nursing homes
- Hospitals
- Homes for the aging
- Schools and colleges
- Day care centers
- Radio/tv rebroadcast facilities
- Performing arts properties
- Homeless shelters
- Outpatient dialysis facilities
- Blood banks

Real or personal property owned by a nonprofit organization and used as emergency or transitional housing for low-income persons or victims of domestic violence is permanently exempt from property taxes.

Real or personal property leased by a nonprofit organization and used as emergency or transitional housing for low-income persons or victims of domestic violence is also exempt from property taxes but only for a limited period of time. This exemption for leased property only applies to property taxes levied for collection in 1991 through 1999.

**Summary:** The property tax exemption granted for real or personal property leased by a nonprofit organization and used as emergency or transitional housing for low-income persons or victims of domestic violence is made permanent.

### **Votes on Final Passage:**

House	98	0
Senate	47	0

**Effective:** June 11, 1998

## SHB 2611

C 255 L 98

Regulating mortgage insurance.

By House Committee on Financial Institutions & Insurance (originally sponsored by Representatives Keiser, Wolfe, Benson, Gardner and Dickerson).

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

**Background:** Mortgage insurance, or mortgage guarantee insurance, is insurance that protects the lender if the borrower defaults. Generally, the insurance is required when the loan-to-value (LTV) ratio exceeds 80 percent; the insurance brings the lender's exposure down to at least an 80 percent LTV. The borrower pays for this insurance.

Most mortgage lending, especially first mortgages, follows standards established by the secondary market, which is comprised primarily of federal agencies such as FHA, FNMA, and Freddie Mac. Typical underwriting requirements by the secondary market mandate mortgage insurance when the LTV is above 80 percent. Generally, this insurance must be maintained for at least two years and until the LTV is at or below 80 percent. Depending on the federal secondary market institution policy or the loan agreement, a borrower may be able to cancel mortgage insurance when the LTV falls below 80 percent; the lender often requires proof, such as an appraisal.

Federal Truth-in-Lending law (TIL) requires disclosure of mortgage insurance on the TIL disclosure. The lender should disclose the insurer as one of several third parties who provide services related to the loan (such as title insurance, the appraisal, and the credit report, etc.).

**Summary:** For loans made on or after July 1, 1998, if mortgage insurance is required, the lender must disclose to the borrower whether and under what conditions the mortgage insurance can be canceled. For existing loans with mortgage insurance, and for loans with mortgage insurance entered into on or after July 1, 1998, the lender or loan servicer must annually disclose to the borrower whether and under what circumstances the mortgage insurance can be canceled. Information necessary to cancel the mortgage insurance must also be supplied. These provisions do not apply to mortgages funded with bond proceeds or made through the Federal Housing Administration or the Veterans Administration. Penalties for violating these provisions are provided.

For loans with mortgage insurance entered into on or after July 1, 1998, except when a federal statute or a rule or guideline of a federal secondary market organization prohibits cancellation of mortgage insurance, the lender may not collect and the borrower does not have to pay mortgage insurance after all the following occur: (1) The borrower makes a written request to cancel the mortgage insurance; (2) the residential loan is at least two years old; (3) the outstanding principal balance is not over 80 percent of the property value (the lender may require a current appraisal, splitting the cost with the borrower); and (4) the borrower is current on his or her payments and has made payments in a timely manner. This provision does not apply to mortgages funded with bond proceeds or where federal statute, rule, or guideline prohibits canceling mortgage insurance. Lenders or loan servicers must com-

ply with these requirements if they follow secondary market standards.

Compliance with federal law regarding requiring mortgage insurance or notifications, disclosures, or cancellations of mortgage insurance is deemed in compliance with similar state law provisions.

For loans made on or after July 1, 1998, mortgage insurance cannot be required if the loan-to-value (LTV) ratio is below 80 percent, except that for large non-standard loans the lender and borrower may agree to mortgage insurance even if the LTV ratio is below 80 percent.

**Votes on Final Passage:**

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

**Effective:** July 1, 1998

**ESHB 2615**  
**PARTIAL VETO**  
C 175 L 98

Creating partnerships for strategic freight investments.

By House Committee on Transportation Policy & Budget (originally sponsored by Representatives K. Schmidt, Fisher, Robertson, Mitchell, Wensman, O'Brien, Wood, Ogden, Gardner, Thompson and Conway; by request of Governor Locke).

House Committee on Transportation Policy & Budget

**Background:** During the 1996 interim, the Legislative Transportation Committee (LTC) appointed the Freight Mobility Advisory Committee (FMAC) to analyze the state's freight mobility needs, identify high-priority freight transportation projects, and make policy recommendations to the Legislature.

One of the key recommendations from the FMAC was that the state take the lead in establishing a freight transportation program that would forge funding partnerships between the state, counties, cities, ports and private industry for transportation improvements along strategic freight corridors.

The next interim, the Freight Mobility Project Prioritization Committee (FMPPC) was established to further develop state policies to enhance the freight transportation system. This committee consisted of representatives from cities, counties, ports, railroads, trucking and the state Department of Transportation (DOT). The FMPPC recommended specific criteria for use in ranking freight mobility projects. The committee also analyzed proposed freight projects and applied the priority criteria, which yielded the freight mobility project list.

The new federal surface transportation act reauthorization bill is expected to provide the funds for grants for conducting joint transportation planning activities.

Authorization is needed to take advantage of this federal funding opportunity.

**Summary:** A freight mobility strategic investment program is created for the purpose of reviewing, evaluating and recommending funding for freight transportation projects that are of strategic importance to the state.

The Freight Mobility Strategic Investment Board (FMSIB) oversees administration of this program. The board is composed of representatives from the cities, counties, ports, railroads, steamship operators, trucking, the Governor's office and the DOT. The FMSIB must appoint a professional administrator. Other staff support is initially provided by the Transportation Improvement Board (TIB), the County Road Administration Board (CRAB), and the DOT as needs arise. The board is required to develop a long-term staffing plan and submit that plan to the Office of Financial Management (OFM) and the Legislature for review and approval.

Minimum project eligibility criteria are specified in statute, and project priority criteria are incorporated from the recommendations of the FMPPC. After administering the program for a full biennium, the FMSIB may adjust the criteria as necessary to ensure that the program meets legislative intent.

After evaluating all proposed freight mobility projects, the FMSIB selects the top ranking projects and submits them as a "project portfolio" to the OFM and the Legislature for funding consideration. The board is directed to leverage the most partnership funding possible. "Partnership funding" means non-state funding, except that TIB and CRAB funds may be considered as partnership funding. The FMSIB is also directed to weigh the partnership funding element more heavily in the project selection criteria. The board must ensure that no project is more appropriately funded by another fund source or program. The projects selected for the portfolio must primarily benefit the movement of freight.

In allocating funds for the program, the FMSIB must allocate the first 55 percent of funds to the highest ranking projects, regardless of location. The remaining funds must be allocated evenly among three regions of the state: eastern region, Puget Sound region and western region. If a project in the portfolio is not ready to proceed at the time the Legislature is making its funding decisions, that project will be removed and the next highest rated project will take its place. The removed project retains its position in the priority ranking so as to be eligible for funding during the next funding cycle.

In addition to its other responsibilities, the FMSIB is directed to review and make recommendations concerning the operational inefficiencies affecting freight mobility, including policies that reduce congestion in truck lanes at border crossings and weigh stations.

The DOT is directed to make incentive grants to regional transportation planning agencies that share a border with Canada for the purpose of conducting joint transpor-



tation planning activities. Port districts are required to submit their development plans to cities, counties and regional transportation planning organizations to enhance joint planning for freight transportation solutions.

The requirement that state funding for any freight mobility project not exceed 50 percent is removed and replaced with a requirement that the FMSIB give greater weight in the project selection criteria to those projects having the highest levels of funding partnerships, using 20 percent as a guideline for minimum financial participation by partners.

The FMSIB, rather than the Transportation Commission, is directed to administer the program.

**Votes on Final Passage:**

House	97	1
Senate	35	14

**Effective:** June 11, 1998

**Partial Veto Summary:** Provisions establishing incentive grants to transportation planning organizations that border Canada, which would help attract federal transportation funds, were vetoed.

Provisions requiring the Governor to make appointments to the Freight Mobility Strategic Investment Board prior to July 1, 1998, were vetoed.

The \$25 million loan from the state general fund to the motor vehicle fund for highway construction projects to be used on the state highway system was vetoed.

**VETO MESSAGE ON HB 2615-S**

March 27, 1998

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, 13 and 14, Engrossed Substitute House Bill No. 2615 entitled:

"AN ACT Relating to creating partnerships for strategic freight investments;"

ESHB 2615 creates a Freight Mobility Strategic Investment Board to administer grants, targeted at improving freight mobility. This bill is an important step toward solving our state's transportation bottlenecks; however, some sections of the bill are problematic.

Section 11 of ESHB 2615 would require the Department of Transportation (DOT) to make incentive grants to metropolitan planning and regional transportation planning organizations that border Canada, to encourage joint transportation planning activities. While I appreciate the strategic importance of international freight corridors, this section would give superior status to border crossing projects. Section 3 of the bill establishes a level playing field which will allow all freight projects, including those along the Canadian border, to compete for funding on equal terms. Granting priority status for border crossing projects in this instance is not warranted.

Section 13 of ESHB 2615 would require the Governor to personally ensure that this act is "implemented" on its effective date and that the Freight Mobility Strategic Investment Board convenes by July 1, 1998. Section 4 of the bill already requires that the Board convene by that date. Also, I understand that it is unlikely that the Board will be able to adopt all of its rules within 90 days of the Legislature's adjournment. While I am certainly committed to the rapid, yet thoughtful implementation

of this act, the meaning of "implemented" as it appears in this section is very ambiguous and could have unanticipated consequences.

Section 14 of ESHB 2615 would provide that a \$25 million loan from the state general fund to the motor vehicle fund, as provided in ESHB 2894, be used to facilitate freight mobility, but in a very limited way. It would limit the loan's use to only highway construction projects in DOT's highway improvement program. As distinguished from DOT's current highway improvement program, ESHB 2615 is focused legislation intended to create a targeted freight mobility program with the aim of reducing barriers to freight movement with only incidental benefits to general mobility. Linking this money to the highway improvement program is inconsistent with the primary intent of this bill.

For these reasons, I have vetoed sections 11, 13 and 14 of Engrossed Substitute House Bill No. 2615.

With the exceptions of sections 11, 13 and 14, Engrossed Substitute House Bill No. 2615 is approved.

Respectfully submitted,

Gary Locke  
Governor

**HB 2628**

C 78 L 98

Increasing the penalty for manufacture of methamphetamine.

By Representatives Schoesler, Quall, Costa, O'Brien, Dunshee, Ballasiotes, Dyer, Thompson, Wolfe and Lambert; by request of Governor Locke.

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

**Background:** It is a felony offense for a person to manufacture, deliver or possess with intent to deliver the drug methamphetamine. This offense is classified at seriousness Level VIII under the sentencing guidelines. Level VIII offenses are punishable by a presumptive sentence of between 21 and 144 months imprisonment depending on the offender's prior criminal history.

**Summary:** The crime of manufacturing methamphetamine is increased to a seriousness Level X under the sentencing guidelines, which is punishable by a standard range sentence of between 51 and 198 months imprisonment, depending on the offender's prior criminal history. This penalty increase applies to methamphetamine crimes committed on or after July 1, 1998.

**Votes on Final Passage:**

House	98	0
Senate	43	0

**Effective:** June 11, 1998

**SHB 2634**

C 80 L 98

Denying public assistance to fugitives from justice.

By House Committee on Children & Family Services (originally sponsored by Representatives H. Sommers, Cooke, Dickerson, McDonald, Gombosky, Bush, Tokuda, Wolfe, O'Brien, Kessler, Keiser, Anderson, Ogden, B. Thomas and Thompson).

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

**Background:** During 1996, Congress created the Temporary Assistance for Needy Families (TANF) block grant which replaced the Aid For Dependent Families (AFDC) program. As part of the restrictions placed on block grant funds, Congress prohibited the use of TANF funds for persons who were fleeing prosecution or violating their parole. In Washington, there is no similar restriction on benefits from the state welfare program, general assistance. General assistance pays benefits to Washington residents who are poor, unemployable due to a physical, mental, or emotional incapacity, and who do not receive federal aid.

**Summary:** Eligibility for state general assistance is denied to persons fleeing a felony prosecution or who are violating a condition of parole, community supervision, or probation imposed for a felony or gross misdemeanor offense.

**Votes on Final Passage:**

House	96	0
Senate	43	0

**Effective:** June 11, 1998

**SHB 2659**

C 176 L 98

Regulating collection of special fuel taxes and motor vehicle fuel tax.

By House Committee on Transportation Policy & Budget (originally sponsored by Representatives Fisher, K. Schmidt, Radcliff, O'Brien and Murray; by request of Governor Locke).

House Committee on Transportation Policy & Budget  
Senate Committee on Transportation

**Background:** Washington imposes a tax of 23 cents per gallon on motor vehicle fuel (gasoline) and special fuel (mainly diesel) used for on-road purposes. The Department of Licensing (DOL) is responsible for the collection of these motor fuel taxes. The taxes are paid to the DOL by: (1) licensed fuel distributors who purchase untaxed fuel from refineries, terminals, or other licensed distributors and then sell the fuel, with taxes included, to

unlicensed buyers; or (2) licensed special fuel bulk users, who purchase special fuel without fuel tax applied and pay tax to the DOL for any fuel subsequently used on-road. Motor fuel on which fuel tax is not applied is subject to sales and use tax.

There are about 500 licensed special fuel distributors and 240 motor vehicle fuel distributors in Washington. In addition, about 27,000 persons hold special fuel user licenses that allow them to purchase special fuel into bulk storage without fuel tax applied and subsequently pay fuel tax on any of the fuel used on-road. Of this number, nearly 21,000 farmers, loggers and contractors, who have certified that they have no diesel-powered vehicles licensed for on-road use, have special licenses that exempt them from submitting tax reports to the DOL.

In a 1994 report, the Federal Highway Administration estimated that fuel tax was being evaded on 3 to 7 percent of gasoline gallons and 15 to 25 percent of diesel gallons in the United States. In 1996, a task force convened by the Legislative Transportation Committee (LTC) concluded that it is likely that there is significant evasion of fuel taxes occurring in Washington and made recommendations to address the issue.

There are several methods used to evade paying state fuel taxes. Following are four examples of evasion schemes.

One method, referred to as "daisy chaining," involves selling fuel several times in tax exempt transactions between licensed distributors. These transactions may be "paper transactions" where the fuel does not physically change hands. By daisy chaining, an evader creates an audit trail that is very difficult to trace and, if the ultimate taxable transaction is found, the distributor is often a fictitious company from which the fuel tax is not collectible.

A second type of evasion involves illegal importing and exporting of motor fuel. Because Washington borders on Oregon which does not apply fuel tax on diesel fuel, and British Columbia which has a different tax structure than Washington, cross-border smuggling can be very profitable. In addition, a distributor can evade taxation by purchasing fuel for export, in which case the fuel is purchased tax-free, and then selling the fuel in the state, collecting tax on the fuel, and not remitting the tax.

A third method of evasion is referred to as cocktailing or blending. In this scheme, untaxed fuels such as kerosene or recycled oil are blended with diesel fuel and the blended fuel is sold with tax included, but only the tax on the diesel fuel is remitted to the state.

A fourth method of avoiding taxation is by claiming an exemption on fuel that was used for taxable purposes. For example, licensed special fuel bulk users who purchase special fuel without the fuel tax applied can evade fuel taxes by under-reporting the amount of fuel used on-road.

Other states and the federal government have implemented law changes to address evasion that have resulted in significant revenue increases. These changes include moving the point of collection for motor vehicle fuel and

special fuel taxes to a higher point on the fuel distribution chain, requiring that tax exempt fuel be dyed, and implementing measures to control illegal importing and exporting.

The federal government, which imposes taxes of 18.4 cents per gallon on gasoline and 24.4 cents per gallon on diesel fuel, collects the taxes directly from refiners and terminal operators (suppliers) who sell to distributors. The tax structure used by the federal government is referred to as "tax at the rack," referring to the terminal rack which is the platform or bay at which fuel from a refinery or terminal is delivered into trucks, railcars or vessels. The federal government also requires that any diesel fuel sold tax-free contain colored dye. At least 14 states have implemented tax at the rack and 27 require tax-exempt diesel fuel to be dyed.

Distributors are required to purchase a bond equivalent to three times their monthly fuel tax liability, up to a maximum of \$50,000. The minimum bond is \$500 for special fuel distributors and \$5000 for motor vehicle fuel distributors.

**Summary:** Effective January 1, 1999, motor vehicle fuel and special fuel taxes are imposed at the time of removal of such fuel from a terminal rack in Washington. The refiner, terminal operator, or party owning the fuel at the time of removal is required to collect taxes on the fuel and remit them to the DOL. For motor fuel that was removed from a terminal rack in another state and imported into Washington, the importer is liable for paying the fuel tax. Motor fuel purchased from a supplier for direct export out of Washington is not taxed. Motor fuel suppliers, distributors, exporters, importers and blenders must be licensed with the DOL.

An applicant for an importer or exporter license must be licensed or registered for motor fuel tax purposes in the states or countries in which the applicant intends to purchase or sell the special fuel, if licensing is required there.

Dyed special fuel is exempt from the special fuel tax. A person may not operate a vehicle on a public road in this state with dyed special fuel in the vehicle's fuel supply tank, unless the use is authorized by the federal internal revenue code. Dyed special fuel must meet the dyed fuel requirements of the Internal Revenue Service. The penalty for using dyed special fuel to operate a vehicle upon the highways of the state is \$10 for each gallon of dyed special fuel placed into the vehicle's supply tank or \$1,000, whichever is greater. The penalties are deposited into the motor vehicle fund. Officers of the Washington State Patrol or other Commercial Vehicle Safety Alliance-certified officers are authorized to collect special fuel samples to check for the presence of dye.

Special fuel user licensing and reporting requirements are deleted. Special fuel users are not permitted to purchase clear diesel fuel without payment of the special fuel tax, except in the following two cases:

- At the election of a distributor, farmers, logging companies and construction companies may purchase nondyed special fuel from card lock facilities directly into the supply tanks of nonhighway equipment or portable slip tanks for nonhighway use without payment of the special fuel tax. A distributor who sells special fuel in this manner is authorized to apply for a refund of taxes paid by the distributor on the fuel purchased by these users; and
- Interstate trucking companies that used more than 20 percent of their special fuel gallons out of state in the previous year may receive special authorization from the DOL to purchase nondyed special fuel without payment of the special fuel tax at the time of purchase. This provision applies only to full truck-trailer loads of special fuel picked up at a terminal rack and delivered directly to the bulk storage facilities of the trucking company. Tax on the fuel is paid as part of the International Fuel Tax Agreement reconciliation at the end of each quarter.

Distributors are required to remit special fuel taxes to the supplier of the fuel no later than two business days before the last day of the month following the month in which the fuel was purchased. The supplier must remit the taxes to the state on or before the tenth day of the month after which the distributor payments were due.

The shrinkage allowance for motor vehicle fuel taxes paid by distributors is increased from .25 percent to .3 percent. Special fuel distributors subject to pollution liability insurance agency fees (such as heating oil distributors) must file reports with the DOL annually.

The DOL is required to pay interest of 1 percent per month on special fuel and motor vehicle fuel tax refunds if the refund is issued more than 30 business days after the request for refund was received. A minimum of \$20 is set for refund claims, and DOL may waive the requirement to submit invoices with small refund requests. Refunds are not allowed until motor fuel is used for a nontaxable purpose. A person may receive a refund of fuel taxes that were paid on clear special fuel that was inadvertently mixed with dyed special fuel.

The maximum bond required of suppliers, distributors, exporters, importers and blenders is set at \$100,000.

Provisions are made for the transition to collection of special fuel taxes at the terminal rack.

Additional items are added to the information included in documentation carried by shippers of motor fuel.

The DOL is given authority to: (1) enter into cooperative agreements with other states or Canadian provinces to address mutual issues pertaining to fuel tax administration, collection and enforcement; (2) require any person engaged in the business of selling, purchasing, distributing, storing or transporting special fuel to submit periodic reports regarding the distribution of such fuel; and (3) develop and adopt rules to implement this act.

Language is added to clarify that the ultimate liability for fuel taxes is upon the fuel user regardless of the manner in which fuel taxes are collected.

**Votes on Final Passage:**

House	89	7
Senate	45	0

Effective: January 1, 1999

**HB 2663**

C 47 L 98

Requiring companies that seek to contract with an affiliated interest to file with the utilities and transportation commission.

By Representative Crouse; by request of Utilities & Transportation Commission.

House Committee on Energy & Utilities  
Senate Committee on Energy & Utilities

**Background:** A public service company is a corporation engaged in business as a public utility and subject to regulation of its rates and services by the Washington Utilities and Transportation Commission (WUTC). Examples of public service companies are electric and natural gas companies, local telephone companies, water companies, solid waste collection companies, and common carriers such as excursion boats and airporters.

Examples of an "affiliated interest" include the parent company, a subsidiary, a division, an officer or director of the company, a shareholder with at least 5 percent of the voting shares of the company, and an officer or director of a corporate shareholder with at least 5 percent of the voting shares of the public service company.

A public service company must obtain prior approval from the WUTC before a contract or other arrangement between the company and an affiliated interest takes effect. Contracts and arrangements covered by the requirement include those for the sale, lease, exchange, or furnishing of any service, property, right, or thing, including open account advances to or from an affiliated interest. Every order of the WUTC approving a contract or arrangement must be conditioned on the WUTC's continuing supervisory control over the contract or arrangement and subsequent modifications, and on the WUTC's power to amend its approval.

To obtain the approval, the company files a verified copy of the contract or arrangement, or a verified summary of an unwritten contract or arrangement, with the WUTC. The WUTC may approve the contract or arrangement only if it clearly appears, and an investigation establishes, that the contract or arrangement is in the public interest. The WUTC is not required to give its approval without satisfactory proof of what the cost will be to the affiliated interest to provide the property or services described in the filing.

If a company fails to obtain the prior approval of the WUTC, or if the company makes payments to an affiliated interest even though the WUTC has disallowed those payments, the WUTC may prohibit the company from treating the payments made under the contract or arrangement as operating expenses or capital expenditures for rate or valuation purposes.

In a rate case or other proceeding, the WUTC may disallow all or part of the compensation or other payments made by a public service company to an affiliated interest under a contract or arrangement, unless the company establishes the reasonableness of the payments. Again, the WUTC may require satisfactory proof of the cost to the affiliated interest of performing its obligations under the contract or arrangement.

**Summary:** The requirement of prior WUTC approval of affiliated interest transactions is eliminated; the contract, arrangement, or modification will take effect unless disapproved by the WUTC.

Prior to the effective date of a contract or arrangement with an affiliated interest, a public service company must file a verified copy of the written (or verified summary of an unwritten) contract or arrangement with the WUTC. The same requirement applies to modifications of contracts or arrangements.

Any time after receiving the filing, including after the effective date, the WUTC may investigate and disapprove the contract, arrangement, or modification, if the company fails to prove it is in the public interest. The WUTC also may disapprove the filing in the absence of satisfactory proof of the cost to the affiliated interest to provide the property or services described in the contract or arrangement.

If a company fails to make the required filing with the WUTC (unless the WUTC has approved the transaction through another proceeding thus obviating the purpose of a filing), or if the company makes payments to an affiliated interest even though the WUTC has disallowed those payments, the WUTC may prohibit the company from treating the payments made under the contract or arrangement as operating expenses or capital expenditures for rate or valuation purposes.

In a rate case or other proceeding, the WUTC still may disallow all or part of the compensation or other payments made by a public service company to an affiliated interest under a contract or arrangement, unless the company establishes the reasonableness of the payments. And, the WUTC may require satisfactory proof of the cost to the affiliated interest in performing its obligations under the contract or arrangement.

Clarifying and technical changes are made to existing statutes.

**Votes on Final Passage:**

House	96	0
Senate	42	0

Effective: June 11, 1998

SHB 2680  
C 113 L 98

Clarifying the definition of capitalized cost for purposes of the consumer leasing act.

By House Committee on Financial Institutions & Insurance (originally sponsored by Representatives L. Thomas and Wolfe).

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

**Background:** Consumer leases of vehicles are governed by federal and state law. Both federal and state law require that a lessor disclose certain information to the lessee. However, the requirements of federal and state law differ.

Federal Law. Federal law defines "gross capitalized cost" as the amount the lessor and the lessee agreed upon as the value of the leased property and any items that are capitalized or amortized during the lease term.

Federal law also requires that the lessor disclose, among other things, the total amount the lessee must pay prior to or at consummation. For vehicle leases, this disclosure must include an itemization of how the lessee will pay the amount due by type and amount. Federal law also requires a warning to consumers that early termination may result in significant costs.

State Law. State law defines "capitalized cost" as the amount the lessor places on the vehicle. Federal law may supersede this definition.

Consumer leases of motor vehicles must include a statement of any capitalized cost reduction stated as a total and the identity and amount of each component. The lease must also contain a warning to consumers that early termination may result in significant costs. This warning is similar but not identical to the warning required by federal law.

Disclosures complying with federal law are deemed to comply with state law.

**Summary:** The term "capitalized cost" is changed to "gross capitalized cost," which enables the federal definition of gross capitalized cost to supersede the state definition.

Consistent with federal law, the lease agreement must contain a statement of the total amount to be paid prior to or at consummation. This disclosure must itemize how the lessee will pay the amount due by type and amount.

The requirement that the capitalized cost reduction state the identity and amount of each component is deleted. The warning requirement is also deleted.

**Votes on Final Passage:**

House 96 0  
Senate 41 0

**Effective:** June 11, 1998

SHB 2688  
C 142 L 98

Modifying the educational requirements for licensure as a hearing instrument fitter/dispenser.

By House Committee on Health Care (originally sponsored by Representatives Skinner, Cody, Backlund, Conway and Anderson).

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

**Background:** Hearing instrument fitters/dispensers are licensed by the Department of Health and regulated by the Board of Hearing and Speech. The board also regulates certified audiologists and certified speech-language pathologists.

An applicant for licensing must have at least six months of apprenticeship training approved by the board, but the board may waive part or all of the training for any formal education in fitting and dispensing recognized by the board. Applicants receive one-year permits as hearing instrument fitters/dispensers permit holders to work under the direct supervision of licensees for apprenticeship training.

The department issues interim permits to applicants for certification as audiologists and speech-language pathologists to permit the applicant to receive the postgraduate professional experience needed as a prerequisite of certification.

Applicants for licensing must be at least 21 years of age.

**Summary:** After December 31, 2002, an applicant for licensing as a hearing instrument fitter/dispenser must satisfactorily complete a minimum of a two-year degree program in hearing instrument fitter/dispenser instruction approved by the Board of Hearing and Speech. The apprenticeship training program for permit holders under licensees is repealed.

Permits for applicants for certification as audiologists and speech-language pathologists are defined as interim permits.

The minimum age for applicants for licensing is repealed.

**Votes on Final Passage:**

House 96 0  
Senate 45 0 (Senate amended)  
House 95 0 (House concurred)

**Effective:** June 11, 1998  
January 1, 2003 (Sections 1-14, 16-20)

**HB 2692**

C 79 L 98

Clarifying references to food stamps or food stamp benefits transferred electronically.

By Representatives Clements, H. Sommers, Tokuda and Cooke; by request of Department of Social and Health Services.

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

**Background:** The Food Stamp Program assists low-income families, elderly and single adult households to purchase a nutritionally adequate diet through normal channels of trade. Eligible households receive monthly paper food stamps that may be used in the place of cash to purchase food.

Federal law requires each state to have an electronic benefit system in place to substitute for paper food stamps by October 1, 2002. The system will enable a food-stamp recipient to make food purchases with a plastic, magnetic-stripe "swipe" card similar to an ATM or credit card, instead of paper coupons. Purchases made with the card will be counted against a user's food-stamp account electronically.

**Summary:** State statutes relating to food stamp program are modified to include a reference to food stamp benefits that are transferred electronically.

**Votes on Final Passage:**

House	96	0
Senate	45	0

**Effective:** June 11, 1998

**HB 2698**

C 35 L 98

Resolving conflicts in lodging tax statutes enacted in 1997.

By Representatives B. Thomas, Dunshee, Wensman, Gardner and Ballasiotes; by request of Governor Locke.

Senate Committee on Government Operations

**Background:** A hotel-motel tax is a special sales tax on lodging rentals by hotels, motels, rooming houses, private campgrounds, RV parks, and similar facilities. A local option hotel-motel tax was first authorized in 1967 for King County to build the Kingdome. The rate was 2 percent, but the tax was credited against the regular state sales tax which also is imposed on lodging charges. Therefore, the total amount of tax paid by the consumer was not increased as a result of this tax. The Legislature amended the hotel-motel tax statutes several times to allow other municipalities (counties, cities, and towns) to impose hotel-motel taxes, first in 1970 to include the cities of Ta-

coma and Spokane. In 1973, all municipalities were included, except in King and Yakima counties only Bellevue and the City of Yakima were allowed to impose these taxes. The Legislature also expanded allowable uses of hotel-motel tax revenue several times to include convention center facilities, performing arts facilities, visual arts center facilities, and promotion of tourism. Some municipalities were granted specific authorizations to use the revenue for particular purposes, such as tall ship tourist attractions, ocean beach boardwalks, and public restrooms.

Some municipalities were authorized to impose additional hotel-motel taxes. These authorizations were known as "special" hotel-motel taxes, and generally were limited to narrowly-defined geographic descriptions that included only one or two cities or a county. The original 2 percent hotel-motel tax authorization became known as the "basic" hotel-motel tax. Only the basic hotel-motel tax was credited against the state sales tax. Additional special taxes were added to lodging bills and paid by the consumer. As of the beginning of the 1997 legislative session, the total rates authorizations for hotel-motel taxes, including the basic tax, were as follows:

Two percent total (credited against the state sales tax):

All counties and all cities outside King and Yakima counties, other than those with higher rates listed below.

Four percent total (with first 2 percent credited against the state sales tax):

Cowlitz County, East Wenatchee, Kennewick (not yet imposed), La Conner, Pasco, Richland (not yet imposed), Snohomish County, Spokane County (including 2 percent by a public facility district), and Wenatchee.

Five percent total (with first 2 percent credited against the state sales tax):

Bellevue, Chelan (imposed only 4 percent), Grays Harbor County, Leavenworth (imposed only 3 percent), Long Beach, Ocean Shores, Westport, Winthrop, and Yakima City.

Seven percent total (with first 2 percent credited against the state sales tax):

Pierce County and the cities in Pierce County. (Only the county, Buckley, Eatonville, Fife, Lakewood, Puyallup, and Tacoma imposed a tax, and only at 4 percent, until June 1997, when Lakewood increased its rate to 7 percent. Tacoma also imposed a 7 percent rate effective September 1, 1997.)

During the 1997 legislative session, the Legislature passed Substitute Senate Bill 5867 which made hotel-motel tax rates more uniform, expanded the allowable uses of revenue to all include all tourism-related facilities and a broader definition of tourism promotion, and required creation of lodging tax advisory committees in municipalities with populations of 5,000 or more. The act provided a 4 percent total hotel-motel tax rate authorization for most municipalities, with 2 percent credited against the state sales tax. The separate "basic" 2 percent

tax and separate special taxes for particular municipalities were eliminated. However, municipalities with authorized hotel-motel tax rates totaling more than 4 percent were allowed to continue those rates under the new statute. The combined rate of state and local sales taxes and hotel-motel taxes was limited to 12 percent, except in Seattle and Bellevue, where total rates in excess of 12 percent were continued. Although the act was passed in the 1997 session, the effective date was delayed until April 1, 1998.

After the close of the session, the Governor vetoed two sections of SSB 5867. The veto message stated that one section conflicted with legislation authorizing a football stadium, Engrossed Substitute House Bill 2192, and that the section with the delayed effective date was "unnecessary." The veto of these two sections interacted in a complex manner unintended by the Governor. The hotel-motel tax rate for several municipalities was reduced, while the maximum hotel-motel tax rate for other municipalities was increased, and several complex questions of legal interpretation were raised. Without the delayed effective date, the act took effect 90 days after the end of the session, which was July 27, 1997.

The partial veto reduced the statutorily authorized hotel-motel rates for Bellevue, Ocean Shores, and Westport from 5 percent to 2 percent. Yakima was reduced from 5 percent to 4 percent. Tacoma, Buckley, Eatonville, Fife, and Puyallup were reduced from 4 percent to 2 percent. Lakewood was reduced from 7 percent to 2 percent. Bellevue and Yakima City also lost the authority to credit their taxes against the state sales tax.

The Thurston County Superior Court enjoined enforcement of the partially vetoed version of SSB 5867 with respect to the cities of Bellevue, Yakima, Ocean Shores, Tacoma, Westport, Fife, and Lakewood. The court found that these cities had entered into contracts or issued bonds that relied on hotel-motel taxes, and reducing the rate of those taxes would be an unconstitutional impairment of contract. The court allowed these cities to continue collecting hotel-motel taxes at pre-veto rates until May 15, 1998, giving the Legislature time to respond to the problems caused by the partial veto. The court indicated it would consider the case further after that date if the Legislature did not act.

The partial veto also increased the maximum hotel-motel tax rate for some municipalities. The partial veto left both the original 2 percent "basic" tax and the new 4 percent authorizations intact in separate sections. As a result, the partial veto increased the total hotel-motel tax authority of many municipalities to 6 percent. Wenatchee and East Wenatchee imposed hotel-motel taxes totaling 6 percent in September and October, respectively. No other municipalities had relied on this aspect of the partial veto as of January 1, 1998.

**Summary:** Hotel-motel statutes are amended in a manner that resolves the conflicts between two bills enacted during the 1997 session, SSB 5867 dealing with hotel-motel

taxes, and ESHB 2192 authorizing a football stadium. The issues raised by the Governor's partial veto of SSB 5867 are addressed. The "basic" hotel-motel authorization of 2 percent, which was preserved by the Governor's veto, is not amended in this act. Instead, the 4 percent authorization provided by SSB 5867 is reduced to 2 percent. The result is a total hotel-motel tax authorization of 4 percent for most municipalities, the same as under SSB 5867 as passed by the Legislature in 1997. Higher hotel-motel rate authorizations existing before the partial veto are restored, retroactive to the date of the veto. However, these higher rate authorizations expire if not imposed by January 1, 1999. Hotel-motel taxes collected during the period between the partial veto and the effective date of this act are validated retroactively, to the extent the tax rates are consistent with this act.

The opportunity created by the partial veto for 6 percent total hotel-motel tax rates is preserved for those municipalities that took advantage of this opportunity before January 1, 1998 (Wenatchee and East Wenatchee).

The requirements for a hotel advisory committee in municipalities with a population of 5,000 or more are clarified. The requirements apply to both the "basic" tax and any additional tax, but only when a new tax is imposed, the rate is increased, an exemption is repealed, or the use of revenue is changed.

**Votes on Final Passage:**

House	92	3
Senate	47	0

**Effective:** March 12, 1998

**HB 2704**

C 143 L 98

Creating inactive license status for physical therapists.

By Representatives Skinner, Cody and Anderson.

House Committee on Health Care

Senate Committee on Health & Long-Term Care

**Background:** Physical therapists are licensed by the Department of Health for practice and regulated by the Board of Physical Therapy. Physical therapy, as defined by law, includes treatment of any bodily or mental condition by the use of the physical, chemical, and other properties of heat, cold, air, light, water, electricity, sound, massage, and therapeutic exercise.

There is no authority for the department to place a license in inactive status for physical therapists no longer practicing.

**Summary:** A licensed physical therapist may place his or her license in inactive status in accordance with requirements prescribed by rule of the Board of Physical Therapy. The Secretary of Health may establish fees for inactive licenses.

**Votes on Final Passage:**

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

Effective: June 11, 1998

**EHB 2707**

C 83 L 98

Prohibiting sex offenders in inmate work programs from obtaining private individuals' names.

By House Committee on Criminal Justice & Corrections (originally sponsored by Representatives Backlund, Quall, Dickerson, Koster, O'Brien, Scott, Sullivan, Lambert, Cairnes, Wood, McDonald, Sherstad, Mulliken, Kessler, Ogden, Cooke, Conway, Anderson, Dunshee, Gardner, Ballasiotes and Dunn).

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

**Background:** In prisons such as McNeil Island Correctional Center, convicted offenders participate in a variety of work programs including telemarketing for private and public entities. During this time, offenders may have access to personal information such as names, addresses and phone numbers of law abiding citizens. There are no statutory prohibitions on the types of offenders who may have access to certain information when participating in an inmate work program.

**Summary:** An inmate convicted of a sex offense who is participating in a work program is prohibited from obtaining access to private individuals' names, addresses, and telephone numbers. The administrator of the work program is responsible for ensuring that convicted sex offenders do not receive personal information about law-abiding citizens.

**Votes on Final Passage:**

House	96	0
Senate	45	0

Effective: March 20, 1998

**SHB 2710**

C 84 L 98

Changing irrigation district administration.

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

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

**Background:** A smaller irrigation district (minor district) may be merged into a larger irrigation district (major district) if the assessed acreage in the smaller district constitutes no more than 30 percent of the combined assessed acreage of the two districts combined. The merger procedure is initiated by the adoption of a resolution by the minor irrigation district board of directors calling for the merger. If the major irrigation district board of directors does not deny the request for merger, it must send out public notice and conduct hearings on the proposed merger. If the major irrigation district wishes to merge the districts after the public hearings have been held, and a petition has not been filed in opposition to the merger by landowners representing at least 20 percent of the assessed lands within the major district, the board of directors of the major district may adopt a resolution to merge the districts. If the major district board of directors approves the merger, no election is held in the major district but an election must be held in the minor district to approve the merger. If a petition with sufficient signatures is submitted to the board of directors of the major irrigation district protesting the merger, then the issue is submitted to the voters of both irrigation districts. There is no procedure for landowners within the minor irrigation district to initiate a merger by petition method.

A board of joint control may be formed to administer operations, maintenance, and other aspects of two or more irrigation districts or similar entities. A board of joint control is authorized to enter into and perform any and all necessary contracts, but is not specifically authorized to use the powers of eminent domain, to purchase or lease property or property rights, or to sell, lease, or exchange surplus property or property rights.

**Summary:** The merger of a minor irrigation district into a major irrigation district may be initiated by a petition signed by ten owners of land within the minor district or 5 percent of the total number of landowners within the minor district, whichever is greater. If there are fewer than 20 landowners within the minor irrigation district, the petition must be signed by a majority of the landowners and filed with the board of directors of the major irrigation district.

Boards of joint control are specifically authorized, subject to the same limitations as irrigation districts, to exercise the powers of eminent domain, to purchase or lease property and property rights, and to sell, lease, or exchange surplus property and property rights.

**Votes on Final Passage:**

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

Effective: June 11, 1998



## SHB 2711

C 316 L 98

Providing tax exemptions for small irrigation districts and systems.

By House Committee on Finance (originally sponsored by Representatives Parlette, Chandler, Mulliken and Sump).

House Committee on Finance  
Senate Committee on Ways & Means

**Background:** According to a 1994 report by the Department of Health, Washington has over 14,000 water systems. About 200 of these systems serve over 85 percent of the state's population. In contrast, 10,000 of the state's water systems serve only 2 percent of the state's population.

All water systems serving at least 25 persons or 15 connections must meet federal Safe Drinking Water Act requirements. The Safe Drinking Water Act requires water testing for more than 100 different types of contaminants. If tests indicate the presence of contaminants, then additional testing, treatment and system upgrades may be required. A water system using surface water as its source must also filter the water. Fulfilling water testing, filtration, and treatment obligations imposes costs on water systems. The cost per customer in meeting these obligations can be high for small systems, since small systems must spread costs over a smaller customer base and cannot realize economies of scale.

In Washington, certain types of businesses are subject to the public utility tax instead of the business and occupation (B&O) tax. Like the B&O tax, the public utility tax is applied to the gross receipts of the business. The principal difference between the B&O tax and the public utility tax is rates. Water distribution businesses pay a public utility tax of 5.029 percent on gross receipts. A 1.75 percent B&O tax rate applies to non-utility services, and this rate decreases to 1.50 percent on July 1, 1998.

A business exempted from the public utility tax automatically becomes subject to the B&O tax. To exempt a business from both public utility and B&O taxes, separate public utility and B&O tax exemptions must be created.

In 1997, the Legislature exempted the following businesses from paying public utility and B&O taxes on amounts received for water services:

- water-sewer districts that:
  - (1) serve fewer than 1,500 connections; and
  - (2) charge a residential water rate exceeding 125 percent of the average statewide water rate.
- water systems owned or operated by a satellite system management agency that:
  - (1) serve fewer than 200 connections; and
  - (2) charge a residential water rate exceeding 125 percent of the average statewide water rate.

A water system claiming these tax exemptions must prove to the Department of Health that at least 90 percent

of the value of the tax exemptions has been used to repair, equip, upgrade, or maintain the system.

The Department of Health estimates a statewide residential water rate by July 1 of each year using various reports and surveys produced by the Association of Washington Cities and other municipal associations. The Department of Health uses data on drinking water connections and the estimated statewide average residential water rate to certify the eligibility of water-sewer districts and water systems for the tax exemptions.

The tax exemptions expire on July 1, 2003. Drinking water systems operated by cities, towns, public utility districts, or irrigation districts do not qualify for the tax exemptions.

Irrigation districts provide water for irrigation, but some irrigation districts also operate drinking water systems. Irrigation districts do not pay public utility or B&O taxes on their gross receipts earned from providing irrigation water. Irrigation districts are required, however, to pay public utility tax on the amounts earned from providing drinking water.

**Summary:** The public utility and B&O tax exemptions for certain small water systems and water-sewer districts are expanded to also include irrigation districts that:

- serve fewer than 1,500 drinking water connections; and
- charge a residential drinking water rate exceeding 125 percent of the average statewide residential water rate.

The Department of Health must estimate a statewide average residential water rate by July 1 of each year, but the Department of Health does not certify which small water systems, water-sewer districts, or irrigation districts are eligible for the exemptions. Instead of certification, each small water system, water-sewer district, or irrigation district is responsible for determining its eligibility for the tax exemptions.

Each small water system or irrigation district claiming the tax exemptions must supply proof to the Department of Revenue that at least 90 percent of the value of the tax exemptions has been used to repair, equip, upgrade, or maintain the system.

The tax exemptions expire on July 1, 2004.

**Votes on Final Passage:**

House	96	0
Senate	45	3

**Effective:** July 1, 1998

**HB 2717**

C 31 L 98

Implementing House Joint Resolution No. 4209.

By Representatives Chandler, Regala and Dunn.

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

**Background:** The voters approved House Joint Resolution 4209 in the 1997 general election. This joint resolution amended the Washington State Constitution to allow local governments engaged in the sale or distribution of storm water or sewer services to provide low cost financing to assist owners of structures or equipment in acquiring and installing materials and equipment that will conserve or allow for more efficient use of the storm water or sewer services. The low cost financing must be repaid and becomes a lien on the structure unless the assistance is considered to constitute necessary support of the poor or infirm.

Although the voters approved this constitutional amendment, implementing legislation is considered to be necessary before some local governments can provide this assistance.

**Summary:** Any city, code city, town, county, special purpose district, municipal corporation, or quasi-municipal corporation engaged in the sale or distribution of storm water or sewer services may use public moneys or credit derived from operating revenues from the sale of storm water or sewer services to assist the owners of structures or equipment in acquiring and installing materials and equipment that will conserve or allow for more efficient use of the storm water or sewer services. Unless the assistance is provided for the necessary support of the poor or infirm, a charge-back must be made for the assistance. The charge-back is a lien against the structure or a security interest against the equipment which is benefitted.

This assistance is authorized beginning July 1, 1998.

**Votes on Final Passage:**

House	96	0
Senate	46	0

**Effective:** June 11, 1998

July 1, 1998 (Section 2)

**SHB 2724**

FULL VETO

Requiring legislative oversight of moneys received from enforcement actions.

By House Committee on Appropriations (originally sponsored by Representatives Boldt, Mielke, Pennington, Carrell, Mulliken, Thompson, Bush, Caines, Reams and Lambert).

House Committee on Appropriations  
Senate Committee on Ways & Means

**Background:** Regulatory and enforcement activities of state agencies may result in imposition of fines or payments of other penalties or assessments. Agencies may initiate regulatory or enforcement actions through court proceedings or through administrative processes. In a court proceeding, the outcome is either determined by the court or approved by the court under a consent decree. If the agency has not filed a court action, it may resolve a regulatory action through a settlement with the other party. A settlement might result in the payment of a fine to the agency, or it might result in other sorts of payments by the party that is the subject of the regulatory action. These payments might take the form of damages, reimbursements to injured parties, or payment for other remedial actions.

If a statute authorizes a state agency to impose an administrative fine or penalty, the statute usually specifies whether the moneys received are to be deposited in the state general fund or into a dedicated fund. If the payment is characterized as a payment other than a fine or penalty, the payment may in some instances be expended by the agency without a legislative appropriation. There are three ways that an agency may make expenditures without an appropriation: through a nonappropriated account, through the unanticipated receipts process, or as a recovery of expenditures.

An appropriation is legislation that authorizes a state agency to incur a maximum expenditure. Article VIII, section 4 of the state constitution prohibits moneys in the state treasury from being spent without an appropriation. Some accounts, however, are created "in the custody of the state treasurer" and do not require a legislative appropriation for expenditures. The expenditure of moneys from appropriated accounts and many nonappropriated accounts is supervised by the Office of Financial Management (OFM) through the allotment process. Under this process, the OFM establishes a financial plan and monitors expenditures quarterly.

The unanticipated receipts process permits state agencies to spend, without an appropriation, moneys received from the federal government or from private sources. If an agency receives moneys from such sources, and the moneys were not anticipated in the budget and are designated to be spent for a specific purpose, the agency may

submit an allotment amendment request to the Governor. Before the OFM approves the expenditure, it must notify the legislative fiscal committees and the Joint Legislative Audit and Review Committee. The typical unanticipated receipt is a one-time occurrence that does not permanently increase agency staffing, activity, or funding levels.

Another way in which state agencies may make expenditures without an appropriation is by treating the moneys as a recovery of expenses. Language typically included in the operating budget act permits agencies to expend these recovered amounts as if they were part of the original appropriation.

**Summary:** State agencies are prohibited from expending moneys without an appropriation where the moneys are received in an administrative or judicial regulatory or civil enforcement action. This appropriation requirement does not apply to: nonappropriated statutory accounts do not reference the appropriation requirement; trust funds established outside the treasury for certain types of environmental remediation; certain distributions to injured parties other than state agencies; fees or enforcement actions to collect fees; and recoveries by the Department of Social and Health Services for services, benefits, vendor payments, or amounts collected by the Child Support Division.

Moneys to which this appropriation requirement applies may not be expended through the unanticipated receipts process, nor may they be expended as recoveries of amounts expended pursuant to an appropriation.

The authorizing statutes of a variety of non-appropriated funds are changed. To the extent that moneys in these accounts derive from administrative or judicial regulatory or civil enforcement actions, expenditure of those moneys requires a legislative appropriation.

**Votes on Final Passage:**

House	98	0	
Senate	39	6	(Senate amended)
House	98	0	(House concurred)

**VETO MESSAGE ON HB 2724-S**

April 2, 1998

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. 2724 entitled:

"AN ACT Relating to legislative oversight of moneys received from fines, penalties, forfeitures, settlements, court orders, or other enforcement actions;"

Substitute House Bill No. 2724 would provide that state agencies shall not expend moneys except pursuant to an appropriation by law, if the moneys are received in an administrative or judicial enforcement action, or settlement thereof, brought by the state.

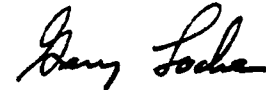
This legislation is in response to my veto last year of Engrossed Senate Bill No. 6039. ESB 6039 provided that any fine or regulatory assessment imposed in an enforcement action under the insurance code must be collected by the Department of Revenue. In my veto message, I asked that a comprehensive as-

essment be done throughout state government and that a uniform system be proposed to address any identified problems.

No widespread or systemic problems were identified, and Substitute House Bill No. 2724 does not represent the uniform system that would be needed to address such problems had they been found. Instead, the bill would provide a general rule requiring an appropriation of these types of funds, and would make several exceptions for some agencies but not for others.

For these reasons, I have vetoed Substitute House Bill No. 2724 in its entirety.

Respectfully submitted,



Gary Locke  
Governor

**HB 2732**

C 77 L 98

Regarding wage assignment orders for child support or spousal maintenance payments.

By Representatives Robertson, Ogden, L. Thomas, McCune, Constantine, Wood, Zellinsky, Ballasiotes, Delvin and Hickel.

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

**Background:** There are a number of mechanisms available for the enforcement of child support orders. Both private parties and the state may seek to enforce support orders. A private party may commence a proceeding to enforce a support order by filing a petition for an original action or by motion in an existing action. A private party may seek a mandatory wage assignment if the support order allows immediate income withholding or if the obligor is more than 15 days past due in child support in an amount equal to or greater than the obligation payable for one month. The court forwards a copy of the mandatory wage assignment order and support order to the Washington State Support Registry.

An employer served with a mandatory wage assignment order must answer the order within 20 days after service. If the employer possesses any earnings due to the child support obligor, the earnings subject to the mandatory wage assignment order must be withheld immediately upon receipt of the wage assignment order. The employer must deliver the withheld earnings to the Washington State Support Registry at each regular pay interval.

**Summary:** The time period in which an employer must deliver withheld earnings is changed. An employer served with a mandatory wage assignment order must deliver withheld earnings to the Washington State Support Registry within five working days of each regular pay interval.

**Votes on Final Passage:**

House 96 0  
 Senate 44 0

Effective: June 11, 1998

**ESHB 2752**

C 149 L 98

**Prohibiting unsolicited electronic mail.**

By House Committee on Energy & Utilities (originally sponsored by Representatives Bush, Crouse, Gardner, Cairnes, Dyer, Mulliken, Morris, Linville, Reams, Romero, Smith, McDonald, Ogden, Dickerson, Butler, O'Brien, Ballasiotes, Talcott and Appelwick; by request of Attorney General).

House Committee on Energy & Utilities  
 Senate Committee on Energy & Utilities

**Background:** The Internet is an international network of computer networks, interconnecting computers ranging from simple personal computers to sophisticated mainframes. It is a dynamic, open-ended aggregation of computer networks, rather than a physical entity. Internet users can access or provide a wide variety of information, purchase goods and services, and communicate with other users electronically.

As a network of interconnected computers, the Internet also provides a new forum for advertising. Electronic mail messages sent over a computer network may advertise real property, goods, or services for sale or lease. In some cases, a computer user may request information about the property, goods, or services. In other cases, the computer user may receive the advertisements as unsolicited commercial electronic mail messages.

The Office of the Attorney General reports that it received 322 complaints over a five-month period in 1997 about unsolicited electronic messages. Although some of the unsolicited messages were non-commercial in nature, many of the messages were commercial advertisements.

Many consumers connect to the Internet through interactive computer services that charge fees for time spent utilizing a dial-up connection to their computer servers. Via an interactive computer service's server, individual consumers are able to reach the Internet.

**Summary:** A commercial electronic mail message means a message sent for the purpose of promoting real property, goods, or services for sale or lease. A person who initiates the transmission of a commercial electronic mail message from a computer located in Washington or to a Washington resident that contains untrue or misleading information may violate the Consumer Protection Act. Specifically, a violation of the Consumer Protection Act occurs when a sender:

- uses a third party's Internet domain name without the permission of the third party, or otherwise misrep-

sents any information in identifying the point of origin or transmission path of the message; or

- puts false or misleading information in the subject line of the message.

A sender is responsible for knowing that a recipient is a Washington resident, if that information is available, upon request, from the registrant of the Internet domain name contained in the recipient's electronic mail address.

When a sender violates the Consumer Protection Act, the recipient of the commercial electronic mail message may bring a civil action against the sender for the greater of \$500 or actual damages. An interactive computer service provider may also bring an action against the sender for the greater of \$1,000 or actual damages. Additionally, a plaintiff who brings a civil suit against a sender may recover the costs of bringing the action, including attorney's fees. The court may also treble a plaintiff's damage award up to a maximum of \$10,000.

In addition to seeking civil remedies, an interactive computer service provider may block the receipt or transmission through its service of any electronic mail which it reasonably believes is, or will be, sent in violation of the Consumer Protection Act. An interactive computer service provider cannot be held liable for any action voluntarily taken in good faith to block the receipt of commercial electronic messages sent in violation of the Consumer Protection Act.

A select task force on commercial electronic messages is created. The select task force will consist of two Representatives, two Senators, and one person appointed by the Governor. The select task force will study technical, legal, and cost issues related to the transmission and receipt of commercial electronic messages over the Internet. The select task force will evaluate whether existing laws are sufficient to resolve technical, legal, or financial problems created by the increasing volume of commercial electronic mail messages. The select task force will also review efforts made by the federal government and other states to regulate the transmission of commercial electronic messages. The select task must prepare a report identifying policy options and recommendations for the House Energy and Utilities Committee by November 15, 1998.

**Votes on Final Passage:**

House 97 1  
 Senate 42 0 (Senate amended)  
 House 96 0 (House concurred)

Effective: June 11, 1998

EHB 2772

C 317 L 98

Revising provisions relating to drug paraphernalia.

By Representatives McDonald and Kastama.

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

**Background:** It is a misdemeanor to use drug paraphernalia to produce or use illegal drugs. It is also a misdemeanor to deliver drug paraphernalia to another knowing that the paraphernalia will be used to produce or use illegal drugs.

Drug paraphernalia is defined as material of any kind which is used, intended for use, or designed for use in producing or using illegal drugs. Drug paraphernalia includes, but is not limited to, the following:

- kits for use in planting, propagating, cultivating, growing, or harvesting of a plant that is a controlled substance, or from which a controlled substance can be made;
- kits for use in manufacturing, compounding, converting, producing, processing, or preparing controlled substances;
- isomerization devices for use in increasing the potency of a plant that is a controlled substance;
- testing equipment for use in identifying or in analyzing the strength, effectiveness, or purity of controlled substances;
- scales and balances for use in weighing or measuring controlled substances;
- diluents and adulterants for use in cutting controlled substances;
- separation gins and sifters for use in cleaning or refining marihuana;
- blenders, bowls, containers, spoons, and mixing devices for use in compounding controlled substances;
- capsules, balloons, envelopes, and other containers for use in packaging small quantities of controlled substances;
- containers and other objects for use in storing or concealing controlled substances;
- hypodermic syringes, needles, and other objects for use in injecting controlled substances into the human body;
- objects for use in ingesting, inhaling, or otherwise introducing marihuana, cocaine, hashish, or hashish oil into the human body, such as:
  - (1) metal, wooden, acrylic, glass, stone, plastic, or ceramic pipes with or without screens, permanent screens, hashish heads, or punctured metal bowls;
  - (2) water pipes;
  - (3) carburetion tubes and devices;
  - (4) smoking and carburetion masks;

- (5) roach clips: meaning objects used to hold burning material, such as a marijuana cigarette, that has become too small or too short to be held in the hand;
- (6) miniature cocaine spoons and cocaine vials;
- (7) chamber pipes;
- (8) carburetor pipes;
- (9) electric pipes;
- (10) air-driven pipes;
- (11) chillums;
- (12) bongos; and
- (13) ice pipes or chillers.

**Summary:** A new civil infraction is created. It is a class I civil infraction to sell or give drug paraphernalia to another person. The maximum fine for a class I infraction is \$250.

For purposes of this new infraction, the definition of paraphernalia is the same as a portion of the definition that applies to the existing criminal law. Paraphernalia, as applied to the new infraction, specifically includes items used for ingesting, inhaling, or otherwise introducing marihuana, cocaine, hashish, or hashish oil into the human body.

One element of the new infraction, however, differs from the crime of delivering paraphernalia. Under the infraction, unlike the crime, the prosecution need not prove that the offender knew that the recipient of the paraphernalia would use it in connection with illegal drugs.

The legal distribution of syringes as part of an HIV prevention program is specifically exempted from the infraction.

**Votes on Final Passage:**

House	94	4	
Senate	45	1	(Senate amended)
House			(House refused to concur)
Senate	39	9	(Senate receded)

**Effective:** June 11, 1998

SHB 2773

C 318 L 98

Requiring electric utilities to provide net metering systems to their customer-generators.

By House Committee on Energy & Utilities (originally sponsored by Representatives Poulsen, Crouse, Morris, Cooper and Constantine).

House Committee on Energy & Utilities  
Senate Committee on Energy & Utilities

**Background:** "Net metering" allows electricity customers to offset (over a predetermined time period) their consumption of purchased electricity with electricity generated by their own small scale renewable system, without considering when the electricity is consumed or generated. Under net metering, the customer's small renewable en-

ergy system is connected to the utility grid, and electricity produced by the customer's system flows into the utility grid, spinning a bi-directional electricity meter backwards.

The meter measures the difference between the electricity supplied by the electric utility, and the electricity generated by the customer that is fed back to the electric utility, over the applicable billing period. At the end of the billing period, the customer may owe the utility for the excess electricity consumed, or may receive a credit for the excess electricity generated.

Standard bi-directional meters spin forward to measure a customer's consumption of electricity and backward to measure the amount of electricity produced by the customer's own system, and do not reveal the total amounts of electricity supplied by the utility and generated by the customer's system.

As part of the Public Utility Regulatory Policies Act of 1978, the Congress required utilities to purchase excess power generated by non-utilities using qualifying small power production facilities. One of the criteria to qualify was that at least 75 percent of the energy used by the facility must be from renewable resources, geothermal resources, biomass, waste, or any combination of those fuel sources. The utilities were to purchase the electricity at their "avoided cost" of having to acquire other resources.

The National Electrical Code and National Electrical Safety Code contain standards governing the safety of electrical wiring and equipment used in small scale renewable energy systems. The Institute of Electrical and Electronic Engineers and Underwriters Laboratories have established standards that govern the interconnection of such systems to the power grid. Small generating systems that do not operate in parallel with (that is, are not synchronized with) the utility grid pose significant safety risks, and jeopardize the reliability and quality of the electrical system.

Over time, the Legislature has made findings and enacted a variety of policies encouraging the development and use of renewable resources. For example, in 1975, the Legislature found that it was the "continuing purpose of state government, consistent with other essential considerations of state policy, to foster wise and efficient energy use and to promote energy self-sufficiency through the use of indigenous and renewable energy sources, consistent with the promotion of reliable energy sources,..." Also, in 1981, the Legislature enacted a state policy of encouraging the "development and use of a diverse array of energy resources with emphasis on renewable energy resources."

**Summary:** The Legislature finds it is in the public interest to: (1) encourage private investment in renewable energy resources; (2) stimulate the economic growth of this state; and (3) enhance the continued diversification of the energy resources used in this state.

A utility must offer to make net metering available to eligible customer-generators on a first-come, first-served basis until the cumulative generating capacity of net metering systems equals 0.1 percent of the utility's peak demand during 1996. A "customer-generator" means a user of a net metering system. A "net metering system" is defined as a facility for the production of electrical energy that: (1) uses solar, wind, or hydro power; (2) has a generating capacity of not more than 25 kilowatts; (3) is located on the customer's premises; (4) operates in parallel with the electric utility's transmission and distribution facilities; and (5) is intended primarily to offset part or all of the customer's requirements for electricity.

The utility must allow net metering systems to be interconnected using standard bi-directional meters, unless the Washington Utilities and Transportation Commission (WUTC) or the governing body of a consumer-owned utility determines: (1) that additional metering equipment is necessary and appropriate after taking into account the benefits and costs of purchasing and installing additional metering equipment; and (2) how the cost of purchasing and installing an additional meter is to be allocated between the customer and the utility.

The utility must charge a customer-generator a minimum monthly fee that is the same as the fee charged to other customers in the same rate class. However, the utility may charge the customer an additional standby, capacity, interconnection, or other charge or fee if the WUTC or governing body determines: (1) that the utility will incur direct costs associated with interconnecting or administering net metering systems that exceed any offsetting benefits; and (2) public policy is best served by imposing these costs on the customer-generator rather than allocating the costs among the utility's entire customer base.

The electric utility must measure the net electricity produced or consumed during the billing period using normal metering practices. If the electricity supplied by the electric utility exceeds the amount generated by the customer, the customer will be billed for the net electricity supplied by the utility. If the electricity generated by the customer exceeds the electricity supplied by the utility, the customer will be billed for other charges ordinarily on the bills of customers of the same class, and will be credited for the excess electricity on the customer's bill for the following month. At the beginning of each calendar year, any remaining unused credit accumulated during the previous year will be granted to the utility.

A net metering system must include, at the customer-generator's own expense, all equipment necessary to meet applicable safety, power quality, and interconnection requirements established by the National Electric Code, National Electrical Safety Code, Institute of Electrical and Electronic Engineers, and Underwriters Laboratories. The WUTC (for investor-owned utilities) or a governing body (for a consumer-owned utility) may adopt additional safety, power quality, and interconnection requirements.

## HB 2779

### Votes on Final Passage:

House	96	0	
Senate	49	0	(Senate amended)
House	96	0	(House concurred)

Effective: June 11, 1998

## HB 2779

C 48 L 98

Extending the Washington economic development finance authority.

By Representatives Dunn and Morris.

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

**Background:** The Washington Economic Development Finance Authority (WEDFA) was created by the Legislature in 1989 to help meet the capital needs of small and medium-sized businesses, in particular businesses located in distressed counties. The WEDFA is authorized to issue nonrecourse revenue bonds to carry out its programs. The bonds may be issued on either a tax-exempt or taxable basis. The bonds issued by the WEDFA are not obligations of the state.

The WEDFA may not have more than \$250 million in outstanding bond debt at any time, and the authority to issue bonds for its programs expires June 30, 2000.

**Summary:** The Washington Economic Development Finance Authority (WEDFA) outstanding bond debt limit is increased from \$250 million to \$500 million. The authority to issue bonds for the WEDFA programs is extended from June 30, 2000 to June 30, 2004.

### Votes on Final Passage:

House	96	0	
Senate	42	0	

Effective: June 11, 1998

## 2SHB 2782

### PARTIAL VETO

C 114 L 98

Authorizing special event endorsements to full service private club licenses.

By House Committee on Appropriations (originally sponsored by Representatives McMorris and Wood).

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

**Background:** A full service private club license allows the licensee to serve liquor by the drink on the club's premises to club members, guests, and visitors. A club

must be a nonprofit organization with a social, educational, benevolent, or athletic purpose.

Under this license, a club may purchase liquor from the Liquor Control Board at a discount and then sell the liquor by the drink to club members, guests, or visitors. Club rules must comply with certain limitations on guest privileges. Visitors must be accompanied by a club member at all times. The club's premises may be used for events open to the general public, but no liquor may be served to the public at these events.

A full service private club license has an annual cost of \$720. A full service restaurant license ranges from \$1,000 to \$2,000 depending on the area of the facility dedicated to dining and the type of liquor service offered.

**Summary:** A full service private club licensee may obtain an endorsement for up to 40 non-club events using club liquor. Events must be sponsored by club members and may not be open to the general public. The cost for the endorsement is an annual fee of \$900. The holder of the endorsement must give notice of the event to the Liquor Control Board only upon the request of the board. The notice, if requested, must be given at least 72 hours before the event takes place, and the board may request additional information regarding the event and the event sponsor.

The Liquor Control Board must report to the legislature by January 1, 2001, on whether compliance by private clubs with restrictions on service to nonmembers has improved with the changes made by this act.

### Votes on Final Passage:

House	98	0	
Senate	40	3	(Senate amended)
House	96	0	(House concurred)

Effective: July 1, 1998

**Partial Veto Summary:** The Governor vetoed section 2 of the bill that requires the Liquor Control Board to report to the Legislature on whether compliance with restrictions on service to non-club members improves by authorizing a limited number of non-club events.

## VETO MESSAGE ON HB 2782-S2

March 23, 1998

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, Second Substitute House Bill No. 2782 entitled:

"AN ACT Relating to special event endorsements to full service private club licenses;"

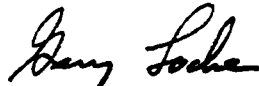
Section 1 of Second Substitute House Bill No. 2782 will allow non-profit private clubs to pay for a license endorsement that allows them to serve alcohol at up to forty events per year where non-members are invited. Section 2 of the bill would require the Liquor Control Board to report to the legislature on whether the change in section 1 of 2SHB 2782 has improved compliance with the law, and whether more amendments are needed to enhance compliance.

*Information on violations of liquor laws is maintained by the Liquor Control Board as part of its regular business operations, and that information is available to anyone. Therefore, the reporting requirement of section 2 is not necessary.*

*For this reason, I have vetoed section 2 of Second Substitute House Bill No. 2782.*

*With the exception of section 2, I am approving Second Substitute House Bill No. 2782.*

Respectfully submitted,



Gary Locke  
Governor

**HB 2784**

C 49 L 98

Adding inhabitants of county as recipients of water works benefits.

By Representatives Johnson, D. Schmidt, Wensman, Cairnes, Zellinsky and Clements.

House Committee on Government Administration  
Senate Committee on Government Operations

**Background:** A public utility districts (PUD) may provide water to: (1) the inhabitants of the district; and (2) any other persons, including corporations, within and outside of the district.

The territory of Mason County is divided between two PUDs. The Snohomish County PUD includes all of Snohomish County and Camano Island, which is located in Island County.

**Summary:** A PUD may provide water to inhabitants of the county in which the district is located, whether or not they reside in the PUD.

**Votes on Final Passage:**

House	96	0
Senate	46	0

**Effective:** June 11, 1998

**HB 2788**

C 85 L 98

Training nursing assistants.

By Representatives Backlund, Cody, Dyer and Kenney.

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

**Background:** The Department of Social and Health Services (DSHS) is required by law to implement a long-term care training program for caregivers that consists of a fundamental teaching module and a range of other modules to meet resident care needs. These other modules may include specific training on the special care needs of

persons with development disabilities, dementia, mental illness, and the care needs of the elderly. The Nursing Care Quality Assurance Commission works with the department in developing the modules. DSHS caregivers are not required to complete a nursing assistant training program, but some may apply to the commission for certification as a nursing assistant. The stated intent of the law is to have curriculum modules recognized by the commission hour for hour towards meeting the requirements for a nursing assistant certificate.

**Summary:** The Department of Social and Health Services and the Nursing Quality Assurance Commission are required jointly to develop an implementation plan by December 12, 1998, for transferring credit for verifiable skills and competencies obtained through the DSHS caregiver training program towards certification of nursing assistants by the commission. The commission must direct the nursing assistant training programs to accept some or all of the skills and competencies from the DSHS curriculum modules towards meeting the requirements for a nursing assistant certificate. The recognition of the curriculum on an hour for hour basis is no longer a requirement, but transferable skills and competencies may be verified through the development of a testing process.

**Votes on Final Passage:**

House	96	0
Senate	48	0

**Effective:** June 11, 1998

**SHB 2790**

C 86 L 98

Requiring restitution hearings for juvenile offenders to occur within one hundred eighty days of the disposition hearing.

By House Committee on Law & Justice (originally sponsored by Representatives Mastin, Sheahan, Costa and Lambert).

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

**Background:** When a juvenile offender is found to have committed a criminal offense, the juvenile court determines the juvenile's sentence at a disposition hearing. In the disposition hearing, the court must determine the amount of restitution owed to the victim. The Washington Supreme Court has interpreted this provision to require that a juvenile offender's restitution obligation must be determined at the disposition hearing unless the juvenile waives the right to have restitution set at that time.

During the 1997 legislative session, the Legislature passed juvenile justice legislation (E3SHB 3900) which provides that at a juvenile's disposition hearing, the court



may set a later hearing date to determine the amount of restitution. This provision takes effect July 1, 1998.

In a sentencing hearing for an adult, if restitution is ordered, the court may determine the amount of restitution due within 180 days of the sentencing hearing.

**Summary:** In juvenile court, if a hearing for restitution is set for a later date, that date must be within 180 days from the date of the disposition hearing, unless the court continues the hearing beyond 180 days for good cause.

**Votes on Final Passage:**

House	96	0
Senate	48	0

**Effective:** July 1, 1998

**EHB 2791**  
**PARTIAL VETO**  
C 81 L 98

Fighting methamphetamine.

By Representatives Schoesler, Doumit, Sheahan, Ballasiotes, Radcliff, Sump, Sullivan, Mielke, Buck, Alexander, Boldt, Sterk, Crouse, Smith, Van Luven, Hickel, Koster, Mulliken, Johnson, Wensman, D. Sommers, Backlund and DeBolt.

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

**Background:** Ephedrine and pseudoephedrine are two substances used to manufacture methamphetamine. The possession of ephedrine or pseudoephedrine with intent to manufacture methamphetamine is classified as a seriousness level VIII, class B felony under the sentencing guidelines. A person who violates this law may be imprisoned for not more than 10 years, fined not more than \$25,000, or both.

The process of methamphetamine production is highly dangerous and toxic, and the costs of cleaning up a methamphetamine lab can be expensive. Local governments are not authorized to use state funding for the clean-up of methamphetamine sites.

Under what is commonly referred as the "Three Strikes and You're Out" law, a persistent offender is subject to a sentence of life imprisonment. A person is considered a "persistent offender" if he or she commits three most serious offenses. A "most serious offense" means any of the following felonies or a felony attempt to commit any of the following felonies:

- any felony defined under any law as a class A felony;
- assault in the second degree;
- assault of a child in the second degree;
- child molestation in the second degree;
- controlled substance homicide;
- extortion in the first degree;

- incest when committed against a child under age 14;
- indecent liberties;
- kidnapping in the second degree;
- leading organized crime;
- manslaughter in the first degree;
- manslaughter in the second degree;
- promoting prostitution in the first degree;
- rape in the third degree;
- robbery in the second degree;
- sexual exploitation;
- vehicular assault;
- any other class B felony offense with a finding of sexual motivation; and
- any other felony with a deadly weapon verdict.

**Summary:** The offense of manufacturing or possessing ephedrine or pseudoephedrine with intent to manufacture methamphetamine in or near a residence in which a minor resides is included in the list of "most serious offenses." This offense will count as a strike under the three strikes law.

Local governments are authorized to use funding in the local toxics control account for the assessment and cleanup of sites of methamphetamine productions, however, funds from this account may not be used for the initial containment of such a site. In addition, if this act requires an increased level of service by local governments, the local governments may submit claims to the state for state reimbursement.

**Votes on Final Passage:**

House	96	0	
Senate	38	10	(Senate amended)
House	95	1	(House concurred)

**Effective:** June 11, 1998

**Partial Veto Summary:** Vetoes the provision that included the offense of manufacturing or possessing ephedrine or pseudoephedrine with intent to manufacture methamphetamine in or near a residence in which a minor or pregnant woman resides in the list of "most serious offenses." This provision would have made the offense count as a strike under the three strikes law.

**VETO MESSAGE ON HB 2791.E**

*March 20, 1998*

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

*Ladies and Gentlemen:*

*I am returning herewith, without my approval as to section 1, Engrossed House Bill No. 2791 entitled:*

*"AN ACT Relating to methamphetamine;"*

*Section 1 of EHB 2791 defines as a "strike," under the Persistent Offender Accountability Act, the manufacture or possession of ephedrine or pseudoephedrine with intent to manufacture methamphetamine, when that crime occurs in or near a residence where a minor or pregnant woman resides. As I noted in vetoing a similar provision last year, we should not stray from*

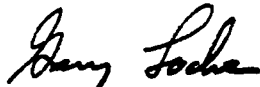
*the original intent of the three strikes law; the "strike" category should be reserved for the most serious violent and sex offenses, not for drug offenses. As dangerous as "meth labs" are, making possession of constituent chemicals a "strike" does little to protect public safety and opens the door to future inappropriate expansion of the "strike" list to other nonviolent conduct.*

*In addition, section 1 of EHB 2791 would not make it a "strike" to operate a "meth lab," only to possess the precursor chemicals from which methamphetamine is made with intent to use them for that purpose. Someone who is starting up a "meth lab" would be committing a "strike," while someone closing it down after producing the drug would not be. Moreover, it would be very difficult years from now, when offenders might be subject to life sentences on the third "strike," to identify the past cases in which a child or pregnant woman may have been present.*

*Representatives of law enforcement organizations have urged caution against the tendency to overreact with bills about crime. They believe it is more effective, and does more for public safety, to increase sentences for specific crimes in a measured, proportional way. That is what I proposed to the Legislature and signed into law today: House Bill No. 2628, doubling the standard sentence range for manufacturing methamphetamine.*

*For these reasons, I have vetoed section 1 of Engrossed House Bill No. 2791. With the exception of section 1, I am approving Engrossed House Bill No. 2791.*

*Respectfully submitted,*



Gary Locke  
Governor

**HB 2797**

C 50 L 98

Modifying the membership of the natural heritage advisory council.

By Representatives Regala, Buck, Ogden, Tokuda, Hatfield and Kessler.

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

**Background:** When the Legislature established the state's natural area preserve system in 1972, the Legislature created a seven-member Natural Preserves Advisory Committee to assist the Department of Natural Resources with the preserve system. In 1981, the Legislature increased the size of the advisory committee to 15 members and renamed it the Natural Heritage Advisory Council. Of the 15 members, five must be recognized experts in the ecology of natural areas. Four members are public members from various regions of the state. The public members must include or represent at least one private forest landowner and one private agricultural landowner. These nine members are appointed by the Commissioner of Public Lands. When the Legislature made this change in 1981, the remaining advisory council members were non-voting members from six state agencies: Game, Ecology, Fisheries, Natural Resources, State Parks, and the Interagency Committee for Outdoor Recreation. The

Legislature later amended the state agency portion of the composition of the advisory council, first to reflect the change from Department of Game to Department of Wildlife, and then to reflect the merger of the Department of Fisheries with the Department of Wildlife. When the Legislature reduced the number of state agencies on the council due to the merger, it did not change the total number of members of the advisory council. The Legislature did not, however, provide a method to appoint a fifteenth member.

Before the Department of Natural Resources seeks to acquire property for either a natural area preserve or a natural resources conservation area, the department first establishes a boundary defining the area in which the department may consider purchases. The department must hold a public hearing in the county where the majority of land in a proposed conservation area is located prior to establishing this boundary. There is not a similar local public hearing requirement for establishing boundaries for natural area preserves.

**Summary:** The number of public members on the Natural Heritage Advisory Council is increased from four members to five. This yields a 15-member committee composed of five experts, five public members from various regions in the state, and five non-voting members from state agencies.

The Department of Natural Resources must hold a public hearing in the county where the majority of land in a proposed natural area preserve is located prior to establishing the boundary of the preserve.

**Votes on Final Passage:**

House	96	0
Senate	48	0

**Effective:** June 11, 1998

**ESHB 2819**

C 87 L 98

Requiring display of a vehicle use permit while using department of fish and wildlife improved access facilities.

By House Committee on Natural Resources (originally sponsored by Representatives Buck, Regala and Chandler; by request of Department of Fish and Wildlife).

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

**Background:** The Department of Fish and Wildlife owns and manages property in the state, and the department also owns and manages more than 600 improved access facilities. The access facilities are areas specifically created for vehicle parking; more than half of these have a boat launch or a boat ramp associated with the parking area. A person 16 years of age or older who wishes to use Department of Fish and Wildlife lands or access facilities and

who does not already have a hunting, fishing, trapping, or free license from the department must purchase a conservation license. A spouse, children under 18 years of age, and youth groups may use department lands and access facilities without possessing their own licenses if they are accompanied by a license holder. A violation of this licensing requirement is a misdemeanor, punishable by a fine of \$500 or up to 90 days in county jail or both.

A conservation license costs \$10 per year. The department estimates that, for the period 1987 to 1996, an average of 902 licenses have been sold annually. License revenues are deposited in the wildlife fund.

**Summary:** A conservation license is no longer required for users of Department of Fish and Wildlife lands. Instead of a conservation license, users of department improved access facilities with a motor vehicle may be required to display a current annual fish and wildlife lands vehicle use permit on the motor vehicle. An improved access facility is a clearly identified area specifically created for motor vehicle parking and includes any boat ramp or boat launch associated with the parking area; the parking area at the Gorge Concert Center is expressly excluded. The permit is issued in the form of a decal, which must be displayed on the motor vehicle before entering and using the improved access facility. Failure to display the vehicle use permit is an infraction rather than a misdemeanor, and the penalty for the infraction is \$66.

Youth groups may use department improved access facilities without possessing a permit when accompanied by a permit holder.

One vehicle use permit decal will be issued at no charge with the issuance of an annual state saltwater, freshwater, combination, small game hunting, big game hunting, and trapping license. The annual fee for a vehicle use permit purchased separately is \$10. A person to whom the department has issued a decal or who has purchased a decal separately may purchase a decal for each additional vehicle the person owns at a cost of \$5 per decal upon showing proof to the department that the person owns the additional vehicle or vehicles. Revenues from permit sales continue to be deposited in the wildlife fund but must be used solely for the stewardship and maintenance of the improved access facilities.

The department may accept contributions into the wildlife fund for the sound stewardship of fish and wildlife. Such contributors are deemed "conservation patrons." A conservation patron who contributes \$20 or more receives a free vehicle use permit.

**Votes on Final Passage:**

House 94 4  
Senate 46 0 (Senate amended)  
House 95 0 (House concurred)

**Effective:** January 1, 1999

Exempting agency medical coverage decisions by labor and industries from rule-making provisions.

By House Committee on Commerce & Labor (originally sponsored by Representative McMorris; by request of Department of Labor & Industries).

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

**Background:** An injured worker entitled to compensation under the industrial insurance law must receive proper and necessary medical services during his or her period of disability, subject to certain limitations. The Department of Labor and Industries is responsible for supervising the prompt and efficient delivery of care and treatment provided to injured workers. The department is directed by statute to adopt rules and practices governing these services.

The state Administrative Procedure Act (APA) details procedures that state agencies must follow when adopting rules. Generally, a "rule" is any agency order or directive of general applicability that subjects a person to a sanction if violated, or establishes or changes a procedure or qualification relating to, among other things, benefits or privileges conferred by law. Before adopting a rule, an agency must follow specified procedures, including publishing notice in the state register and holding a hearing. For some types of rules, agencies must solicit comments and otherwise involve interested parties before publishing notice of a proposed rule. Rules not adopted in accordance with the prescribed procedures are invalid.

**Summary:** Medical coverage decisions made by the Department of Labor and Industries under the industrial insurance law are not "rules" for the purposes of the state Administrative Procedures Act (APA) and are not subject to the APA's rule-making requirements. However, the criteria for establishing medical coverage decisions must be adopted by rule after consultation with the Workers' Compensation Advisory Committee.

**Votes on Final Passage:**

House 95 1  
Senate 46 0

**Effective:** June 11, 1998

**SHB 2826**

C 144 L 98

Authorizing distribution of nonhighway vehicle funds to nonprofit off-road vehicle organizations.

By House Committee on Natural Resources (originally sponsored by Representatives Schoesler, Hatfield, Buck, Butler, Kessler and Robertson).

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

**Background:** The Interagency Committee for Outdoor Recreation (IAC) administers a nonhighway and off-road vehicle (ORV) activities program. Funds for this program come from the portion the IAC receives from registration of ORVs and motor vehicle fuel tax revenues. The IAC distributes a portion of these funds to state agencies, counties, municipalities, federal agencies, and Indian tribes through a competitive grants program. These public agencies use the grants they receive for planning, acquisition, development, maintenance, and management of nonhighway and off-road recreational opportunities.

**Summary:** Nonprofit off-road vehicle organizations are also eligible to receive IAC funds through the nonhighway and ORV activities program competitive grants process, if the funds are spent for projects or activities that benefit ORV recreation on lands once publicly owned that come into private ownership in a federally-approved land exchange completed between January 1, 1998, and January 1, 2005.

**Votes on Final Passage:**

House	96	0
Senate	43	0

**Effective:** June 11, 1998

**ESHB 2830****PARTIAL VETO**

C 286 L 98

Implementing recommendations of the land use study commission.

By House Committee on Government Reform & Land Use (originally sponsored by Representatives Reams, Romero and Lantz; by request of Land Use Study Commission).

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

**Background:** Growth Management Act. The Growth Management Act (GMA) requires all counties and cities to designate and protect critical areas and designate agricultural, forest, and mineral resource lands, and imposes additional requirements on the faster growing counties. A county may also choose to be subject to the additional re-

quirements. A city follows the lead of the county in which it is located. Counties and cities that are subject to all the requirements of the GMA are typically referred to as counties and cities planning under the GMA.

The primary planning requirement under the GMA is the adoption of comprehensive plans. A plan must include the following elements:

- a land use element;
- a housing element. The housing element must make adequate provisions for existing and projected needs of all economic segments of the community;
- a capital facilities plan element;
- a utilities element;
- a rural element; and
- a transportation element. The transportation element must include a number of sub-elements. These include an inventory of air, water, and ground transportation facilities and services, including transit alignments and general aviation airport facilities.

The GMA contains 13 goals to guide the development of comprehensive plans. These include the reduction of sprawl, the encouragement of development in urban areas, and the encouragement of the availability of affordable housing.

Counties and cities planning under the GMA must adopt development regulations to assure the conservation of designated resource lands. The regulations must assure that the use of lands adjacent to resource lands will not interfere with the continued use of the resource lands for the production of food, agricultural products, or timber, or for the extraction of minerals. Specifically, counties and cities must require that all plats, short plats, development permits, and building permits issued for development activities on, or within 300 feet of, resource lands contain a notice that the property is within or near resource lands on which a variety of commercial activities may occur that are not compatible with residential development.

In 1997, legislation was enacted addressing the designation, production, and conservation of mineral resource lands. The Governor vetoed the bill and asked the Land Use Study Commission to address the concerns raised.

Counties and cities planning under the GMA must review their comprehensive plans and development regulations by September 1, 2002, and then at least every five years to ensure that the plan and regulations comply with the GMA.

Annexation. Several methods are available for cities and towns to annex surrounding areas. The primary methods are the petition method and the election method.

In 1997, legislation was enacted expanding the circumstances in which a city could annex "islands" - territory largely surrounded by a city - without an election or petition from property owners. Code cities, which previously had authority to annex islands under 100 acres in size, were given authority to annex larger islands in existence before June 30, 1994. Non-code cities were authorized to

annex islands if the island (regardless of size) existed before June 30, 1994. No provision was made to allow a referendum on island annexations by non-code cities, such as is permitted for code cities.

Permit Time Lines. In 1995, as part of regulatory reform, legislation was enacted integrating environmental review with growth management planning and streamlining local permitting. One of the provisions required cities and counties planning under the GMA to make decisions on project permits within 120 days after a project application is complete. Another provision waived liability for a city or county that fails to meet the time lines. The 120-day time line and liability waiver provisions expire on July 1, 1998. The Legislature directed the Land Use Study Commission to study the 120-day time line and report to the Legislature.

**Summary: Growth Management Act.** The goals of the GMA are modified. With respect to urban growth, language is added that urban growth areas should have concentrated employment centers, separated by critical area buffers, and need not be uniformly urban in nature.

The housing element requirement of comprehensive plans is amended to include affordable housing and adequate housing located within reasonable commuting distances to employment centers.

The inventory of transportation facilities and services required in the transportation element of comprehensive plans is expanded to include railways and state-owned facilities.

The requirement for notice on plats and permits issued for development activities near designated resource lands is expanded to activities within 500 feet, instead of 300 feet, of the resource lands. The notice for mineral lands must also inform that an application might be made for mining-relating activities.

As part of the required five year review of comprehensive plans, a county and city must review its mineral resource lands designations and regulations. In its review, the county and city must consider new information, including data from the Department of Natural Resources relating to mineral resource deposits and new or modified model development regulations for mineral resource lands prepared by the Department of Natural Resources, the Department of Community, Trade, and Economic Development, or the Washington State Association of Counties.

Annexation. The date limitation for annexation of "islands" of under 100 acres by non-code cities is removed. Both code and non-code cities may annex islands of under 100 acres without regard to the date the island was created. Island annexations by non-code cities are made subject to referendum, consistent with the referendum requirements for code cities.

Permit Time Lines. The expiration date for 120-day permit time line requirement and the waiver from liability

for a local government that fails to meet the time requirement is extended to June 30, 2000.

**Votes on Final Passage:**

House	96	0	
Senate	42	1	(Senate amended)
House	98	0	(House concurred)

**Effective:** June 11, 1998

**Partial Veto Summary:** The Governor vetoed the provisions modifying the GMA urban growth goal and the housing and transportation elements of comprehensive plans.

**VETO MESSAGE ON HB 2830-S**

April 2, 1998

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

Ladies and Gentlemen:

I am returning herewith, without my approval as to sections 4 and 6, Engrossed Substitute House Bill No. 2830 entitled:

"AN ACT Relating to recommendations of the land use study commission;"

This bill mostly reflects the consensus recommendations of the Land Use Study Commission (LUSC), which consists of representatives from a full spectrum of land use interests, including business, agriculture, local and state government, neighborhood activists and environmentalists. As I have stated before, LUSC provides a great framework for the debate over how best to improve the state's Growth Management Act. I commend the members of LUSC for all of their hard work. LUSC has been extremely effective, and I am disappointed that the Legislature did not authorize its continuation, or authorize another forum within which complex land use and environmental issues can be thoroughly debated and discussed.

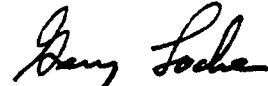
When I vetoed HB 1472 last year, I asked LUSC to review the issue of mineral resource lands designations. The Legislature also asked LUSC to review the 120-day permit timeline. This bill reflects LUSC's response to our requests. The bill also makes some technical changes to the GMA annexation provisions.

While ESHB 2830 reflects the consensus recommendations which I support, I cannot sign the bill in its entirety. The language added to sections 4 and 6 amending the goals of the Growth Management Act does not necessarily make bad planning goals, but I am concerned about the implementation of those changes and vague language. For example, would the language in sections 4 and 6 mean that cities and counties who have completed their GMA plans and regulations would have to revisit them to ensure that the new goals are addressed? If so, what is the cost? What does "reasonable commuting distances" mean? In some parts of the country, great distances are acceptable commutes. These two new sections could invite more litigation and create more confusion surrounding GMA. In addition, section 6 makes changes to the same statute amended by HB 1487, which I signed into law on March 27, 1998.

For these reasons, I have vetoed sections 4 and 6 of Engrossed Substitute House Bill No. 2830.

With the exception of sections 4 and 6, Engrossed Substitute House Bill No. 2830 is approved.

Respectfully submitted,



Gary Locke  
Governor

**E2SHB 2831**  
**PARTIAL VETO**

C 287 L 98

Requiring electric utilities to unbundle the costs of their assets and operations.

By House Committee on Energy & Utilities (originally sponsored by Representatives Crouse and Mielke).

House Committee on Energy & Utilities  
 House Committee on Appropriations  
 Senate Committee on Energy & Utilities

**Background:** The electricity industry is changing. The convergence of multiple influences at the federal, state, and market levels, as well as technological advances, have made it increasingly feasible for at least some retail electricity customers to purchase parts of their electrical service from different suppliers.

In Washington, a variety of utility programs allow some utility customers either to purchase electricity from alternate suppliers or to have their utility purchase electricity for them at market-based rates. Most retail electricity customers, however, currently pay a set rate for a package of electrical services, the components of which are not separately identified on bills. Examples of the components include the electricity itself, delivery services, metering and billing, customer services, general administration and overhead, and charges for programs to support conservation or the use of renewable resources.

As existing programs indicate, the law does not prevent electrical utilities from offering their retail customers the choice of purchasing parts of their service from alternate providers. In recent years, however, there has been considerable public debate about whether the state should require electrical utilities to give their customers the opportunity to purchase one or more of the components of electrical service from different suppliers and, if so, what the parameters of that requirement should be.

As part of the debate, several concerns have been raised about the pricing of the individual components of service. Since, for the most part, utilities are providing retail customers with bundled service, there has been no need for utilities to agree upon definitions of the various components of electrical service, or to attribute costs to those components or across classes of customers, in a similar manner. Consequently, it is unknown how widely, if at all, the definitions and cost attribution methods differ among utilities.

Investor-owned electrical utilities are regulated by the Washington Utilities and Transportation Commission. An electrical utility that is operated by a unit of local government (such as a municipality, public utility district, irrigation district, or port district), or by a rural electric cooperative or mutual association, is regulated by its elected governing body. Utilities regulated by elected governing

bodies are sometimes referred to as "consumer-owned utilities."

The state auditor audits public accounts, including those of local governments.

The cost per kilowatt hour of producing hydroelectric power usually is considerably lower than the cost per kilowatt hour of producing electricity using other renewable resources.

**Summary:** Every electric utility must unbundle, and prepare a cost study and a service quality and reliability report. "Unbundle" means to separately identify, and publish the accounting, functionalization, classification, and assignment or allocation, of the costs of electrical service.

**Unbundling.** At a minimum, an electric utility must include in the unbundling the accounting treatment for generation and energy supply, delivery services, metering and billing, customer account services, programs to support conservation or renewable resources other than hydroelectric power, general administration and overhead, and taxes. Within the category of delivery services, an electric utility must separately identify transmission, distribution, and control area services. A utility must functionalize costs separately for generation and energy supply, transmission, distribution, and other, must classify costs separately for at least energy and capacity; and must assign or allocate costs separately for residential, small commercial, industrial, and other.

**Cost Studies, Service Quality and Reliability Reports, and Filings.** By September 30, 1998, each investor-owned electric utility serving more than one retail customer must file a cost study and a service quality and reliability report with the Washington Utilities and Transportation Commission (WUTC), which the WUTC must review in an open public meeting. The WUTC is to determine whether the filings meet the requirements of the act and to identify any issues in dispute.

By September 1, 1998, each consumer-owned electric utility must submit a cost study and a service quality and reliability report to its governing body in an open public meeting. The governing body is to determine whether the study and report meet the requirements of the act. By October 1, 1998, consumer-owned utilities must submit a cost study and a service quality and reliability report to the state auditor, who must analyze and summarize the studies and reports. The state auditor is explicitly authorized to consult with the WUTC, the Department of Community, Trade, and Economic Development, the electric utilities, and others in analyzing and summarizing the studies and reports.

The cost studies must include the following documentation:

- (1) a description of the fundamental cost theory used;
- (2) a detailed description of the classifications, functions, and assignments or allocations of electrical service unbundled;

(3) the costs attributed to each of these classifications, functions, and assignments or allocations, and, if proportional attribution of costs between classifications, functions, and assignments or allocations is necessary, the proposed method of attribution;

(4) for utilities that operate in more than one state, the costs attributable to operations in Washington;

(5) for each class of retail electric customers, the method by which the utility calculated costs, and classified, functionalized, and assigned or allocated costs;

(6) if the utility used marginal costs for the classifications, or assignments or allocations, the rationale for this choice; and

(7) the time period over which the cost data were compiled.

The WUTC will determine whether an investor-owned utility is to use the data from the cost study used to formulate the utility's current retail rates, or from some other cost study. The governing body will make a similar determination for a consumer-owned utility.

To the extent the data are readily available, the service quality and reliability reports must contain the following information: (1) the level of customer satisfaction as measured by customer surveys (and the report must include a copy of the survey form or script, if available); (2) the number of customer complaints filed during a year; (3) the number of minutes, on average, a customer or feeder line is without power during a year; and (4) the number of times, on average, a customer or feeder line is without power during a year.

Report to the Legislature. By December 1, 1998, the WUTC and state auditor are to submit a joint report on the results of the cost studies and service quality and reliability reports to the Energy and Utilities Committees of the House and Senate. The joint report is to include a summary of the cost studies submitted by electric utilities, and observations regarding the consistency or lack of consistency among utilities in the methods of classification, functionalization, and allocation, and in descriptions of unbundled costs. In addition, the WUTC is to describe any issues arising from the studies and reports submitted by investor-owned utilities. Similarly, the joint report is to include a summary of the service quality and reliability reports submitted by electric utilities, and observations regarding the consistency or lack of consistency among utilities in the amount and kinds of information available regarding service quality and reliability. Finally, the joint report is to include an examination of alternative formats for simple, standardized disclosure of the fuel mix, air emissions, and other environmental impacts of generating resources.

Small Utilities. The Legislature finds that small utilities operate on a nonprofit basis and typically serve rural areas where the cost of providing service exceeds that of urban areas, that most small utilities do not themselves purchase electricity and related products and services individually, and that the additional expense of unbundling

and preparing service quality and reliability reports is likely to significantly outweigh the potential benefit to small utilities.

Small utilities are exempt from the act, unless the governing body of a small utility determines that the utility should comply with any or all of the act's provisions. A small utility is defined as a consumer-owned utility with no more than 25,000 electric meters in service, or an average of no more than seven customers per mile of distribution line. A small utility whose governing body has determined that the utility should unbundle is encouraged, but not required, to submit a cost study and a service quality and reliability report to the state auditor.

Large Municipal Utility. The largest municipal utility must report the following information to its governing body: (1) the ratio of the utility's customers to its employees, and changes that have occurred in that ratio over the previous 10 years; and (2) the annual sources of funding and the amount of annual expenditures, including federal funds, by the utility on conservation, renewable resources, and low-income weatherization and bill-paying programs, over the previous 10 years. The part of the report addressing (2) must describe: the amount of electricity saved by the conservation programs; overhead costs to administer the programs; and the overhead cost per low-income unit weatherized, as compared to the overhead costs of comparable programs administered by the state.

Miscellaneous. These provisions explicitly do not require an electric utility to establish new rates or to adopt new rate-making methods, and do not require the WUTC to approve new revenue levels for investor-owned utilities. These provisions neither expand nor limit the authority of the WUTC to conduct hearings on disputed issues identified in reviewing the studies and reports submitted by investor-owned utilities. Finally, nothing in these provisions is to be construed as conferring on any state agency jurisdiction, supervision, or control over any consumer-owned utility.

Numerous additional terms are defined.

**Votes on Final Passage:**

House	77	17	
Senate	42	5	(Senate amended)
House	86	12	(House concurred)

**Effective:** April 2, 1998

**Partial Veto Summary:** The Governor vetoed provisions requiring the largest municipal utility to report the following information to its governing body: (1) the ratio of the utility's customers to its employees, and changes that have occurred in that ratio over the previous 10 years; and (2) the annual sources of funding and the amount of annual expenditures, including federal funds, by the utility on conservation, renewable resources, and low-income weatherization and bill-paying programs, over the previous 10 years. The part of the report addressing (2) was to have described: the amount of electricity saved by the conservation programs; overhead costs to administer the

programs; and the overhead cost per low-income unit weatherized, as compared to the overhead costs of comparable programs administered by the state.

**VETO MESSAGE ON HB 2831-S2**

April 2, 1998

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 Second Substitute House Bill No. 2831 entitled:

“AN ACT Relating to unbundling the components of electrical service;”

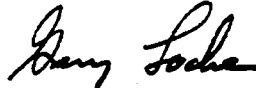
E2SHB 2831 requires utilities to provide information on the components of electricity costs and on their histories of system reliability and customer satisfaction. This information, to be assembled and reported by the Washington Utilities and Transportation Commission and the State Auditor, should prove useful in evaluating our current electric system and proposed changes to it.

Section 5 of the bill would single out one utility, Seattle City Light, and require it to produce additional information. No justification is offered for why one utility should be treated differently from others. Moreover, the information requested is already available and has been provided to interested parties. Section 5 is therefore unnecessary.

For these reasons, I have vetoed section 5 of Engrossed Second Substitute House Bill No. 2831.

With the exception of section 5, Engrossed Second Substitute House Bill No. 2831 is approved.

Respectfully submitted,



Gary Locke  
Governor

**ESHB 2836**

C 60 L 98

Creating a pilot program for the recovery of fish runs.

By House Committee on Natural Resources (originally sponsored by Representatives Pennington, Mielke, Hatfield, Doumit, Buck, Boldt, Dunn, Alexander, Carlson, Kessler, McCune, Thompson and Conway).

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

**Background:** The National Marine Fisheries Service has listed some salmon and steelhead runs in Washington as being threatened or endangered under the federal Endangered Species Act. A number of future listings are also being considered in the state. Southwestern Washington is an area of the state where steelhead runs have become depleted. A Lower Columbia Steelhead Conservation Initiative has been undertaken to try to restore the steelhead runs in that area.

**Summary:** A pilot program is created in southwest Washington within the habitat area classified as evolutionarily significant unit 4 (ESU 4) by the National Marine Fisheries Service (NMFS) to address steelhead recovery. The pilot program will operate within Clark, Cowlitz, Lewis, Skamania, and Wahkiakum counties.

**Management Board Composition.** A management board consisting of 15 voting members is created for ESU 4. The voting members consist of one county commissioner or a designee from each of the five participating counties selected by the county legislative authority; one member representing the cities within ESU 4 selected by those cities; one member representing the Cowlitz tribe appointed by the tribe; one state legislator elected from a legislative district contained within ESU 4 selected by the state legislators representing that area; one member representing hydro utilities nominated by hydro utilities within ESU 4 and appointed by the five county commissioners or their designees; one member representing the environmental community who resides in ESU 4 nominated by the environmental community and appointed by the five county commissioners or their designees; and five additional members appointed by the five county commissioners or their designees. At least one of the five additional members appointed by the county commissioners or their designees must represent private property interests.

The chair of the management board is chosen by the five county commissioners, or their designees, and the legislator serving on the board. The county commissioners must consider recommendations from interested parties when making appointments.

The management board is required to appoint a technical advisory committee which includes a representative of each of the departments of Ecology, Fish and Wildlife, Transportation, and Natural Resources appointed by the directors of those agencies. The management board may appoint other people to the technical advisory committee as needed.

**Management Board Responsibilities.** The management board created within ESU 4 is responsible for implementing the habitat portion of the Lower Columbia Steelhead Conservation Initiative (Initiative) approved by the state and the NMFS. The management board may receive and disburse funds for the approved Initiative. The management board is required to: participate in the development of a recovery plan to implement its responsibilities for implementing the habitat portions of the Initiative; prioritize and approve, as appropriate, projects and programs related to the recovery of the these steelhead runs, including the funding of the projects and programs; establish criteria for funding projects and programs based upon their likely value in steelhead recovery; coordinate local government efforts prescribed in the recovery plan; and assess the factors for decline along each prioritized stream listed in the Initiative.



In developing criteria for the funding of programs and projects, the management board may consider local economic impacts, but may not consider jurisdictional boundaries or factors related to jurisdictional population. The management board is encouraged to utilize state and local expertise, including that of volunteer groups, interest groups, and units of local government in assessing the factors for decline along the prioritized streams. The management board must consider local watershed efforts and activities and habitat conservation plans in the implementation of the recovery plan.

The management board may not exercise authority over land or water within the individual counties or preempt the authority of units of local government. Any of the participating counties may continue its own efforts for restoring steelhead habitat. The ability to enter into inter-local agreements is unaffected.

The management board may work in cooperation with the state and the NMFS to modify the Initiative, or to address habitat for other aquatic species that are subsequently listed under the Endangered Species Act.

The management board may: hire and fire staff, including an executive director; enter into contracts; accept grants and other moneys; disburse funds; pay all necessary expenses; choose a fiduciary agent; and make recommendations to cities and counties regarding potential code changes and the development of programs and incentives upon request.

No action may be brought against a management board member, the management board, or any of its agents, officers, or employees for noncontractual acts or omissions in carrying out its responsibilities.

The management board must report on a quarterly basis to the legislative bodies of the five participating counties and the state natural resource-related agencies on its progress. The pilot program terminates on July 1, 2002.

**Votes on Final Passage:**

House	98	0	
Senate	49	0	(Senate amended)
House	95	0	(House concurred)

Effective: March 19, 1998

**HB 2837**

C 51 L 98

Identifying property abandoned by the department of fish and wildlife.

By Representatives Clements, Skinner and Buck.

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

**Background:** The Department of Fish and Wildlife owns and manages a number of different properties in the state. These properties include land and facilities devoted to fish

hatchery operations and lands managed for the benefit of wildlife species.

**Summary:** The Legislature finds that the Department of Fish and Wildlife manages property in the state where the department no longer uses the property for fish hatchery operations and where the location of the property impedes further development of air transportation facilities. The department must identify all such properties in the state and must work with local governments in the counties where there are such properties to explore land exchanges to benefit wildlife and to facilitate improved air transportation.

**Votes on Final Passage:**

House	95	0
Senate	41	0

Effective: March 18, 1998

**2SHB 2849**

C 319 L 98

Enhancing student achievement accountability.

By House Committee on Appropriations (originally sponsored by Representatives Talcott, Johnson, B. Thomas, Kastama, L. Thomas, Benson, Lambert, Alexander, Robertson, Pennington, McDonald, Lisk, Cairnes, Radcliff, Ballasiotes, Zellinsky, Backlund, D. Schmidt, Delvin, Carlson, Sump, Chandler, Smith and Thompson).

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

**Background:** On November 1, 1997, the Commission on Student Learning presented to the Legislature the commission's recommendations on kindergarten through fourth grade reading accountability. The recommendations were developed by the commission's accountability task force and adopted unanimously by the commission. In its letter transmitting the recommendations, the commission stated that it would complete recommendations for the overall accountability system in 1998, including provisions for rewards, assistance and intervention. The commission recommended that the Legislature defer action on rewards and sanctions until the full report is completed.

The commission and its task force recommended that each school board develop a three-year, district-wide goal to decrease by at least 25 percent the percentage of students who did not meet the fourth grade reading standard on the fourth grade assessment. Each school board would also specify annual district-wide increments toward the goal. Each elementary school in the district would establish its own goal for fourth grade students. Those goals would be approved by the school board. The aggregate of

the goals adopted by each school would meet or exceed the district-wide improvement goal.

The commission and its task force also recommended a system for each school board to use to disseminate information about its goals to the Superintendent of Public Instruction (SPI), the media, parents, guardians, and other interested parties. Finally, the commission and its task force recommended that, by the end of the three-year period covered by the goals, the SPI and the school districts review progress toward achieving the goals and reset goals for the next three-year period.

**Summary:** Establishment of Reading Accountability Goals. Each school board must meet new requirements to improve young students' reading skills and to report on the district's improvement efforts to parents and other interested parties. Each school board must meet the following requirements:

- Establish a three-year district-wide goal to decrease by at least 25 percent the number of students who did not meet the reading standard on the fourth grade assessment of student learning;
- Specify yearly district-wide percentage improvements toward the goal;
- Approve three-year goals adopted by each elementary school in the district. The aggregate of the goals adopted by each school must meet or exceed the district-wide improvement goal;
- Use the district's results on either the 1997 or 1998 fourth-grade test as the baseline for improvement; and
- Report on the district's reading improvement goals and on its plans for and progress toward meeting the goals. The reports will be distributed to parents, community members, the Superintendent of Public Instruction (SPI) and the press. The frequency of reporting to each entity and the contents and method of communication for each report are specified.

School district and elementary school reading improvement goals must be developed by December 15, 1998. By December 1, 2000, the SPI will report to the House and Senate Education Committees on the progress that has been made toward achieving the three-year reading goal. The report will include recommendations on setting reading goals for the ensuing three years.

These requirements expire on July 1, 2006.

Administration of Assessments. Beginning with the 1998-99 school year, districts must administer the second grade reading test annually during the fall. Existing language that encouraged districts to conduct a second grade test is removed.

The SPI must prepare and conduct a norm-referenced standardized achievement test in reading and mathematics for third grade students. The results of the tests will be provided to the students' parents. The SPI will report to the Legislature annually on the third grade, rather than fourth grade, test results.

Reporting Assessment Results. By September 10 of each year beginning in 1998, the SPI must report the results of the fourth grade assessment to schools, school districts, and the Legislature. The SPI must also post test results for each school on the superintendent's Internet site. The reports will include results by school and school district, including changes over time.

These requirements expire on July 1, 2006.

**Votes on Final Passage:**

House	98	0	
Senate	47	1	(Senate amended)
House	98	0	(House concurred)

**Effective:** June 11, 1998

**SHB 2858**

C 145 L 98

Reflecting current practice for payment of taxes on rental cars.

By House Committee on Transportation Policy & Budget (originally sponsored by Representatives Zellinsky and Fisher).

House Committee on Transportation Policy & Budget  
Senate Committee on Transportation

**Background:** Rental cars are exempt from the motor vehicle excise tax (MVET). In addition to the state's retail sales tax, an additional tax on each retail car rental must be assessed. Revenue generated by this additional tax is distributed in the same manner as MVET revenue.

**Summary:** When a rental car is no longer used for rental purposes, the rental car company must alter the year and the month tabs on the car's license plates to render the plates void of any designation of year and month. When the retail sale of the vehicle occurs, the MVET is assessed for a full 12 months.

The Department of Licensing must convene a study group which includes representatives from the Department of Revenue, the rental car industry, and the franchised vehicle dealers' industry. The study group must assess the impact on tax revenues imposed by the rental car sales tax and the rental car exemption. The group must also assess whether the tax currently set on rental car transactions provides revenue neutrality.

The study group must report its findings and recommendations to the transportation committees of the House of Representatives and the Senate by December 31, 1998.

**Votes on Final Passage:**

House	96	0	
Senate	49	0	(Senate amended)
House	96	0	(House concurred)

**Effective:** March 25, 1998

**ESHB 2871**  
**PARTIAL VETO**  
C 320 L 98

Creating a system of classifying land as agricultural land with long-term commercial significance for tax purposes.

By House Committee on Finance (originally sponsored by Representatives Parlette, Chandler, Wensman, Anderson, Reams, Clements, Romero, Linville, Gardner and Thompson).

House Committee on Finance  
Senate Committee on Ways & Means

**Background:** The Growth Management Act (GMA) requires certain cities and counties to develop comprehensive plans. As part of this process, they must designate, as agricultural land, appropriate lands that are not already characterized by urban growth and have long-term significance for the commercial production of food or other agricultural products. In addition, cities and counties are required to adopt development regulations to conserve these lands.

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. The two remaining categories are in the timber tax law: classified and designated forest land.

Land eligible for current use taxation as farm and agricultural land is land:

(1) devoted primarily to commercial agricultural purposes that is:

- greater than 20 acres;
- less than 20 acres and greater than five acres and produces gross farm income greater than \$200 per acre for three of five years; or
- less than five acres and produces \$1,500 in farm gross income for three of five years; or

(2) designated as agricultural lands of long-term commercial significance under the GMA; or

(3) zoned as agricultural land under the GMA and not within an urban growth area.

Applications for farm and agricultural classification are made to the county assessor. A denial by the assessor may be appealed to the County Board of Equalization.

The land remains in the farm and agricultural current use classification as long as it continues to meet the criteria for classification. Land is removed from the program at the request of the owner, by sale or transfer to an ownership making the land exempt from property tax, or by sale or transfer of the land to a new owner, unless the new owner signs a notice of classification continuance. The

assessor may also remove land from the program if the land no longer meets the criteria for classification.

When property is removed from farm and agricultural classification, back taxes, plus interest, must be paid. Back taxes represent the tax benefit received over the most recent seven years plus interest. In some cases an additional penalty of 20 percent of the back taxes is also imposed. There are some exceptions to the requirement for payment of back taxes.

Transfers without payment of back taxes can be made between all categories of current use valuation except for transfers out of open space.

**Summary:** A new current use program is created for land designated as agricultural land with long-term commercial significance by counties and cities planning under the Growth Management Act. To qualify, the land must be devoted primarily to agricultural uses and not used for residential, industrial, or other commercial purposes. Also, the city or county must have adopted development regulations required under the GMA to conserve the agricultural land.

The assessor is instructed to automatically classify all qualified agricultural land into the new current use program. Land in the existing open space farm and agricultural land program that qualifies for the new program must be reclassified into the new program without payment of back taxes. The current use value is determined in the same manner as the existing open space program for farm and agricultural land.

Land is removed from the current use program if the county or city removes the designation as agricultural land with long-term commercial significance or the use of the land is changed to a use not permitted for designation as agricultural land with long-term commercial significance.

There is no recovery of the tax benefit enjoyed by the property when it is removed from the new program. However, a portion of the back taxes may become due when land that was reclassified into the new program from the existing open space farm and agricultural land program is removed. For each year the land is in the new program one year of back taxes from the old program is abated.

Land removed from the agricultural land with long-term commercial significance current use program may be reclassified into the open space farm and agricultural land current use program without payment of back taxes.

Language is deleted that qualifies all land within an agricultural zone located outside an urban growth area for current use valuation.

**Votes on Final Passage:**

House	96	0
Senate	47	0

**Effective:** June 11, 1998

**Partial Veto Summary:** The Governor vetoed sections that created a new current use property tax program for

land designated as agricultural land of long-term commercial significance by counties and cities planning under the Growth Management Act.

### VETO MESSAGE ON HB 2871-S

April 3, 1998

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 through 6 and 10 through 13, Engrossed Substitute House Bill No. 2871 entitled:

"AN ACT Relating to current use valuation;"

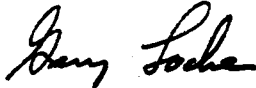
Sections 1 through 6 and 10 through 13 of Engrossed Substitute House Bill No. 2871 would create a new current use property tax valuation program for "agricultural lands of long-term commercial significance." County assessors would automatically classify or reclassify land meeting the requirements of the bill. Removing land from this classification would trigger a penalty equal to seven years of back-taxes, reduced by one year for every year the land remains in the classification.

I believe that the program would set a bad precedent by allowing certain property owners to avoid paying several years of taxes, and pay no back-taxes if the land is later developed for non-agricultural purposes. The vetoed sections of this bill could also make planning under the Growth Management Act more contentious.

For these reasons, I have vetoed sections 1 through 6 and 10 through 13 of Engrossed Substitute House Bill No. 2871.

With the exception of sections 1 through 6 and 10 through 13, Engrossed Substitute House Bill No. 2871 is approved.

Respectfully submitted,



Gary Locke  
Governor

### 2SHB 2879

C 249 L 98

Facilitating the review and approval of fish enhancement projects.

By House Committee on Appropriations (originally sponsored by Representatives Buck, Butler, Chandler, DeBolt, Sehlin, Hatfield, McCune, Doumit, Kessler, Morris, Kenney, Constantine, Ogden, Regala, Tokuda, Anderson, Thompson and Conway).

House Committee on Natural Resources  
House Committee on Appropriations  
Senate Committee on Natural Resources & Parks  
Senate Committee on Ways & Means

**Background:** A variety of in-water projects are carried out to enhance salmon and steelhead habitat. Such projects include improvement of fish passage, bank stabilization to prevent erosion and siltation, placement of large woody debris, and the creation of overwintering ponds. These projects are subjected to a review and approval process that includes the following steps:

- hydraulic projects approval;
- possible State Environmental Policy Act review; and
- differing local requirements.

A report to the Legislature from the Regional Fisheries Enhancement Group Program Citizens Advisory Board found that local permitting requirements can differ widely. These processes and fees can frustrate local volunteer efforts and impede efforts to fit within the "work window" intended to ensure that in-water projects do not harm critical life stages for salmonids.

The Legislature addressed a similar issue pertaining to review and approval of watershed restoration projects. In 1995, the Legislature required the Conservation Commission to develop, in consultation with other state agencies, tribes, and local governments, a consolidated application process for permits for a watershed restoration project developed by an agency, or sponsored by an agency on behalf of a volunteer organization. All agencies of the state and local governments are required to accept the single application developed by the Conservation Commission, to process the application without charge, and to issue permit decisions within 45 days. Watershed restoration projects are exempted from substantial development permits under the Shoreline Management Act.

**Summary:** The review and approval of fish habitat enhancement projects is facilitated by identifying projects that are eligible for expedited review. The Department of Ecology is directed to modify the joint aquatic resource permit application (JARPA) form to incorporate the process established for expedited review of certain fish habitat enhancement projects.

Fish habitat enhancement projects eligible for expedited review are limited to those that:

- eliminate fish passage barriers;
- restore eroded or unstable stream banks; or
- provide instream structures that benefit fish stocks.

The Department of Fish and Wildlife (DFW) may develop size and scale thresholds to determine whether eligible projects should be reviewed under an expedited process or the standard process.

Local governments are prohibited from requiring permits or charging fees for the review and approval of eligible projects.

Projects are approved in one of the following ways:

- by the DFW pursuant to the salmon enhancement program or the volunteer cooperative fish and wildlife enhancement program;
- by the sponsor of a watershed restoration plan as provided in by law;
- by the DFW as a department-sponsored fish habitat enhancement or restoration project;
- through the review and approval process for the jobs for the environment program;
- through the review and approval process for conservation district-sponsored projects;

## E2SHB 2880

- through a formal grant program established by the Legislature or the DFW for fish habitat enhancement or restoration; and
- through other formal review and approval processes established by the Legislature.

Hydraulic project approval is required for eligible projects, and must be applied for with a JARPA form. Project sponsors must provide a completed JARPA form to both the DFW and to each appropriate local government. A 15-day comment period is provided by the department so that comments can be made on the environmental impacts associated with the proposed project.

Within 45 days, the DFW will:

- issue the hydraulic project approval, with or without conditions;
- deny approval; or
- make a determination that the expedited review process is not appropriate for the proposed project.

The State Environmental Policy Act is amended to exempt those fish habitat enhancement projects eligible for expedited review from environmental review decisions. In addition, projects eligible for expedited review are presumed consistent with local shoreline master programs.

Requirements pertaining to planning commissions, planning and zoning in code cities, the Planning Enabling Act, growth management, the Shoreline Management Act, and the state building code are each amended to require that eligible fish habitat enhancement projects be reviewed according to the expedited permit review and approval process established for such projects. If an eligible fish habitat enhancement project is also a watershed restoration project, the project sponsor must follow the expedited process.

Authority is granted to the Department of Transportation to administer a grant program that assists state agencies, local governments, private landowners, and volunteer groups in the removal of fish passage barriers. Projects are reviewed by the Fish Passage Barrier Removal Task Force. The task force reports to the Legislature by January 1, 1999, regarding the progress in implementing the program.

The DFW is required to lead an effort, also involving the Conservation Commission, local governments, fish habitat enhancement project applicants, and other interested parties, to continue improving the permitting and approval process for fish habitat enhancement projects, and to report to the Legislature on the group's progress by December 1, 1998.

Counties and cities are not held responsible for adverse impacts resulting from a fish enhancement project that has been approved for expedited approval and has been exempted from the normal approval processes.

### Votes on Final Passage:

House	98	0	
Senate	48	0	(Senate amended)
House	98	0	(House concurred)

**Effective:** April 1, 1998

## E2SHB 2880

C 231 L 98

Creating a task force on agency vendor contracting practices.

By House Committee on Appropriations (originally sponsored by Representatives Clements, Dickerson, Backlund, Gombosky, Parlette, Gardner and Delvin).

House Select Committee on Vendor Contracting & Services

House Committee on Government Administration

House Committee on Appropriations

Senate Committee on Government Operations

Senate Committee on Ways & Means

**Background:** The procurement of personal service contracts is subject to various rules and reporting requirements. These rules and requirements, however, do not apply to fee-for-service and client-service contracts. Because these contracts are exempt, there are no uniform contracting guidelines governing the procurement of all personal service contracts in the social services area. Other states, such as Texas, have performed in-depth studies culminating in uniform contract guidelines for personal service contracts.

**Summary:** A nine-member task force on agency vendor contracting practices is selected by the director of the Office of Financial Management (OFM). The task force is charged with reviewing and suggesting legislative and administrative remedies to specific issues regarding fee-for-service and client-service contracts held by not-for-profits providing social services.

The task force is required to look at: 1) the adequacy of the laws regulating state contracts, including the exemption of fee-for-service and client-service contracts; 2) process improvements to ensure contract oversight, including the specific role of agencies in ensuring accountability of public moneys; 3) the scope of random audits performed by the State Auditor and the funding sources for these audits; and 4) several factors related to the adoption of uniform contract guidelines.

The task force staff will be employed by the OFM. Task force members are eligible to receive reimbursement for travel expenses. The task force is required to make a report of its findings and suggestions to the Legislature and to the director of the OFM by November 1, 1999.

These provisions expire January 1, 2000.

**Votes on Final Passage:**

House	98	0	
Senate	46	2	(Senate amended)
House	98	0	(House concurred)

Effective: June 11, 1998

**E2SHB 2881**

C 232 L 98

Auditing state contractors.

By House Committee on Appropriations (originally sponsored by Representatives Clements, Dickerson, Parlette, Gombosky, Backlund, Gardner, Delvin, O'Brien and Lambert).

House Select Committee on Vendor Contracting &amp; Services

House Committee on Government Administration

House Committee on Appropriations

Senate Committee on Government Operations

Senate Committee on Ways &amp; Means

**Background:** The Office of the State Auditor is required to oversee random audits of nongovernment entities who receive over \$300,000 in state funds for the provision of social services. State agencies are required to prepare lists of nongovernment entities that meet the audit criteria, and report the lists to the Office of the State Auditor. The state auditor is required to generate two groups of nongovernment entities who will be audited: (1) a randomly selected group which is statistically representative of the total number of nongovernment entities reported by the state agencies, and (2) a second group which is chosen according to listed risk-assessment factors. All required audits are performed by private CPAs, according to standards established by the state auditor.

Except for these procedures, the state auditor has limited authority to audit entities that receive public moneys through contract or grant in return for services even if there are indications that such an entity is not maintaining adequate financial records, or is misusing state money.

**Summary:** The process for random audits of state vendors is amended. The group of entities selected for audit according to the risk-assessment model are audited directly by the auditor, rather than by a licensed CPA of their choosing. In creating this audit group, the state auditor must consider audit findings of other nongovernment entities who provide services under the same state or federal program. The auditor is required to review the results of the audits of the risk-assessment group to determine if there is evidence of misuse of public moneys.

The state auditor is authorized to investigate vendors who provide services to state agencies or their clients where there is reasonable cause to believe that a misuse of state moneys has occurred. The state auditor may perform an audit according to agreed upon procedures consistent

with the standards of the American Institute of Certified Public Accountants. The State Auditor must report any criminal misuse of state moneys to the local prosecuting attorney, and may charge the contracting agency for the cost of the audit.

**Votes on Final Passage:**

House	98	0	
Senate	47	2	(Senate amended)
House	98	0	(House concurred)

Effective: June 11, 1998

**SHB 2885****PARTIAL VETO**

C 206 L 98

Increasing penalties for drunk driving.

By House Committee on Law & Justice (originally sponsored by Representatives Mulliken, Sheahan, Costa, McDonald, Backlund, Mielke, Smith, Boldt and Thompson).

House Committee on Law &amp; Justice

Senate Committee on Law &amp; Justice

**Background:** The drunk driving (DUI) law has a variety of criminal penalty provisions, including a number of mandatory minimum penalties. For a first DUI offense within five years, the mandatory minimum jail sentence is one day if the offender's blood alcohol concentration (BAC) was less than 0.15. For a first-time offender with a BAC of 0.15 or more, the mandatory minimum jail sentence is two days.

Courts have jurisdiction over DUI offenders for two years in order to supervise probationary sentences.

**Summary:** Alternatives to the mandatory minimum jail sentences for a first-time DUI offender are provided.

For a first-time offender with a BAC below 0.15, the court may order that in lieu of one day in jail the offender is subject to not less than 15 days of electronic home monitoring. The home monitoring must be paid for by the offender and may include breathalyzer testing and restrictions on alcohol consumption.

For a first-time offender with a BAC of 0.15 or more, the same electronic home monitoring option is available in lieu of the mandatory two days in jail, but the monitoring is for a minimum of 30 days.

The period of court jurisdiction over DUI offenders on probation is extended from two years to five years.

**Votes on Final Passage:**

House	96	0	
Senate	48	0	(Senate amended)
House	95	0	(House concurred)

Effective: June 11, 1998

**Partial Veto Summary:** The Governor vetoed a provision that restates the existing authority for local governments to submit claims to the state for reimbursement for the costs of implementing new programs.

**VETO MESSAGE ON HB 2885-S**

March 30, 1998

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

Ladies and Gentlemen:

I am returning herewith, without my approval as to section 2, Substitute House Bill No. 2885 entitled:

"AN ACT Relating to drunk driving;"

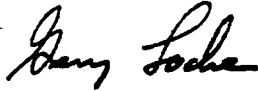
SHB 2885 allows fifteen to thirty-day periods of home confinement in lieu of one to two days in jail for first-time DUI offenders. This legislation will be effective in reducing the jail costs of local governments.

Section 2 of SHB 2885 would require that the Office of Financial Management verify claims from local governments for increased levels of services mandated by the act. This section would add an unnecessary additional bureaucratic layer to the existing statutory and procedural process for handling these claims. I will direct the Office of Financial Management and the Department of General Administration to work collaboratively with the appropriate legislative committees to ensure that timely and accurate information is provided to the Legislature.

For this reason, I have vetoed section 2 of Substitute House Bill No. 2885.

With the exception of section 2, Substitute House Bill No. 2885 is approved.

Respectfully submitted,



Gary Locke  
Governor

**EHB 2894**

**PARTIAL VETO**

C 321 L 98

Reallocating motor vehicle excise tax and general fund resources for the purpose of transportation and local criminal justice funding and tax reduction.

By Representatives Huff, K. Schmidt, Robertson, Lisk, Carrell, Mastin, Sehlin, Dyer, Mitchell, Pennington, Talcott, Lambert, Buck, D. Schmidt, L. Thomas, Benson, Clements, Skinner, Ballasiotes, Delvin, Parlette, Cooke, Hickel, B. Thomas, Johnson, DeBolt, Hankins, Caines, Crouse, Wensman, Mielke, Sherstad, Honeyford, McCune, Koster, Dunn, McDonald, Reams, Sheahan, Sterk, Schoesler, D. Sommers, Bush, Chandler, McMorris, Boldt, Backlund, Mulliken, Van Luven, Radcliff, Alexander, Zellinsky and Thompson.

House Committee on Appropriations  
Senate Committee on Ways & Means

**Background:** The state imposes an excise tax for the privilege of using a motor vehicle on the highways of the

state. The tax is levied annually on the value of the vehicle. For trucks over 6,000 pounds, the value is determined by the sales price. For all other vehicles, the value is determined by the base manufacturer's suggested retail price (MSRP). These values are reduced each year according to a statutory schedule. For vehicles other than trucks under 6,000 pounds, the value remains at 100 percent in the second year of service after which it is reduced by 8 or 9 percent of the MSRP each year until the value is 10 percent.

The rate for motor vehicles and log trucks is 2.2 percent, consisting of a basic rate of 2.0 percent and a surtax of 0.2 percent. In addition, a clean air excise tax of \$2 is imposed. The tax for truck-type power units used in combination with trailers for loads over 40,000 pounds, unless used to haul logs, is subject to an additional surtax of 0.58 percent for a total rate of 2.78 percent. The trailer is exempt.

The tax is in lieu of personal property taxes on motor vehicles. The tax does not apply to rental cars, which instead are subject to an additional sales tax on each rental, or to travel trailers and campers, which instead are subject to a separate tax of 1.1 percent.

The revenues generated by the motor vehicle excise tax (MVET) are deposited into various accounts for various purposes. Revenues remaining after all of these distributions are retained in the state general fund and are subject to appropriation for general governmental purposes.

- A portion of the MVET is deposited into the county criminal justice assistance account and the municipal criminal justice assistance account for local criminal justice purposes. Deposits into the accounts are limited to the previous year's deposit increased by the implicit price deflator. Funds available for deposit in excess of this limited amount are deposited into the violence reduction and drug enforcement account.
- A portion of the MVET is deposited into the municipal sales and use tax equalization account. Moneys in the account are distributed to cities imposing the sales tax to bring their total revenues up to 70 percent of the statewide average per capita sales tax. Any excess moneys are distributed to cities based on population. New cities are entitled to receive distributions beginning the first calendar quarter after their incorporation. The distribution is based on an estimate of the revenues they would have received if they had imposed the tax the entire year. Because many new cities have been incorporated over the last few years, the amount of money available for distribution has been insufficient to make all the distributions. No excess funds distributions have been made since 1995, and funds are insufficient to make the distributions to bring cities up to the 70 percent average.

Local transit agencies are authorized to levy a motor vehicle excise tax of up to 0.725 percent which is credited

against the state tax. The revenues generated by the local tax are distributed to the local transit agencies to the extent that the agencies match the tax revenues with revenues from other sources. These other sources include a sales tax of up to 0.6 percent, a household tax/utility tax of up to \$1 per month per household unit, and a business and occupation tax. However, cities may not use the sales tax revenues as a match for local MVET revenues. The difference between the amount that transit agencies match and a hypothetical local rate of 0.815 percent is deposited in four transit accounts and the transportation fund.

Under Initiative 601, the annual growth in state general fund expenditures is limited to the average rate of inflation and population increase of the prior three fiscal years. The limit is lowered for moneys that are transferred from the general fund to another fund or account. In addition, Initiative 601 requires the Legislature to fully reimburse local governments by appropriation for the cost of new programs that the Legislature may impose.

The Community Economic Revitalization Board (CERB) makes grants and loans to political subdivisions for roads, bridges, and other public facilities.

**Summary:** A portion equal to 39.5 percent of MVET revenues that previously were deposited into the general fund is deposited into the motor vehicle fund beginning January 1, 1999.

The county criminal justice assistance account and the municipal criminal justice assistance account are funded in part by general fund revenues beginning in fiscal year 2000. Total deposits from the general fund and MVET revenues is 10 percent more than the amount of MVET revenues that would have otherwise been deposited into the accounts. The general fund deposits are increased each year by the fiscal growth factor under Initiative 601. The inflationary limit is removed from the remaining MVET deposits to the criminal justice assistance accounts.

A credit is authorized against the MVET for personal use vehicles equal to the lesser of \$30 or the amount of tax, effective with July 1999 license renewals. Personal use vehicles are passenger cars, trucks under 6,000 pounds, and motorcycles that are owned by individuals and not by business. (The credit is financed from MVET revenues that previously were deposited into the general fund, in the county criminal justice assistance account, and in the municipal criminal justice assistance account.)

The depreciation schedule for vehicles other than trucks under 6,000 pounds is modified to begin the depreciation in the second year of service.

A new MVET distribution starting at \$10 million per year is provided for distressed counties for criminal justice and other purposes beginning in fiscal year 2000.

The MVET distribution for city sales tax equalization is increased by \$4 million beginning in fiscal year 2000.

The excess revenues under the county sales tax equalization program is provided to the CERB. Fifty percent is used to provide financial assistance under existing statu-

tory CERB distributions. The other 50 percent is used to provide financial assistance to distressed counties that have experienced extraordinary costs due to the location of major new business facilities or the substantial expansion of existing business facilities. If fund balances for this purpose exceed \$25 million, the revenues are used to provide financial assistance under existing statutory CERB distributions.

Beginning in fiscal year 2000, cities with a population over 60,000 that own and operate municipal public transportation systems as of January 1, 1998, may use sales tax revenues as a match for local MVET revenues. These cities may use the revenues as a match against 25 percent of the local MVET revenues in fiscal year 2000, increasing the match to 100 percent of local MVET revenues in fiscal year 2003 and thereafter.

The MVET structure is consolidated. The basic 2.0 percent MVET tax rate and the 0.2 percent surtax rate are incorporated into one rate. Percentage distributions are changed to reflect the larger tax base. In addition, distributions to transit agencies are provided from the transportation fund rather than from the state general fund, and the percentage deposited into the transportation fund is increased to reflect this change.

The basic 1.0 percent travel trailer and camper tax rate and the 0.1 percent surtax rate are incorporated into one rate.

Initiative 601 is reenacted and reaffirmed. Initiative 601 does not apply to the act's reallocation of revenues. In addition, reimbursement to local governments for the costs of new programs may be made by increases in state distributions of revenue after January 1, 1998.

A joint committee is created to study the long-term transportation funding needs in the state. The committee must study the transportation needs of state and local government with the objective of developing a fair and predictable long-term funding system for state and local transportation needs. An interim progress report must be made to the Governor and the House and Senate fiscal committees by December 1, 1998, and a final report of its findings and recommendations must be made by December 1, 1999.

A maximum of \$1.9 billion in bonding authority is authorized for the location, design, right of way, and construction of state and local highway improvements.

The State Treasurer is required to lend \$25 million from the general fund to the motor vehicle fund to be repaid by July 1, 2001.

**Votes on Final Passage:**

House	56	41	
Senate	25	24	(Senate amended)
House	57	38	(House concurred)



## ESHB 2900

**Effective:** June 11, 1998

January 1, 1999 (Sections 1-4, 5-21, 23-30, 32-42, 44, & 45, if approved by the voters at the November 1999 general election)

July 1, 1999 (Section 4)

June 30, 2000 (Section 31)

**Partial Veto Summary:** The study of long-term transportation funding needs and the loan to the motor vehicle fund is vetoed.

### VETO MESSAGE ON HB 2894

April 3, 1998

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, 43, 47(1) and 48, Engrossed House Bill No. 2894 entitled:

"AN ACT Relating to the reallocation of motor vehicle excise tax and general fund resources for the purpose of providing transportation funding;"

Engrossed House Bill No. 2894 is a measure which significantly reduces general fund revenues derived from the motor vehicle excise tax; transfers motor vehicle excise tax money to transportation and some local government purposes; reduces the motor vehicle excise tax \$30 per vehicle; and changes the depreciation schedule for vehicles. Most of the bill was placed on the ballot by the Legislature and must be approved by the people this November to take effect. However, several sections were not referred to the people.

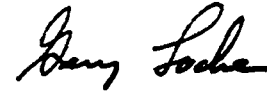
Section 22 of EHB 2894 would create a joint committee to study long-term transportation funding needs in our state. I agree with the need for the study since the ballot measure does not address those needs. However, the composition of the committee would be unbalanced and not representative of our citizens. The time frame for completing the study would be too short and no money was provided to complete this important task. The committee provided for in Engrossed Substitute Senate Bill No. 6456, which I approved today, is fully funded and a better mechanism for looking at our long-term transportation needs. I have also vetoed section 47 (1) of EHB 2894 which establishes the effective date for section 22 and is unnecessary.

Section 43 of EHB 2894 would provide a highly unusual "loan" of \$25 million from the state general fund to the motor vehicle fund for certain engineering, design, and right-of-way acquisition costs related to road construction projects. Apparently, the money was for preliminary work on new projects in anticipation of the referendum's passage. The loan is unnecessary because the Department of Transportation can proceed with that type of work without a "loan". The loan was to be paid back by July 1, 2001; however, there is nothing to assure that it would ever be repaid. In addition, appropriation authority would be necessary to spend the "loan", but no authority was granted in this or other legislation. I have also vetoed section 48, which is an emergency clause for section 43 and is unnecessary.

For these reasons, I have vetoed sections 22, 43, 47 (1) and 48 of Engrossed House Bill No. 2894.

With the exception of sections 22, 43, 47 (1) and 48 (and the provisions which are submitted to the people) Engrossed House Bill No. 2894 is approved.

Respectfully submitted,



Gary Locke  
Governor

## ESHB 2900

C 88 L 98

Providing for pro rata calculation of temporary assistance for needy families grants.

By House Committee on Children & Family Services (originally sponsored by Representatives Cooke, Ballasiotes, McDonald, Boldt and Mitchell).

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

**Background:** In the 1997 session, the Legislature created the WorkFirst program. The program is intended to assist of Temporary Assistance for Needy Families (TANF) grant recipients to move from public assistance to unsubsidized employment. In conformity with the federal law that created the TANF block grant, participants in the program are required to perform work activities as a condition of receiving assistance. A specified number of hours of work must be completed by each recipient each month.

If a recipient refuses to perform the required hours of work in a month, the department may impose a sanction. The penalty for failing to meet the work requirement is reduction of the family's grant by the recipient's share in the first instance, reduction of the grant and assignment of a protective payee in the second instance, and a 40 percent reduction in the third instance. The department also has the option to terminate the grant altogether. These sanctions are subject to good cause exceptions.

The federal law also permits the states to use a "pro rata" sanction. This sanction reduces the recipient's grant by the percentage of the work requirement he or she did not fulfill during the month.

**Summary:** The Department of Social and Health Services is required to study the adoption of a pro rata method for calculating TANF grants. The study must consider the feasibility of adopting the pro rata method, the fiscal impact of such an adoption, appropriate good cause exceptions, rules for preventing abuse of the good cause exceptions, and recommendations for alternative calculation methods. The department will report its findings to the appropriate committees of the House of Representatives and Senate by November 30, 1998.

**Votes on Final Passage:**

House	95	1
Senate	47	0

Effective: June 11, 1998

**ESHB 2901**

C 89 L 98

Requiring a WorkFirst job search component.

By House Committee on Children & Family Services (originally sponsored by Representatives Cooke, Tokuda, Ballasiotes, Carrell, O'Brien, McDonald, B. Thomas and Boldt).

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

**Background:** The 1996 Federal Personal Responsibility and Work Opportunity Act replaced Aid to Families with Dependent Children with the Temporary Assistance for Needy Families (TANF) block grant. To receive a block grant, states must establish a program to move TANF recipients into permanent jobs. The program requires recipients to participate in work activities as a condition of receiving assistance.

In response to this legislation, Washington created the WorkFirst program. The WorkFirst program established by the Department of Social and Health Services includes a work search component. This component requires TANF recipients to participate in job search workshops and assisted job searches. Recipients may also receive short-term job training if a job search is initially unsuccessful. If it is clear that a job search will not be productive for a recipient, he or she is referred for assessment. The assessment may identify the need for more specific training, work experience, or help for personal conditions such as drug/alcohol abuse, domestic violence, or a learning disability.

**Summary:** A job search component for the TANF program is created in law. The initial job search period is limited to twelve consecutive weeks. During the first four weeks, a TANF recipient's progress is reviewed. If at anytime it becomes clear that the recipient cannot benefit from further searching, the Department of Social and Health Services will conduct an assessment. Based on the assessment, the department may refer the recipient to training, work experience, or another type of service that will make the recipient more employable. At any time, the department may have the recipient perform additional job searching.

**Votes on Final Passage:**

House	98	0
Senate	45	0

Effective: June 11, 1998

**HB 2905**

C 146 L 98

Prohibiting placement of sexually violent predators in state mental facilities.

By Representatives Carrell, Talcott, Cooke, Bush, Smith, Cairnes, Koster, Backlund, Sherstad, Lambert and Kastama.

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

**Background:** A sexually violent predator is a person who has been convicted of a crime of sexual violence and who suffers from a mental condition or disorder which makes the person likely to engage in further violent, predatory sexual acts. Persons found by a court to be sexual predators are placed in the custody of the Department of Social and Health Services.

The department must place sexual predators in secure facilities, but is restricted from placing them in a facility on the grounds of a state mental facility or regional habilitation center, or in a correctional facility. The department may place sexual predators in a facility located on the grounds of, but not in, a correctional facility.

There are three state mental facilities: Western State Hospital, Eastern State Hospital, and the Children Study and Treatment Center. Regional habilitation centers are state institutions that provide residential care for the developmentally disabled.

**Summary:** The Department of Social and Health Services is restricted from placing a sexual predator, for any period of time in a facility, on the grounds of a state mental facility or regional habilitation center.

**Votes on Final Passage:**

House	90	6
Senate	39	4

Effective: March 25, 1998

**HB 2907**

C 52 L 98

Clarifying the process of appealing small claims cases.

By Representatives Sheahan, Robertson, Dunshee, Mason and Lantz.

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

**Background:** Small claims court is a department of the district court. District courts have jurisdiction over civil claims if the amount at issue does not exceed \$35,000. The small claims department of the district court has jurisdiction over cases for the recovery of money where the amount claimed does not exceed \$2,500.

District court proceedings are conducted according to court rules for courts of limited jurisdiction. These rules do not apply to the small claims department, and therefore proceedings in the small claims department are governed by statute.

An appeal from a small claims judgment in district court to superior court is not available unless the amount in controversy exceeds \$250. The appellant must file a notice of appeal in the district court, pay the statutory superior court filing fee, and file a bond with the district court in an amount that is equal to the greater of two times the amount of the judgment and costs or two times the amount in controversy. The parties must also designate the portion of the record they want transferred to superior court and pay a preparation fee for the record to the district court clerk.

In 1997, changes were made to the statutes governing civil procedure in district court to resolve difficulties experienced with the small claims appeals process. One change increased the time limit for filing small claims appeals from 20 to 30 days. Another change required parties to designate the portion of the record that needed to be sent to the superior court when an appeal was taken.

**Summary:** The procedures for appealing small claims cases are changed and clarified.

Two references to a 20-day appeal period are changed to 30 days in order to maintain consistency. The entire record of proceedings, instead of just a portion, must be forwarded to the court hearing the appeal. Any bond posted in district court for the purpose of appeal must be transferred along with the record of proceedings when the case is transferred to superior court.

Language concerning which court may stay proceedings pending appeal and enforce final judgments is amended. Once a case is sent to superior court, that court makes all the decisions regarding the case.

**Votes on Final Passage:**

House	95	1
Senate	49	0

**Effective:** June 11, 1998

**SHB 2917**  
C 115 L 98

Regulating fuel tax and international registration plan payments.

By House Committee on Transportation Policy & Budget (originally sponsored by Representatives K. Schmidt and Fisher; by request of Department of Licensing).

House Committee on Transportation Policy & Budget  
Senate Committee on Transportation

**Background:** Purchasers of gasoline and special fuels (diesel and fuels other than gasoline) may receive a refund

from the Department of Licensing (DOL) for fuel bought in Washington and used for nonhighway purposes, exported, or used out of state. For gasoline refunds, the claim form must be accompanied by the original invoice which represents proof of payment of the tax. If the original invoice is lost or destroyed, the person claiming the refund must submit a copy of the invoice that is certified by the vendor. For users of special fuels, the refund claim form may be accompanied by a copy of the invoice, rather than the original. This streamlines the process and allows the individual to keep the originals for audit purposes.

The Motor Vehicle Fuel Tax Act (MVFTA), a voluntary reporting program, was repealed in 1995. However, the act is still referenced in the DOL's proportional registration and motor vehicle fuel distributor statutes. The MVFTA became an obsolete agreement when it was replaced by the reporting and recordkeeping requirements of the International Fuel Tax Agreement.

The DOL may refuse to issue a special fuel dealer license or special fuel user license to an applicant with an outstanding debt due to unpaid state gas/diesel taxes or proportional registration license fees. A special fuel dealer is a wholesaler of fuels other than gasoline (diesel, propane, natural gas, aircraft fuel, etc.). Unpaid aircraft fuel taxes are not included as grounds for denial of a special fuel dealer's license.

Leaded racing fuel is a specialized fuel used in non-highway sporting events that retails for approximately \$4.50 per gallon. Federal law prohibits the use of this fuel on the public highways because of environmental concerns. The fuel is subject to the motor vehicle fuel tax. An applicant may apply to the DOL for a refund for fuel used for nonhighway purposes. If the refund is granted, the sales and use tax is imposed and the proceeds are deposited in the state general fund. It is estimated that about 100,000 gallons of leaded racing fuel are sold per year.

In 1997, the Legislature created the advanced environmental mitigation revolving account (AEMRA). The AEMRA allows the Department of Transportation to fund environmental mitigation before a project is funded. Once the project is funded, it pays back the revolving account, resulting in a time and cost savings.

**Summary:** The DOL's refund reporting procedure for gasoline purchased and used for non-taxable purposes is made the same as the refund reporting procedure for diesel users. A copy of the invoice, rather than the originals, may accompany the refund claim form.

Obsolete language referencing the MVFTA in the DOL's proportional registration and motor fuel distributor statutes is removed.

The DOL may refuse to issue a special fuel dealer or user license to an applicant with an outstanding state aircraft fuel tax debt.

Leaded racing fuel is exempt from the motor vehicle fuel tax. Revenue collections from sales and use taxes on

leaded racing fuel are deposited in the advanced environmental mitigation revolving account.

**Votes on Final Passage:**

House	96	0
Senate	46	0

**Effective:** June 11, 1998

## EHB 2920

C 32 L 98

Clarifying continuing education requirements for counselors.

By Representatives Skinner, Cody, Dyer and Wood.

House Committee on Health Care

Senate Committee on Health & Long-Term Care

**Background:** Social workers, mental health counselors and marriage and family therapists are certified for practice by the Department of Social and Health Services under the Omnibus Credentialing Act for Counselors. The Secretary of Health is authorized, but not required, to establish continuing competency requirements for these professions.

**Summary:** The Secretary of Health is required to establish by rule continuing competency requirements for certified counselors. There must be at least 36 hours of continuing education during the two-year reporting period preceding the renewal of certification, including subjects in professional ethics and law.

**Votes on Final Passage:**

House	94	1
Senate	44	2

**Effective:** June 11, 1998

## SHB 2922

C 116 L 98

Administering the deferred compensation plan.

By House Committee on Appropriations (originally sponsored by Representatives Carlson, H. Sommers, Alexander and Huff; by request of Department of Retirement Systems).

House Committee on Appropriations

Senate Committee on Ways & Means

**Background:** Deferred Compensation Plan. The Washington State Deferred Compensation Plan (DCP) is a voluntary income deferral plan for state employees and employees of 276 participating political subdivisions. The DCP was established in 1981 and was administered by the Committee for Deferred Compensation (CDC) from that time until June 30, 1996. Effective July 1, 1996, the duties and responsibilities of the CDC were given to the

Department of Retirement Systems (DRS) and to the Employee Retirement Benefits Board (ERBB). The ERBB was created within the DRS in 1995 with the enactment of the Teachers' Retirement System Plan (TRS) III, and was made responsible for selecting investment options for both members of TRS Plan III and participants in the DCP.

Changes in United States Internal Revenue Code. State law requires that all monies in the deferred compensation account remain solely the property of the state (until made available to the participating employee or beneficiary) subject to the claims of the state's general creditors. This language exists because of requirements contained in the United States Internal Revenue Code prior to 1996.

In 1996, Congress amended the Internal Revenue Code to require that the assets of government deferred compensation plans be held for the exclusive benefit of employees in a trust, custodial accounts, or qualifying insurance contract. Existing plans have until January 1, 1999, to place their plan assets into the trust, account or insurance contract. If this change is not made, employee contributions under the DCP could become subject to federal income taxes beginning in 1999.

Fiduciary Responsibilities. Fiduciary counsel for the State Investment Board (SIB) has advised that the SIB and the ERBB would have unclear and overlapping fiduciary duties with regard to DCP investments if the SIB were to be made the trustee while the ERBB continued to select investment options for participants. The ERBB does not have staff to assist with the evaluation of potential investment options nor to monitor the performance of investment options.

Liability. The federal Employee Retirement Income Security Act (ERISA) and federal Department of Labor (DOL) regulations protect qualified private-sector pension plans against lawsuits from members who are unhappy with the self-directed investment decisions they have made. The ERISA and DOL provisions do not apply to government pension and deferred compensation plans. Under state law, it is not clear whether members would be permitted to bring legal actions against the SIB, the ERBB, or the state, based on common law trust and fiduciary principles, if they are unhappy with the returns on their self-directed investments.

**Summary:** The assets of the Washington State Deferred Compensation Plan (DCP) are placed in trust with the Washington State Investment Board (SIB) for the exclusive use of the plan's participants and beneficiaries.

The SIB is responsible for establishing investment policy and developing participant investment options, after consulting with the Employee Retirement Benefits Board (ERRB), for the participants in the DCP.

The state is relieved of any liability for losses or deficiencies resulting from participant selection of investment options. The ERBB and the SIB are relieved of liability

## SHB 2931

for any losses that may result from reasonable efforts to implement participant investment options.

The Department of Retirement Systems, with the approval of the Office of Financial Management, may determine when excess balances in the deferred compensation administrative account are to be transferred to the deferred compensation principal account.

### Votes on Final Passage:

House	96	0
Senate	46	1

Effective: June 11, 1998

## SHB 2931

C 33 L 98

Refining electronic signature law.

By House Committee on Commerce & Labor (originally sponsored by Representatives McMorris, Conway and B. Thomas; by request of Secretary of State).

House Committee on Commerce & Labor  
Senate Committee on Energy & Utilities

**Background:** On January 1, 1998, the Washington Electronic Authentication Act became effective. This law allows the use of digital signature technology in electronic transactions and creates a process for licensing certification authorities.

Digital signature encryption systems are used to both protect the confidentiality of an electronic document and authenticate its source. These systems operate on the basis of two digital keys or codes created by the person desiring to send encrypted messages. One key is the private key, which is known only to the signer of the electronic message, and the other is the signer's public key, which is given to individuals with whom the sender wishes to exchange the confidential or authenticated message. The public key is used to verify both that the message was signed by the person holding the private key and that the message itself was not altered during its transmission.

To verify the ownership of public keys, each public key is provided with a computer-based certificate of authenticity. These certificates are created by certification authorities, which guarantee that the public keys they certify belong to the people possessing the corresponding private keys.

To qualify for a license, a certification authority must be a subscriber of a certificate published in a recognized repository. The authority may not hire persons who have been convicted of a felony in the past 15 years or have been convicted at anytime of a crime involving fraud, false statement or deception. The authority must also present proof of sufficient working capital to operate as a certification authority.

Certain information regarding trade secrets or information on design, security, or programing of computer systems used for licensing in the possession of government agencies are not specifically exempt from public disclosure.

The Office of the Secretary of State has responsibility for implementing and administering the Electronic Authentication Act. A working group convened by the Secretary of State to assist with implementation recommended a number of changes to the original act. The changes relate primarily to the licensing requirements and procedures for certification authorities.

**Summary:** Licensing requirements for certification authorities under the Washington Electronic Authentication Act are modified. The requirement that the certification authority be a subscriber to a certificate published in a recognized repository may include the Secretary of State acting as a repository. An authority may not hire a person who has been convicted of a felony in the past seven rather than 15 years. The authority violates this provision if it knowingly hires a person with a felony conviction. If criminal background is provided as part of the licensing process, the authority is assumed to have knowledge of that background and any felony conviction contained in it.

The requirement that the certification authority provide proof of sufficient operating capital to function as an authority is removed as a licensing requirement.

Information regarding trade secrets and the design, security or programing of computer systems used for licensing in the possession of government agencies is protected from public disclosure. The state auditor is authorized to have access to this information but is not authorized to disclose it to the public for inspection or copying.

### Votes on Final Passage:

House	96	0
Senate	45	1

Effective: June 11, 1998

## ESHB 2933

C 343 L 98

Prescribing the taxation of businesses warehousing and selling pharmaceutical drugs.

By House Committee on Finance (originally sponsored by Representatives Radcliff, Cooper, Cooke, Morris, Doumit, Dyer, L. Thomas, Zellinsky, Grant and Thompson).

House Committee on Finance  
Senate Committee on Ways & Means

**Background:** The business and occupation (B&O) tax is levied for the privilege of doing business in Washington. The tax is levied on 100 percent of the gross receipts of all

business activities (except utility activities) conducted within the state.

Although there are several different rates, beginning July 1, 1998, the principal rates are as follows:

Manufacturing/wholesaling	0.484%
Retailing	0.471%
Services	1.5%

Wholesalers that sell goods to retailers pay the wholesaling B&O tax (0.484 percent) on the sales price of the goods sold.

**Summary:** Wholesalers of prescription drugs are provided a tax reduction. The tax rate is reduced from 0.484 percent of gross income to 0.138 percent of gross income.

**Votes on Final Passage:**

House	96	0	
Senate	41	2	(Senate amended)
House	98	0	(House concurred)

**Effective:** July 1, 2001

## E2SHB 2935

C 322 L 98

Implementing the nursing facility medicaid payment system.

By House Committee on Health Care (originally sponsored by Representatives Dyer, Cody, Huff and Backlund).

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

**Background:** Nursing Homes. Nursing homes in Washington care for approximately 23,000 people daily, generate over \$1 billion in revenues per year, and employ over 25,000 full-time people. There are 296 facilities in 37 counties. The state plays two major roles with regard to nursing homes: as the regulator, and as a service purchaser. The state purchases, through Medicaid, about two-thirds of all nursing home care delivered in the state. The fiscal year 1998 projected yearly costs per person for nursing home care is \$41,504.

Nursing Home Rate Setting - The Current Reimbursement System. The Washington nursing home rate refers to the Medicaid payment made to a nursing facility operator to care for one person for one day. The Department of Social and Health Services (DSHS) estimates that the nursing home rate will average \$114.31 during fiscal year 1998 and \$121.62 during fiscal year 1999 if the current system were maintained.

The Washington nursing home payment system may be characterized as prospective, cost-based, and facility-specific. This means that each facility receives its own rate of payment, which is unique to that facility, and based

upon that facility's costs (facility specific). Payments are based on an individual facility's expenditures up to a ceiling and then often indexed for inflation (cost based). The amount paid to each facility is determined in advance of when the actual costs are known (prospective). Limits (referred to as ceilings) are placed on costs and vary based on whether a facility is located in a rural or metropolitan area.

Multiple Components to the Rate. The rates paid to nursing facilities are based on six different cost components. These cost components are: nursing services, operations, administration, food, property, and the return on investment (return on investment consists of two parts - financing and variable return costs). Each individual facility is paid the lower of: (1) their actual cost of providing a component of care; or (2) the ceiling for that component. The following is a description of the components used in the rate setting system:

- Nursing Services Cost Component. This cost component is the largest of the five cost components and comprises 55 percent of the total daily rate in a nursing home. It includes expenses related to the direct provision of nursing and related care, including fringe benefits and payroll taxes for the nursing and related care personnel, therapy, and the cost of nursing supplies. These costs are capped at 125 percent of the median for urban and rural areas.
- Operational Cost Component. The operational cost component accounts for 18 percent of the rate. The operational cost includes such things as utilities, minor maintenance, and housekeeping. These costs are capped at 125 percent of the median for urban and rural areas.
- Administrative Cost Component. The administrative costs are those related to administration, management and oversight of the facility. These costs are capped at 110 percent of the median for urban and rural areas respectively.
- Food Cost Component. The food cost component is 4 percent of the rate. The food cost component includes bulk and raw food and beverages purchased for the dietary needs of the residents. Savings in the food can be moved to the nursing services component to increase resources for residents care. These costs are capped at 125 percent of the median for urban and rural areas respectively.
- Property Cost Component. The property cost component makes up 4 percent of the rate. The amount of payment is calculated by dividing allowable depreciation from the prior year by the greater of a facility's total resident days for the facility in the prior period or resident days as calculated on 90 percent occupancy. Allowable depreciation is based on the estimated economic life of the building according to the American Hospital Depreciation Schedule. For example, a building with a 30 year life will be depreciated at one thirti-

eth of its value each year. There is no cost cap for this component.

- Return on Investment Cost Component Consisting of Two Subcomponents.

(1) Variable Return Component. This component does not reimburse for a specific nursing facility cost. Instead, the variable return cost component is intended to provide an incentive for facilities to operate efficiently, and to allow for a profit. Each facility is eligible to receive an additional 1 to 4 percent on the remainder of the rate (excluding property and financing). Facilities in the lowest cost quartile receive 4 percent variable return. Facilities in the next quartile receive 3 percent variable return. Facilities in the next quartile receive 2 percent variable return. Facilities in the highest cost quartile receive 1 percent variable return. Efficiency is defined as lowest cost per resident day. Variable return makes up 2 percent of the rate.

(2) Financing Allowance Cost Component. The financing allowance makes up 5 percent of the rate and pays for facility improvements and for equipment purchases. The financing allowance is calculated by multiplying fixed assets minus depreciation by 10 percent and dividing by total resident days at the greater of actual resident days or 90 percent occupancy. There are no cost lids for this component.

Payments to nursing homes change in one of three ways, depending on the year and specific circumstances of the facility: Rates are rebased every three years to reflect actual review of each individual allowable facility. During years when rates are not rebased, Washington has increased rates by using the Health Care Finance Administration (HCFA) nursing home input price index. Nursing homes may also require additional payment to provide for increased costs in patient acuity new capital needs, or changes in service required by the DSHS. Nursing homes may also apply to receive exceptional payments for residents who require two times the average nursing hours provided in the facility.

Settlement of Payment. Settlement is the process by which the nursing home rates that have been paid to a facility over the course of a year are later reconciled against the facility's actual expenditures. Under Washington's nursing home payment system, a nursing facility is generally required to pay back to the state the difference between its actual allowable costs during the period less the amount that it has been paid.

The following rate components are settled: nursing services, food, property, administration, and operations.

If the facility's allowable costs are less than the reimbursement rate it has been paid throughout the year, then the facility must return the difference between its payment rate and its allowable costs, to the state. If the facility's allowable costs meet or exceed the facility's reimbursement rate, no further adjustment is made.

Legislative History Regarding the Case Mix Reimbursement System. 1993/1994 - Legislation directed the Legislative Budget Committee (LBC) to assess the financial stability of the nursing home industry, evaluate the adequacy of the reimbursement system for promoting cost-effective quality care, and recommend improvements in the system's capacity to promote sufficient availability of quality care.

In its study, completed in 1994, the LBC found that:

- the reimbursement system was not cost effective;
- the reimbursement system created an incentive for nursing homes to increase spending. A combination of rates being set on the basis of individual facility costs and the incentive to spend the entire rate (use it or lose it) contributed to costs increasing faster than the general health care inflation;
- payments were higher than the national average and higher than a majority of states;
- spending increases lead to higher reimbursement rates;
- reimbursement rates are not correlated to acuity or the geographic location of the facility. Some facilities showed high costs and low acuity (extent of resident's need for care) and vice versa. There was, however, correlation found between the amount of private pay revenue and the Medicaid rates;
- frequent rebasing, or setting payment rates equal to a facility's allowable costs, increased costs; and
- the nursing home industry is financially stable.

The LBC study recommended that the state consider implementing a case-mix reimbursement system and other cost savings measures.

1995 - Legislation made changes to the reimbursement system. Any payments to nursing facilities made in FY 1999 and after had to be based on a case-mix system. The DSHS was required to design and develop alternatives for the nursing facility payment system, consult with stakeholders in development of the alternatives, and report to the Legislature on the projected costs and benefits of the alternatives.

1997 - The Legislature required the DSHS (by budget proviso) to develop a shadow case-mix payment system to educate facilities about payment system alternatives and to test the new system prior to implementation. The shadow case-mix system is a method of continuing to use the current reimbursement system while at the same time running the new system on a test basis in each facility. Shadow rates were started July 1, 1997. Through the budget, the Legislature has stated its intent that payment rates should not increase by more than 6.4 percent during the first year of implementing a new payment system.

The federal government also recently required that nursing homes adopt case-mix for the Medicare payment system. Twenty-seven states are currently using a case-mix payment system of some form:

Case-Mix Payment System. Case-mix is a method of paying nursing homes by matching payments to the characteristics of the homes' residents. A case-mix reimbursement system is based upon the following assumptions:

- as the care needs of residents of a facility increase, so should the payments to the facility to care for the resident;
- similarly, a facility with patients who on average require less care would receive a lower payment;
- ideally, this method of payment removes disincentives to treat residents with heavy care needs, because a facility's payment will increase as it admits these highly-dependent patients; and
- if these incentives work correctly under a case-mix system, the outcome will be increased access to necessary nursing facility care for those who require it and cost maintenance for patients who need less care.

A case-mix payment system involves classifying patients into distinct care related groups (resource utilization groups or RUGs) for payment. In order to classify residents into groups with similar care needs and resource use, the nursing facilities must collect uniform data about resident care needs. The tool used by the facilities to collect this data, is called the Minimum Data Set (MDS). The MDS is part of a federally-mandated resident assessment and care planning tool. National time studies were conducted in 1990 and 1995 to determine how much time was spent by caregivers to assist residents with a given set of characteristics. Once residents are separated into these divisions the case-mix classification system, referred to as "Resource Utilization Groups - version III (RUG III)," is established.

Summary: Implementation of Case-Mix Reimbursement System. The nursing facility cost specific payment system that bases costs solely on nursing home expenditures is removed and is replaced with an individual resident-based case-mix payment system. The new system addresses reporting requirements, auditing requirements, allowable costs of operation, payment determination, billing requirements, and administration of the facility. The DSHS is directed to begin implementation of the case-mix payment system on October 1, 1998. Under the new case-mix payment system, over half the rate paid to nursing homes is based on individual client needs. The system requires that a higher rate is paid for a resident who requires more nursing care than for a resident requiring less assistance with the following activities of daily living: eating, toileting, transferring from a chair, and bed mobility.

Facilities are required to collect data on each resident (such as diagnosis, treatments, and activities of daily living dependencies) to determine the resident's resource requirements and placement in an appropriate RUG classification category. This individual resident information is the key ingredient for setting the reimbursement rate under the new case-mix reimbursement system.

The direct care component of the rate fluctuates according to changes in the facility's average resident assessment.

Resident Assessments. A resident must be assessed, upon admission, quarterly, annually, and whenever a significant change in a resident's condition occurs. If a required resident assessment is submitted late, the department is directed to place the resident into a case-mix category having a score of 1.000, which is the score assigned to the lowest case-mix category (i.e., category requiring lowest level of care and receiving lowest reimbursement). The department is allowed to question the accuracy of assessment data for any resident. The nursing home is given the opportunity to contest any determination made by the department as to the accuracy of the data submitted.

State quality assurance nurses must validate completion and accuracy of resident assessments. Facilities will be penalized through the survey process if assessments are late and/or inaccurate.

Case-Mix Classification System to be Used. A RUG III resident case-mix system, based on the most recently completed nursing facility staff time study, must be used to determine case-mix indices (categories) under the new system. The department is authorized to revise or update the RUG III case-mix classification. The process by which the case-mix classification is established is specified. Classification groups are weighted by days of stay within a particular case-mix group, by average minutes of nursing time, by skill level needed to provide the required care within each case-mix group, and by weighting the minutes of time by the ratio of the nursing wages, by skill level. The case-mix weights may be revised if the Federal HCFA revises its time study, in which case, the most recent wage data will then be used.

Payment System Establishes an Allocation Formula. The statute provides an allocation formula and not a promise of the exact payment each facility will receive. The amount by which each rate component is inflated each fiscal year is not stated in statute, but will instead be determined in the biennial appropriations act. The statewide average daily rate per person to be paid to nursing facilities will also be stated in the biennial appropriations act. If the DSHS determines that payment rates will exceed the average daily rates identified in the budget, then all rate components for all facilities will be adjusted proportionally to bring them back within the budgeted level. However, rates will not be adjusted to meet the budgeted rate if the nursing home census is higher than the budgeted census.

Direct Care Component (Nursing Services) Payment. The new payment system will pay facilities a direct care amount which is tied to relative patient resource use, and will be limited by a minimum payment amount or floor, a maximum payment amount or ceiling, and by a measure of inflation for those facilities whose current payment exceeds the new ceiling. This approach for setting direct



care payments may generally be described as a corridor. Using a corridor payment method, facilities receive as a minimum payment the amount at the floor, if their costs fall below the floor. Facilities with costs above the floor but below the ceiling receive their actual costs, adjusted for relative patient resource use. Normally, facilities with costs above the ceiling would be brought down to the ceiling; however, the act adopts a hold harmless approach for facilities with costs above the ceiling. Facilities whose costs exceed the ceiling will continue to receive the payment for direct care in effect on June 30, 1998, plus an adjustment, which will be defined in the biennial appropriations act. An adjustment will be applied to the direct care rate for facilities above the ceiling in only fiscal years 1999 and 2000, while all other facilities are eligible for annual adjustments to reflect economic trends and conditions. That inflation adjustment will be applied at the start of each future fiscal year to the payment made in the prior fiscal year.

The corridor will narrow over time, but the ceiling and floor that define the corridor will increase as rates are re-based. Beginning in FY 1999, direct care payments to providers will be based on the corridor approach, with the ceiling and floor based on an array of nursing facility costs from the calendar year 1996 cost report. This process of moving to the 1996 cost report as the basis for calculating payments is known as "rebasing" the rate. Rebasing rates to reflect a prior period's actual costs will occur in FY 1999 and 2002. This will have the affect of increasing the median cost of urban and rural nursing facilities, and will thus raise the corridor for nursing facility payment. During fiscal years 1999 and 2000, the ceiling will be set at 115 percent of the median cost of all facilities in a peer group and the floor will be set at 85 percent of the median cost of all facilities within a peer group. During fiscal years 2001 and 2002, the ceiling will be set at 110 percent of the median and the floor will be set at 90 percent of the median. During fiscal years 2003 and 2004, the ceiling will be set at 105 percent of the median and the floor will be set at 95 percent of the median. During fiscal year 2005, the direct care component rate will be set at the median cost of rural or urban facilities, according to the facility's location.

Therapy Payment. Therapy care will be paid separately from direct care at the actual Medicaid cost up to a ceiling of 110 percent of the median cost. No limit is set on the number of units of therapy the agency may provide.

Administrative, Operational, and Food Service Component Payment. The three rate categories of administrative, operational, and food services used in the current system are combined into two rate components: Operations and support services.

- Operations Component - The operations component rate includes management, administration, utilities, office supplies, accounting, bookkeeping, minor building maintenance, minor equipment repairs and replace-

ments, and other activities and services. The department is required to annually array each facility's costs per patient day for both rural and urban areas and determine the medians. The per patient day cost is to be adjusted using the greater of actual resident days or a minimum occupancy of 85 percent. Each facility's operating component payment will be set at the median cost per patient.

- Support Services Component - The support services component rate includes food, food preparation, housekeeping, and laundry and dietary services. The department is required to annually array each facility's costs per patient day for rural and urban areas and determine the median cost per patient day. Payment for support services will be set at 110 percent of the median cost for each of the urban and rural peer groups. The facility is required to repay to the department the amounts not spent for services and items within this cost component. Per patient day costs will be based on the greater of actual patient days or days at 85 percent occupancy.

Capital Component Payment. The capital component rate is maintained as it is calculated in the current system. Provisions that were to expire July 1, 1998, are restored. The property rate is determined by dividing the allowable prior period depreciation adjusted for capitalized additions or replacements by the greater of a facility's total resident days or days at 85 percent occupancy. If assets are retired affecting bed capacity, the department is required to use anticipated days. The property component rate is to be re-based annually. The 1996 cost report must be used to set the July 1, 1998, rate and thereafter the preceding year's cost report must be used. If a nursing home banks beds or converts the beds to active services the department is required to use anticipated occupancy but never less than 85 percent occupancy. The variable return payment is retained in its current statutory form, as is the financing allowance.

Initial Year Base Rate Setting/System Rebasing. The medians used to calculate base rates in FY 1999 use calendar year 1996 costs, adjusted for inflation. The medians used to set payments in FY 2002 and beyond will be based on calendar year 1999 costs, adjusted for inflation. Rates may be adjusted for inflation during those years when rebasing does not occur.

Occupancy Rate Used for Setting Costs Per Day. The 90 percent occupancy rate is reduced to 85 percent. This is the minimum occupancy rate the department will use for calculating a daily rate.

Case-Mix Adjustment Payment. Adjustments to the case-mix payment must be made on a quarterly basis.

Bailey-Boushay House. The pilot facility especially designed to meet the needs of persons with AIDS located in King County (Bailey-Boushay House) is excluded from the new direct care payment system, and will be reimbursed for direct care at cost, to be rebased every three

years. However, Bailey-Boushay House is subject to the same provisions of the proportional rate decreases if the statewide average daily rate exceeds the statewide average daily rate.

**Provisions for Exceptional Care Rates and DSHS Study.** The DSHS is required to do further studies to adjust the RUG III classifications to reflect the resources required to care for HIV, traumatically brain injured (TBI), ventilator dependent, or behaviorally complex residents.

**Rebase Study.** The DSHS is required to report to the Legislature on the cost impact of rebasing payments to prior period allowable costs for different intervals of time. The DSHS will consider averaging costs for several years in its study.

**Property Payment Study.** The DSHS is required to study and report to the Legislature on different methods of paying facilities for capitol and property expenses.

**Community Case-Mix Extension Study.** The DSHS is required to study and provide recommendations to the Legislature on the appropriateness of extending the case-mix principles to home and community service providers in the long-term care system.

**Case-Mix Evaluation Study.** The DSHS is required to contract with an independent and recognized organization to study and evaluate qualitative impact of case-mix on lives of residents, and access and quality of care. The study is to include an investigation of the wage and benefit levels of all long-term care employees. The department must submit the report to the Governor and the Legislature by December 1, 2000.

**New Definitions.** New definitions are established to correspond to a new case-mix payment system.

**WWII Veterans.** Filipino World War II veterans who swore an oath to American authority and who participated in military engagements with American soldiers are eligible to be admitted to either of the states' two state veterans' nursing homes.

**Provisions Repealed.** Repealers are included to eliminate provisions that are no longer relevant to the method of paying for nursing facility services.

**Settlement.** Settlement is retained for several components, but an incentive payment to facilities is allowed. The direct care, therapy care and support services rate components will be settled; however, facilities that are not out of substantial compliance with federal survey regulations for more than 90 days and that are not found to provide substandard quality of care, are allowed to keep 1 percent of any amount of payment which exceeds the facility's actual allowable costs.

**Votes on Final Passage:**

House	96	0	
Senate	47	0	(Senate amended)
House	98	0	(House concurred)

**Effective:** June 11, 1998 (Section 50)  
 July 1, 1998 (Sections 1-37, 40-49, & 51-54)  
 October 1, 1998 (Sections 38 & 39)

**SHB 2936**

C 147 L 98

Limiting certain civil actions against health care providers.

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

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

**Background:** The statute of limitations for bringing most health care-related lawsuits has three time periods. Generally, an action must be brought within the later of three years after the act that caused the harm, or one year after discovering the cause of the harm, but never more than eight years after the act. However, the statute is "tolled" (i.e., the period of limitation does not run) while the claimant is a minor, is incompetent, or is imprisoned before sentencing on a criminal charge. These tolling provisions apply to most kinds of civil lawsuits.

In addition, the statute of limitations applicable to health care actions contains a provision that tolls the running of the statute "upon proof of fraud, intentional concealment, or the presence of a foreign body not intended to have a therapeutic or diagnostic purpose or effect." This tolling period is open-ended.

**Summary:** The statute of limitations is tolled for one year from the date a patient has actual knowledge of fraud, concealment, or presence of a foreign object.

**Votes on Final Passage:**

House	96	0
Senate	48	0

**Effective:** June 11, 1998

**SHB 2941**

**FULL VETO**

Limiting liability for utilities in protecting their facilities.

By House Committee on Law & Justice (originally sponsored by Representatives Sheahan, Kessler, Crouse, Lantz and Bush).

House Committee on Law & Justice  
 Senate Committee on Energy & Utilities

**Background:** When a person trespasses on another's land and injures or removes trees, timber, or shrubs, the owner of the land may bring an action for treble damages. Based on a recent state supreme court case, damages for emotional distress may be awarded in addition to treble damages.

This treble damage remedy is only available when the trespass is willful as opposed to casual or involuntary. Single damages are available when the trespass is casual or involuntary, or based on a mistaken belief of ownership

of the land. In addition, when the tree or timber is removed from open woodlands in order to repair any public highway or bridge on adjoining land, the remedy for the timber trespass is single damages.

**Summary:** The Legislature finds that utilities provide an important public service, and vegetation growth can damage utility facilities and threaten public safety. The Legislature declares that when utilities remove vegetation from adjacent properties to maintain service and protect the public, utilities should be immune from liability under certain circumstances.

A utility is immune from liability for cutting or removing vegetation when the utility provides notice and/or secures agreement from the property owner or resident in the following situations: (1) when a utility cuts or removes vegetation that damages utility facilities, and the utility makes a reasonable effort as soon as practical to notify and secure agreement regarding the disposal of any vegetation that has been cut or removed; (2) when a utility cuts or removes vegetation that poses an imminent threat to damage utility facilities, and it makes a reasonable effort to notify and secure agreement regarding the cutting or removal and disposal of any vegetation on the land adjacent to the utility facilities; and (3) when vegetation encroaches upon utility facilities, and the utility secures an agreement regarding the cutting or removal and disposal of any vegetation on the land adjacent to the utility facilities.

When damages are awarded for cutting natural vegetation, the damages are limited to stumpage value only. Utilities are not liable for emotional distress damages for cutting or removing trees, timber, or shrubs located on adjacent land.

A utility facility generally includes any property or easement used, owned, or controlled by an electric, water, or sewer utility or a natural gas or telecommunications company, for the purposes of manufacturing, transmitting, distributing, selling or furnishing electricity, water, sewer, natural gas, or telecommunications services. Natural vegetation is any tree indigenous to the area that grew naturally and was not planted for aesthetic or commercial purposes.

**Votes on Final Passage:**

House	97	1	
Senate	48	0	(Senate amended)
House	95	0	(House concurred)

**VETO MESSAGE ON HB 2941-S**

April 2, 1998

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. 2941 entitled:

“AN ACT Relating to limiting the liability of utilities for efforts undertaken to protect their facilities from adjacent vegetation;”

*This bill would address the question of when utilities should or should not be liable for cutting or removing trees and shrubs that belong to another property owner. I understand that utilities need to be able to take reasonable steps to maintain safe and reliable lines and other facilities — which at times may include removing or cutting other peoples’ trees and shrubs — without threat of unjustified lawsuits.*

*However, this bill is poorly drafted; it is overly broad and confusing. For example, under this bill a utility would be immune from liability for cutting trees belonging to a land owner if it got permission from the neighbor — regardless of whether the neighbor had authorization. The Legislature needs to more carefully define “utility” and “utility facilities.” I am also concerned about the standards of care this bill would require for a utility to avoid liability and to enjoy limited liability, including avoiding damages for emotional distress.*

*The Legislature should also revisit the appropriate damages for cutting or removing indigenous trees. I do not believe it is clear how amendments to the timber trespass statute (Chapter 64.12 RCW) affect the operation of our more general trespass damage statute (RCW 4.24.630).*

*For these reasons, I have vetoed Substitute House Bill No. 2941 in its entirety.*

Respectfully submitted,

Gary Locke  
Governor

**HB 2945**  
C 177 L 98

Notifying the legislature regarding transportation funding and planning.

By Representatives McCune and Cairnes.

House Committee on Transportation Policy & Budget  
Senate Committee on Transportation

**Background: Unanticipated Receipts.** When an agency receives funding that was not anticipated in its current budget but the agency wants to use the funds upon receipt for a specific purpose, the head of the agency must submit a request for an allotment amendment to the Governor. A copy of the amendment request must also be simultaneously submitted to the Joint Legislative Audit and Review Committee (JLARC), Senate Ways and Means Committee and House Appropriations Committee. Under these provisions, when an agency that receives funding from a transportation fund or account experiences an unanticipated receipt, neither the House and Senate standing committees on transportation nor the Legislative Transportation Committee (LTC) are provided notice of the request for an allotment amendment.

If the Governor approves the request for an allotment amendment, his approval statement is transmitted simultaneously to the head of the agency, JLARC, and the Senate

Ways and Means and House Appropriations Committees. If the approved amendment request impacts any transportation funds or accounts, there is no notification provided to the House and Senate standing committees on transportation or the LTC.

**Information Technology Reports.** The Department of Information Services (DIS) prepares a state strategic information technology plan that establishes a statewide mission, and goals and objectives for the use of information technology. Upon approval by the Information Services Board, copies of the plan are sent to the Governor and the chairs and ranking minority members of the appropriations committees of the Senate and House.

Additionally, the DIS prepares a biennial state performance report on information technology projects. This report is distributed biennially to the Governor and the chairs and ranking minority members of the appropriations committees of the Senate and House.

In providing the oversight of agency information technology projects, the DIS evaluates projects at different stages and provides copies of its evaluations to the Office of Financial Management and the chairs, ranking minority members and staff coordinators of the appropriations committees of the Senate and House.

None of these reports is required by law to be submitted to either the House or Senate standing committees on transportation or the LTC.

**Summary: Unanticipated Receipts.** Whenever an agency that receives funding from a transportation fund or account experiences an unanticipated receipt, the head of the agency must submit to the Governor a request for an allotment amendment, setting forth the facts constituting the need for the expenditure and the estimated amount to be expended. The request for an allotment amendment must be simultaneously transmitted to the House and Senate standing committees on transportation, if the Legislature is in session. During the legislative interim, the amendment request must be submitted to the LTC.

During a legislative session, if the Governor approves a request for an allotment amendment which has transportation funding implications, a copy of his approval statement must be transmitted simultaneously to the head of the agency, and to the House and Senate standing committees on transportation. During the legislative interim, the Governor's approval statement must be transmitted simultaneously to the head of the agency and to the LTC.

**Information Technology Reports.** The DIS is required, during the legislative session, to submit copies of the approved state strategic information technology plan to the chairs and ranking minority members of the transportation committees of the Senate and House. During the legislative interim, the department must submit its state strategic plan to the LTC.

The DIS is required to submit, during the legislative session, copies of its biennial state performance report on information technology projects to the chairs and ranking

minority members of the transportation committees of the Senate and House. During the legislative interim, the department must submit its biennial performance report to the LTC.

Regarding DIS project evaluations, if a project receives funding from a transportation fund or account, copies of those projects' evaluations must be submitted, during the legislative session, to the chairs and ranking minority members of the transportation committees of the Senate and House. During the legislative interim, the project evaluations must be submitted to the LTC.

**Votes on Final Passage:**

House	92	3
Senate	28	21

**Effective:** June 11, 1998

**ESHB 2947**

C 233 L 98

Revising unemployment compensation for part-time faculty.

By House Committee on Commerce & Labor (originally sponsored by Representatives McMorris, Conway, Carlson, Kenney, Costa, Wood, Ogden and Gardner; by request of Employment Security Department).

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

**Background:** Under the Federal Unemployment Tax Act (FUTA), if a state maintains an unemployment insurance system in conformity with federal law, that state's employers receive a tax credit against their federal unemployment tax of 90 percent of the federal tax. In addition, the conforming state receives a share of the FUTA revenues for administration of its unemployment insurance system.

One of the requirements of federal law addresses unemployment benefits for certain public and nonprofit educational institutions' employees. Unemployment compensation may not be paid to these employees for unemployment that occurs between two successive academic years or terms if the employee has reasonable assurance that he or she will be 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. Until 1995, Washington's unemployment insurance statutes included language that was the same as federal law.

In 1994, the Washington Court of Appeals held that, in view of the state's failure to show that summer quarter was qualitatively different from other academic terms and the lack of any indication that the Legislature intended summer quarters to be "off" quarters, unemployment benefits could not be denied during the summer for a part-time community college faculty member who was not

offered a position during the summer quarter. Following that decision, the U.S. Department of Labor (USDOL) advised the Employment Security Department that the court's opinion raised a federal conformity issue.

The following year, legislation was enacted that amended the requirements for unemployment insurance determinations involving part-time faculties at community colleges and technical colleges. For these faculties, the definition of 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.

For determining eligibility for benefits between successive academic years or terms for these part-time faculties, the 1995 law provides that reasonable assurance does not include an agreement to provide services when the agreement is contingent on enrollment, funding, or program changes.

The USDOL has again advised the Employment Security Department that this law raises a federal conformity issue because the law does not apply the same provisions to all educational employees. The Secretary of Labor has notified the Employment Security Department that she is commencing conformity proceedings against the state of Washington. The Employment Security Department has requested a hearing on this matter.

**Summary:** The Legislature recognizes the need to bring the state's unemployment compensation law into conformity with federal law, and recognizes that there are instructional staff at the state's educational institutions that have less assurance of returning to employment in an ensuing academic year or term than others. The Legislature declares its intent that the Employment Security Department continue to handle determinations of eligibility for the unemployment compensation in cases involving a finding of reasonable assurance on a case by case basis consistent with federal guidelines and to consider contingencies that exist in each individual case. The Legislature further declares that removing reference to contingent agreements is not intended to change the practice of the Employment Security Department when determining reasonable assurance.

The definition of academic year includes a summer quarter or semester as part of the academic year unless, based on objective criteria, the summer quarter or semester is in fact not part of the academic year for the particular institution. This definition applies to all educational employees.

The provision is deleted that defines reasonable assurance as not including agreements that are contingent on funding, enrollment, or program changes.

A previously enacted but uncodified intent statement is repealed.

**Votes on Final Passage:**

House	88	0
Senate	45	4

**Effective:** March 30, 1998

**SHB 2960**

C 90 L 98

Authorizing permits-by-rule for certain solid waste recycling facilities.

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

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

**Background:** After the Department of Ecology has approved a county and city comprehensive solid waste management plan, no solid waste disposal site or disposal facilities may be maintained, established, substantially altered, expanded, or improved until the site operator obtains a permit from the appropriate local health department. The local health department investigates every application for a permit to determine whether all applicable laws and regulations are met, whether the application conforms with the approved comprehensive solid waste handling plan, and whether the application complies with all zoning requirements. Permits must be renewed annually. Before renewing a permit, the health department must conduct whatever inspections it deems necessary to ensure that applicable standards and regulations are being met. There are no simplified procedures for granting permits for facilities that are relatively low risk to the public and the environment. As part of a comprehensive review of the state's solid waste laws in 1997, the Department of Ecology made some initial recommendations about developing a permit-by-rule process.

The applicant or holder of a permit may request a hearing before the local health officer if a solid waste permit is denied or suspended. The hearing must be granted within thirty days of the request for the hearing. The health officer must notify the applicant or holder of the permit of the health officer's decision within 30 days of the hearing. The health officer's determination may be appealed to the Pollution Control Hearings Board (PCHB). There is no requirement for the denial or suspension to be delayed until the appeal process before the PCHB is completed.

**Summary:** The Department of Ecology is directed to refine its recommendations contained in its 1997 review of the state's solid waste system in conjunction with the state Solid Waste Advisory Committee, and address: the applicability of a permit-by-rule process for solid waste recycling facilities; the consistency of permitting for regional, multi-jurisdictional recycling facilities; the application of best available control technology on a con-

sistent basis, so that similar facilities are subject to the same requirements; and methods of integrating facility standards with the recommendations of the study. The department must submit a report containing its refined recommendations to the appropriate legislative committees by December 1, 1998.

If the local health department denies a permit renewal or suspends a permit for an operating waste recycling facility that receives waste from more than one city or county, and the permit applicant or holder requests an appeal, the denial or suspension of the permit does not become effective until the completion of the appeal process with the Pollution Control Hearings Board, unless the local health department finds that continued operation of the facility poses a very probable threat to human health and the environment.

**Votes on Final Passage:**

House	97	1	
Senate	49	0	(Senate amended)
House	95	0	(House concurred)

**Effective:** June 11, 1998

**HB 2965**

C 91 L 98

Revising provisions for crime victims' compensation.

By Representatives Ballasiotes, Costa, Hatfield, Linville and McDonald; by request of Department of Labor & Industries.

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

**Background:** The Crime Victims Act of 1973 established Washington's Crime Victims' Compensation Program (CVCP) to provide benefits to innocent victims of criminal acts. The Department of Labor and Industries (L&I) was assigned authority for administering the program because benefits available to crime victims under this program were originally based on benefits paid to injured workers under the Industrial Insurance Act.

Benefits under the CVCP include medical and mental health costs, disability payments and benefits for survivors of deceased victims. All benefits paid by the CVCP are secondary to available insurance resources of the victim.

The industrial insurance program uses private attorneys appointed by the Office of the Attorney General in making recoveries for costs incurred by the L&I and injured workers due to the liability of third parties. The CVCP does not have a similar program to help recover money from convicted offenders and third parties.

**Summary:** The Crime Victims' Compensation Program (CVCP) is authorized to designate private attorneys as special assistant attorneys general to pursue civil legal ac-

tions against criminal offenders and third parties for costs incurred by injured crime victims and the CVCP.

**Votes on Final Passage:**

House	97	0
Senate	45	0

**Effective:** June 11, 1998

**HB 2969**

C 178 L 98

Providing a sales and use tax exemption for gun safes.

By Representatives Carrell, Sheahan, B. Thomas, Robertson, Sterk, Sherstad, McMorris, Backlund, Ballasiotes, Talcott, DeBolt, Alexander, Boldt, Zellinsky, Pennington, Mitchell, Huff, K. Schmidt, Dyer, Bush, Dunn, Schoesler, Smith, D. Sommers, Dunshee and McCune.

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

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

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

Gun safes are enclosures specifically designed or modified for the purpose of storing firearms and equipped with locks or similar devices that prevent the unauthorized use of the firearms.

**Summary:** Gun safes are exempt from sales and use taxes.

**Votes on Final Passage:**

House	94	2
Senate	30	18

**Effective:** July 1, 1998

SHB 2973

C 53 L 98

Clarifying the role of the liquor control board to hear appeals related to the seizure and forfeiture of cigarettes.

By House Committee on Commerce & Labor (originally sponsored by Representative McMorris).

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

**Background:** In 1997, primary enforcement authority for cigarette and tobacco tax laws was transferred from the Department of Revenue to the Liquor Control Board. To facilitate enforcement of these laws, the Department of Revenue must appoint enforcement officers of the Liquor Control Board as authorized agents of the Department of Revenue. Both agencies may participate in seizure of the cigarettes that do not comply with state law. The Department of Revenue is designated as the agency to conduct proceedings involving the forfeiture of legally seized items.

Based on the transfer of authority, both agencies entered into an interagency agreement to clarify each agency's responsibility under the new law. The agreement gives the Liquor Control Board the responsibility of handling seized property and hearing claims that arise regarding the disposition of seized property. It is not clear that the board is authorized to process forfeiture actions involving seized property.

**Summary:** The Liquor Control Board, along with the Department of Revenue, is authorized to process forfeiture actions involving seized property. Such action includes conducting hearings that arise over claims involving seized property.

**Votes on Final Passage:**

House 96 0  
Senate 41 0

**Effective:** March 18, 1998

SHB 2977

FULL VETO

Changing provisions that relate to binding site plans.

By House Committee on Government Reform & Land Use (originally sponsored by Representatives Sheahan and Appelwick).

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

**Background:** Local governments generally review and approve each subdivision of land. Certain land divisions are exempt from the subdivision review process. Local governments may adopt ordinance procedures for use of

binding site plans as an alternative to subdivision for specified land uses.

The Washington Condominium Act governs the creation, alteration, management and termination of condominiums and includes protections for condominium purchasers. Statutory subdivision requirements do not apply to any land division resulting from subjecting a portion of a parcel or tract of land to the condominium statute requirements after an approved binding site plan is recorded. A binding site plan is deemed approved for purposes of the subdivision exemption if approved by a local government:

- in connection with a subdivision or planned unit development approval for the entire parcel or tract;
- in connection with issuance of building permits or certificates of occupancy; or
- pursuant to local binding site plan approval procedures.

The binding site plan must require that all improvements be owned by condominium owners or a condominium owners' association and must contain a statement in the statutorily prescribed form. The binding site plan may depict the boundaries of lots or tracts resulting from subjecting a portion of a parcel or tract of land to the condominium statute requirements.

**Summary:** Provisions regarding the subdivision exemption for condominium developments are revised and clarified. The subdivision statute does not apply to condominium creation, and the condominium statute requirements control over subdivision laws in the event of conflict. The subdivision statute applies only to dividing the land into the portions being made, and not being made, part of the condominium, not to creating the condominium. These provisions apply to all condominiums created under the condominium statutes regardless of the date of creation.

A binding site plan ordinance may not impose on condominium creation any procedures inconsistent with the subdivision exemptions or create any additional filing or survey requirements.

A binding site plan will be deemed approved for purposes of the subdivision exemption if approved by a local government in connection with a rezone or other land use approval process.

A local government may not require a property owner to depict on the binding site plan the boundaries of lots or tracts resulting from subjecting a portion of a parcel or tract of land to the condominium statute requirements. A condominium binding site plan need not require that all improvements be owned by condominium owners or a condominium owners' association.

**Votes on Final Passage:**

House 96 0  
 Senate 32 17

**VETO MESSAGE ON HB 2977-S**

April 3, 1998

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. 2977 entitled:

“AN ACT Relating to binding site plans;”

SHB 2977 attempts to clarify some confusion created by a recent court decision regarding dual application of the condominium law and the subdivision statute, by confirming that condominiums are to be created pursuant to the condominium statute only.

The bill, however, raises equity and growth management issues. Enactment of this bill could allow for the conversion into condominiums of older developments that have infrastructure below current standards, with no mechanism for local review of sewer, water or transportation effects. If this were to occur, older lot owners, many of whom may be on fixed incomes, would have the burden of upgrading infrastructure.

In addition, the bill raises concerns that local governments will not be allowed to use some zoning and planning codes to implement Growth Management Act goals. Some condominium conversions could lead to very dense developments outside previously established urban growth areas.

I agree that application of the binding site plan laws to condominium developments is very problematic, and the law needs to be clarified. I urge the various stakeholders interested in this bill to work together during the interim to reach consensus on a remedy to the legal problems that have been presented.

For these reasons, I have vetoed Substitute House Bill No. 2977 in its entirety.

Respectfully submitted,



Gary Locke  
 Governor

**HB 2990**

C 92 L 98

Creating a pilot project for third-party accreditation of boarding homes.

By Representatives Dyer, Backlund and Anderson.

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

**Background:** Boarding homes are care facilities usually ranging in size from 10 to 60 residents. Smaller boarding homes are often called group homes and larger ones might be marketed to the public as assisted living facilities. Boarding homes are not just rooming houses. They offer room, board, and personal care or nursing services. Boarding homes are licensed, regulated and inspected by the Department of Health (DOH). There are over 400 boarding homes in the state with approximately 16,000

residents. Of this total, only 13 percent of the residents have their care paid by the Department of Social and Health Services (DSHS). The remainder of boarding home residents pay for their care from their own resources.

The DOH conducts its comprehensive licensing inspection approximately every 12 months and also responds to individual complaints concerning residents' care or the facility. If a violation is found to have occurred, the DOH has the authority to take actions such as consultations, placing conditions on a license, more staff training, stopping admissions, fines, and closing a facility.

Both 1995 and 1996 legislative reports on residents' rights, quality of care, and regulatory enforcement conducted by the Washington State Long-term Care Ombudsman Program found serious concerns with the way in which the DOH conducted investigations under its regulatory oversight. Further concerns have been raised in the ombudsman's 1998 follow-up investigation of the enforcement of safety and care standards in boarding homes. In that follow-up study, the ombudsman again found "widespread problems in the regulatory oversight provided by the state's Department of Health." This 1998 ombudsman report recommended that the Legislature eliminate the dual regulation of boarding homes and transfer jurisdiction of boarding homes to the DSHS.

The DOH is responsible for the development of quality of care standards in boarding homes and the regulatory enforcement of these standards.

Private third party accreditation refers to the quality of care reviews conducted by a private accreditation organization outside of government. Private third party accreditation is conducted for hospitals and in some other health care settings such as home care organizations, ambulatory care providers, and clinical laboratories. Third party accreditation of boarding homes is not conducted in Washington or in any other state.

**Summary:** A coalition of assisted living providers, long-term care consumer groups, and state regulatory agencies are required to develop a plan for implementing a pilot program for the third party accreditation of boarding homes. The plan is required to review the overall feasibility of implementing a pilot program, and to indicate the cost savings to the state, the impact on quality of care and quality of life, and the impact on the boarding home industry. The plan must be submitted to the Legislature by January 4, 1999. The Assisted Living Federation of America is required to provide funding for the pilot plan.

**Votes on Final Passage:**

House 96 0  
 Senate 46 0

**Effective:** June 11, 1998



**SHB 2998**

C 150 L 98

Regulating privately owned semiautomatic external defibrillators.

By House Committee on Law & Justice (originally sponsored by Representatives Sheahan, Costa and K. Schmidt).

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

**Background:** Ventricular fibrillation is a potentially fatal form of cardiac arrest. The normal electrical impulses in the ventricles suddenly become chaotic, and contractions in this area of the heart become uncoordinated and ineffective. In this condition, the heart becomes unable to pump blood effectively and may stop abruptly. The condition can lead to unconsciousness in seconds. If untreated, the person usually has convulsions and develops irreversible brain damage after about five minutes because oxygen is no longer reaching the brain. Death soon follows.

Cardiopulmonary resuscitation (CPR) must be started within a few minutes, and then followed as soon as possible by cardioversion (an electric shock delivered to the chest). The only definitive treatment for ventricular fibrillation is electrical defibrillation. Paddles are placed on the unconscious person's chest, and an electric shock is delivered to the heart. This shock stops the abnormal rhythm and allows a coordinated rhythm and normal pumping action to resume. Successful defibrillation is time dependent. To ensure intact neurologic recovery, early defibrillation should occur within the first two minutes of pulselessness. The chance of successful recovery is diminished by 10 percent each minute that the victim remains in ventricular fibrillation.

Early defibrillation is stressed as the primary treatment modality in advanced cardiac life support training. It is being included in basic life support training. This has led to extended use of automated external defibrillators (AEDs), particularly by responders who may not have extensive medical training or training in the use of manual conventional defibrillators. AEDs are being used by pre-hospital medical personnel, as well as by nonacute care hospital personnel, and, in some areas of the country, AEDs training is being provided to the lay public. Survival rates for patients with ventricular fibrillation improved from 7 percent to 26 percent in King County, Washington, where an early defibrillation program was instituted.

The ease of use of AEDs is largely due to automation and quick analysis of the heart's rhythm by the defibrillator without requiring the operator to interpret the rhythm. Placement of adhesive defibrillator pads is all that is required of the operator and permits hands-off remote defibrillation. Some AEDs are considered semiautomated

(SAEDs). They perform rhythm analysis, but then signal the operator to press a button in order to administer the shock, therefore still maintaining some operator control.

Locations for SAEDs include prehospital settings, but could also include public areas such as stadiums, office buildings, ferries, and airplanes.

Under the "good samaritan" statute, a person who renders emergency medical care without compensation or the expectation of compensation is immune from civil liability unless his or her acts constitute gross negligence or willful or wanton misconduct.

**Summary:** Maintenance and use guidelines are prescribed for entities acquiring semi-automatic defibrillators. These guidelines include:

- obtain instruction in the use of the defibrillator and cardiopulmonary resuscitation;
- maintain the defibrillator in accordance with manufacturer's guidelines;
- notify local emergency medical services about the existence of the defibrillator; and
- notify proper authorities after any emergency use of the defibrillator.

Immunity from civil liability is provided for entities that maintain and use semi-automatic defibrillators in accordance with these guidelines as long as their actions do not constitute gross negligence or willful or wanton misconduct.

Immunity from civil liability is provided for individuals using a semi-automatic defibrillator in an emergency setting if the individual is acting under the good samaritan statute.

**Votes on Final Passage:**

House	96	0
Senate	42	0

**Effective:** June 11, 1998

**SHB 3001**

C 256 L 98

Creating an exemption for wineries furnishing wine to nonprofit charitable organizations.

By House Committee on Commerce & Labor (originally sponsored by Representatives Honeyford, Delvin, Lisk and Cole).

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

**Background:** Liquor manufacturers and distributors may not give liquor to any person except as allowed by law.

Exceptions are provided for specific purposes such as allowing a manufacturer to negotiate a sale to the Liquor Control Board or a retail licensee. Other exceptions require that the liquor be consumed in a designated place to a limited group of people such as an educational presenta-

tion to an organization formed for the purpose of studying wine and wine making. Breweries and wineries may furnish beer or wine free of charge at the brewery or winery. There are a limited number of occasions when liquor may be furnished or donated for a specific event to a specific audience such as delegates to an international trade fair conducted by a governmental entity.

**Summary:** A domestic winery may furnish wine without charge and a domestic brewery may furnish beer without charge to nonprofit charitable organizations for use consistent with the purpose of the organization. Consistent with other exceptions for donating wine and beer, the wine and beer is subject to state liquor taxes.

**Votes on Final Passage:**

House	94	2	
Senate	48	1	(Senate amended)
House			(House refused to concur)
Senate			(Senate refused to recede)
Senate	45	0	(Senate amended)
House	98	0	(House concurred)

**Effective:** June 11, 1998

**EHB 3003**  
**FULL VETO**

Exempting computer wires and fiber optic cables from electrical wiring requirements.

By Representatives Honeyford, Crouse, Mielke, Wensman, Benson, Clements, Schoesler and Bush.

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

**Background:** The Department of Labor and Industries regulates the installation, repair and maintenance of electrical wires, equipment, and services. This regulatory process involves the permitting and inspection of electrical work. The department inspects all electrical wiring, appliances, devices and equipment regulated by the electricians and electrical installations statute. The statute exempts from inspection telephone, telegraph, radio, television wires and equipment, television antenna installations, signal strength amplifiers, and coaxial installations.

The department issues journeyman electrician certificates of competency and electrical contractor licenses to qualified individuals who wish to engage in the electrical trade.

**Summary:** Fiber optic cables are exempted from the electricians and electrical installations statute. Persons or business entities that repair, install, or maintain structured communication cabling are exempted from electrical contractor licensing, and electricians' certification requirements.

**Votes on Final Passage:**

House	60	36	
Senate	27	20	(Senate amended)
House			(House refused to concur)
Senate	24	21	(Senate receded; failed)
Senate	27	22	(Senate reconsidered)

**VETO MESSAGE ON HB 3003**

April 2, 1998

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. 3003 entitled:

"AN ACT Relating to exempting computer wires and fiber optic cables from electrical wiring requirements;"

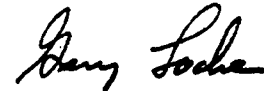
This bill would exempt the installation of non-composite fiber optic cables from inspection, contractor licensing, and electrician certification, and would exempt the installation of structured communications cabling from contractor and electrician certification.

I believe that we should do everything we can to clear the way for the information highway. However, this bill may create safety problems. Fiber optic cable and structured communication cable control things such as medical diagnostic equipment, high voltage power distribution monitoring and control, banking access systems, environmental controls, traffic signal systems, express lane gates, surveillance equipment, ventilation systems, and other critical safety systems. Under this bill, installation of cables for these systems would be exempt from any licensing or certification skills requirements. Furthermore, as new technology spreads, we have no idea how electrical systems will interact with new fiber optic control systems. Also, this bill would allow non-conductive fiber cables to be installed in raceways that contain high voltage electrical wiring by people without a license or trainee certificate.

This bill is an ad hoc approach to the increasingly complex new world of wiring. I am directing the Department of Labor and Industries to convene an advisory committee that includes representatives of affected groups. That committee will study the inclusion of telecommunications infrastructure in Chapter 19.28 RCW, including licensing and certification, and make recommendations to my office next fall.

For these reasons, I have vetoed Engrossed House Bill No. 3003 in its entirety.

Respectfully submitted,



Gary Locke  
Governor

SHB 3015

C 179 L 98

Providing tax exemptions for the state route number 16 corridor.

By House Committee on Transportation Policy & Budget (originally sponsored by Representatives Huff, Fisher, K. Schmidt, Zellinsky, Talcott, Carrell, Johnson, Kessler, Lantz and Eickmeyer).

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

**Background:** Public-Private Initiatives in Transportation (PPI) is a program created by the 1993 Legislature to test the feasibility of privately financed transportation improvements in Washington. 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 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 operations for up to 50 years. The private developer is authorized to impose tolls or user fees to cover the private sector's investments and allow the developer a reasonable rate of return on investment. The Tacoma Narrows State Route (SR) 16 corridor improvements were selected as one of the demonstration projects.

All real and personal property in this state is subject to property tax each year, based on its value unless a specific exemption is provided by law. Generally, privately-owned property is taxable and publically-owned property is not taxable.

The sales tax is imposed on the retail sale of most items of tangible personal property and some services. The use tax is imposed on the use of an item in this state when the acquisition of the item has not been subject to sales tax. The combined state and local sales and use tax rate is between 7 percent and 8.6 percent, depending on location. Sales tax also applies to labor and service charges for construction, installation and repair of property.

The real estate excise tax is paid when real property is sold. Real property consists of land and improvements permanently affixed to the land. The sale of improvements constructed on leased land is taxable. The state tax rate is 1.28 percent of the selling price. Most local governments impose an added rate of 0.25 percent. Additional local options are available. The combined state and local tax rate is 1.53 or 1.78 percent in most areas.

The leasehold excise tax is imposed on property used for private purposes that is exempt from property taxation because the property is publicly owned. The tax is collected by public entities that lease property to private parties. The tax rate of 12.84 percent is imposed on the amount paid in rent for the public property.

Public and privately-owned utilities, and certain other businesses, are subject to the state public utility tax instead of the business and occupation (B&O) tax. Like the B&O tax, the public utility tax is applied to the gross receipts of the business. The principal difference between the B&O and public utility taxes is a higher rate schedule applied under the public utility tax. Although many businesses subject to public utility tax are also subject to regulation by the Utilities and Transportation Commission, there is no direct connection between regulatory status and tax status. Toll bridge companies are taxed at the rate of 1.926 percent.

Cities and towns may impose business and utility taxes. These city taxes are collected at the local level and are not related to the administration of the state B&O or public utility taxes. About 35 cities have a general business tax. Around 200 cities have utility taxes.

**Summary:** The State Route 16 corridor transportation systems and facilities constructed under the PPI law are exempt from the property tax, the real estate excise tax, the state public utility tax, and city business taxes.

State and local sales and use taxes may be deferred for five years. At the expiration of the deferral period, the accrued tax must be paid over 10 years at a rate of 10 percent per year.

**Votes on Final Passage:**

House 97 0  
Senate 32 17

**Effective:** June 11, 1998

**EHB 3041**  
**PARTIAL VETO**

C 288 L 98

Exempting the office of the family and children's ombudsman from certain proceedings.

By Representatives Cooke, Bush, Kastama and Tokuda.

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. The common law and statutory law, however, recognize exceptions to compelled testimony in some circumstances, including testimonial privileges. 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 is one that should 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 privileges, including communications between the following persons: husband and wife; attorney and client; clergy and confessor, physician and patient; psychologist and client; optometrist and client; and law enforcement peer support counselor and a law enforcement officer in certain circumstances.

The Office of the Family and Children's Ombudsman is an independent office within the Office of the Governor that is responsible for ensuring that the Department of Social and Health Services (DSHS) or other appropriate government agencies do not overlook the needs of abused or neglected children for protection and care. Among other statutory duties, the ombudsman or any volunteer in the ombudsman's office is required to report, or cause a report to be made, to the proper law enforcement agency when he or she has reasonable cause to believe that a child, adult dependent, or developmentally disabled person has suffered abuse or neglect. The director-ombudsman reports only to the Governor, and is appointed to a three-year term that can be terminated only for cause.

In 1996, the Legislature created the Legislative Children's Oversight Committee. The committee consists of three senators and three representatives appointed by the President of the Senate and the Speaker of the House. The oversight committee may request investigations by the ombudsman.

**Summary:** Certain communications made to the Office of Family and Children's Ombudsman are privileged. The ombudsman and the ombudsman's staff may not be compelled to testify or produce evidence relating to official duties in any judicial or administrative proceeding. All related memoranda, work product, notes, and case files of the ombudsman's office are confidential and are not subject to discovery in any judicial or administrative proceedings. This privilege does not apply to the Legislative Children's Oversight Committee.

Identifying information about a complainant or witness may not be disclosed in judicial or administrative proceedings, to the Governor, or to the Legislative Children's Oversight Committee unless: (1) the claimant or witness waives confidentiality; (2) the information is necessary to investigating the ombudsman's office and there is a legislative subpoena; or (3) the information is necessary to investigating the ombudsman's office and the Governor inquires. Identifying information includes the complain-

ant's or witness's name, location, phone number, likeness, social security number, and other identification number, or identification of immediate family members.

The ombudsman's testimonial privilege does not apply if: (1) the ombudsman or ombudsman's staff has direct knowledge of an alleged crime; (2) the ombudsman or a member of the ombudsman's staff is aware of a threat of imminent serious harm; (3) the ombudsman is asked to provide general information regarding the operation of his or her office; and (4) the ombudsman or ombudsman's staff has direct knowledge that someone, including anyone in the ombudsman's office, has failed to comply with the statutory duty to report a reasonable belief that a child, adult dependent, or developmentally disabled person has suffered abuse or neglect.

When the ombudsman's or ombudsman's staff member has reasonable cause to believe that any public official, employee or other person has acted in a way to warrant disciplinary proceedings, the ombudsman or ombudsman's staff member is required to report the matter to appropriate authorities.

The ombudsman must report to the Governor and the Legislative Children's Oversight Committee. The Governor's appointee is subject to confirmation by the Senate.

**Votes on Final Passage:**

House	96	0	
Senate	45	0	(Senate amended)
House			(House refused to concur)

Conference Committee

Senate	49	0
House	98	0

**Effective:** April 2, 1998

**Partial Veto Summary:** The Governor vetoed the requirement that the ombudsman report to the legislative oversight committee.

**VETO MESSAGE ON HB 3041**

April 2, 1998

To the Honorable Speaker and Members,

The House of Representatives of the State of Washington

Ladies and Gentlemen:

I am returning herewith, without my approval as to section 6, Engrossed House Bill No. 3041, entitled:

"AN ACT Relating to the exemption of the office of the family and children's ombudsman from certain judicial and administrative proceedings."

Engrossed House Bill No. 3041 provides the Office of the Family and Children's Ombudsman (OFCO) an exemption from disclosure of certain information related to its inquiries. The purpose of the exemption is to enable the OFCO to conduct and complete its inquiries in a manner that elicits as much useful information as possible. The possibility of premature disclosure, or the inability of the office to maintain reasonable confidences, could compromise the work of the office. This bill places limits on the exemption that assure that the OFCO is obligated to report child abuse, or the threat of child abuse, as well as other criminal behavior.

The OFCO currently reports directly to the Governor. Section 6 of EHB 3041 would have the OFCO also reporting to the leg-

islative oversight committee. I do not support such a dilution of accountability. The work of the office is too important to subject it to an ambiguous and untested administrative arrangement.

For this reason, I have vetoed section 6 of Engrossed House Bill No. 3041.

With the exception of section 6, Engrossed House Bill No. 3041 is approved.

Respectfully submitted,

Gary Locke  
Governor

**HB 3052**  
**FULL VETO**

Authorizing self-audits by insurers.

By Representatives L. Thomas, Smith, Mielke, Grant, DeBolt, Dyer, Hickel, Sullivan and Robertson.

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

**Background:** Generally, a person who files reports or furnishes information required by the insurance code is immune from civil liability. Likewise, the Insurance Commissioner and the National Association of Insurance Commissioners are generally immune from civil liability for publishing insurance information.

An insurer must file an antifraud plan with the commissioner. The plan, which must be approved by the commissioner, must establish specific procedures to prevent insurance fraud, including internal fraud involving employees or company representatives. Each year, an insurer must file a summary of the actions it took under its antifraud plan. Both the plan and the annual reports are not public records, are proprietary, are not subject to public examination, and are not discoverable or admissible in civil litigation.

However, an insurer's internal audits, designed to improve compliance with state and federal law, are not privileged from discovery or admissibility in court.

**Summary:** The House Financial Institutions and Insurance Committee and the Senate Financial Institutions, Insurance, and Housing Committee must study insurance compliance self-evaluative audits and recommend whether the Legislature should recognize a limited privilege for such audits. The two committee chairs must organize a study group that includes voluntary participation by the insurance industry, the Office of the Insurance Commissioner, and other interested parties. The ranking minority members of each committee must also participate in the study group. If the committees recommend that the Legislature should recognize the privilege, the study must

develop a bill for consideration in the 1999 legislative session.

**Votes on Final Passage:**

House	65	31	
Senate	43	0	(Senate amended)
House	96	2	(House concurred)

**VETO MESSAGE ON HB 3052**

April 2, 1998

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. 3052 entitled:

"AN ACT Relating to self-audits by insurers;"

As originally introduced, HB 3052 would have created certain privileges and protections for self-audits performed by insurance companies, in court and in regulatory proceedings. This bill as it passed the Legislature, however, directs the relevant committees of the House of Representatives and Senate to study this issue and make recommendations for consideration in the 1999 legislative session.

HB 3052 is unnecessary because it concerns only the internal operations of the Legislature, which do not need the authority of this bill to be conducted. If the Legislature chooses to study this issue, it can do so. In the interests of statutory economy, and out of respect for the separate branches of government, I have vetoed HB 3052.

For these reasons, I have vetoed House Bill No. 3052 in its entirety.

Respectfully submitted,

Gary Locke  
Governor

**HB 3053**  
C 117 L 98

Providing a lump sum distribution option for certain members of the teachers' retirement system, plan III.

By Representatives Clements and Skinner.

House Committee on Appropriations  
Senate Committee on Ways & Means

**Background:** Under the defined contribution portion of the Teachers Retirement System (TRS) Plan III, a member may withdraw the accumulated contributions and interest in the member's account whenever he or she terminates employment. How quickly a member receives this payment from the Department of Retirement Systems depends in part on which of two investment options the member has chosen. Members may choose to self-direct their investments by selecting among options provided by the Employee Retirement Benefits Board (ERBB), or they may choose to invest through the State Investment Board (SIB) in the same portfolio in which the SIB invests all other TRS Plan II and III monies. Those who choose to

self-direct their investments receive their money rather quickly upon leaving employment, because those member accounts are valued daily. Those who choose to invest through the SIB must wait from 60 to 90 days to receive their money because those accounts are valued monthly with a month's lag in the valuations. The monthly valuations occur because the SIB portfolio includes real estate investments, venture capital, and leveraged buy-outs, which do not lend themselves to daily valuations.

**Summary:** A TRS Plan III member who has a terminal illness and who has terminated employment may choose to have the balance in the member's account distributed as a lump-sum payment based on the most recent asset valuation in order to expedite the payment. The Department of Retirement Systems must make the payment within 10 working days after receiving notice of termination of employment, documentation verifying the terminal illness, and an application for payment.

**Votes on Final Passage:**

House	98	0
Senate	42	0

**Effective:** March 23, 1998

## SHB 3056

C 34 L 98

Implementing the recommendations of the on-site wastewater certification work group.

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

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

**Background:** In 1997, the Legislature directed the Department of Health to create a work group that would develop recommendations to the Legislature regarding a certification program for occupations related to on-site septic systems. The work group was also asked to examine the bonding levels and other standards for people employed in these occupations. In addition, the work group was asked to examine the application of a risk analysis pertaining to the installation and maintenance of different types of septic systems in different parts of the state. The On-site Wastewater Certification Work Group met several times during the 1997 interim and developed a report containing its recommendations in these areas.

**Summary:** The Department of Health and the Department of Licensing must convene an advisory committee to develop proposed legislation to license designers of on-site septic systems, and a proposed certification program for inspectors of on-site septic systems that tests the same knowledge and competency required for licensed designers of on-site septic systems. The proposed legislation

must be submitted to the Senate Agriculture and Environment Committee and the House Agriculture and Ecology Committee by December 1, 1998. The legislation must be consistent with the recommendations contained in the report prepared by the On-site Wastewater Certification Work Group.

The Department of Health is required to develop a one-day course to train local health officers, environmental health officers, environmental health specialists, and technicians pertaining to the waiver authority granted local officers for siting on-site septic systems, the application of site evaluation and assessment methods to match particular sites and development plans with suitable on-site sewage treatment systems, the regulatory framework for the use on-site sewage treatment technologies, and the use of mitigation waivers. The course must be made available in various parts of the state without charge. The first training must be conducted by June 30, 1999.

The Department of Health and the Department of Licensing must report on the time frames and feasibility for implementing other recommendations of the On-site Wastewater Certification Work Group by December 1, 1998.

**Votes on Final Passage:**

House	96	0
Senate	47	0

**Effective:** June 11, 1998

## SHB 3057

C 180 L 98

Allowing trademarks or business logos on adopt-a-highway signs.

By House Committee on Transportation Policy & Budget (originally sponsored by Representatives Chandler and Linville).

House Committee on Transportation Policy & Budget  
Senate Committee on Transportation

**Background:** In 1990, the Department of Transportation (DOT) began its adopt-a-highway program. Under the program, volunteers agreed to remove litter from designated two-mile stretches of highway at least four times per year for a period of two years. The DOT provides the signs identifying the volunteers, safety equipment and training, and trash bags. The DOT maintenance division is responsible for disposal of the litter collected by volunteers.

In 1995, the program was expanded to include businesses, and activities such as planting and maintaining vegetation, weed control, graffiti removal, and other roadside improvement or clean-up activities. Participating groups may adopt more than one section of highway or other state-owned transportation facility (such as rest areas, park and ride lots, and intermodal facilities).

Volunteer groups or businesses choosing to participate in the program must submit a proposal to the DOT for approval. The sponsor may perform the work or hire someone to be responsible for the roadside improvement and clean-up activities. Business sponsors are responsible for disposal of the litter collected.

Highway signing consists of a sign, visible to approaching traffic from both directions, that designates the length of the sponsored section and the name of the litter control area sponsor. No trademarks or business logos may be displayed.

One of the recommendations of the 1997 Litter Task Force, charged with examining the effectiveness of the current litter control programs, was to allow trademarks and business logos on adopt-a-highway signs. This would help promote private sponsorship, increase advertising exposure for the sponsors, increase the number of adoptions, and free up DOT maintenance funds for other activities.

**Summary:** Trademarks and business logos may be displayed on adopt-a-highway signs erected and maintained by the DOT: (1) on the interstate, primary and scenic highway systems; and (2) at state-owned transportation facilities (such as rest areas, park-and-ride lots, and intermodal facilities).

**Votes on Final Passage:**

House 96 0  
Senate 27 19

**Effective:** June 11, 1998

**2SHB 3058**  
**PARTIAL VETO**  
C 257 L 98

Changing statutes for waste reduction, recycling, and litter control.

By House Committee on Appropriations (originally sponsored by Representatives Chandler and Linville).

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

**Background:** The Model Litter Control Act (renamed the Waste Reduction, Recycling, and Model Litter Control Act) was enacted in 1971 as the legislative alternative to an initiative that would have established a consumer deposit on glass beverage containers. The 1971 legislation enacted a tax of 0.015 percent (or \$1.50 on every \$10,000 of sales) on the sale of 13 specified categories which include food, cigarettes, beverages, and packaging materials. The tax is paid to the Department of Revenue on an annual basis.

Litter tax revenues are appropriated to a number of state agencies, including the Department of Ecology, the Department of Natural Resources, the Department of

Revenue, and the Parks and Recreation Commission. Total funding for the litter control, waste reduction, and recycling programs administered by these agencies was approximately \$10.9 million for the 1997-1999 biennium. Revenues from the tax are subject to a statutory formula as follows: 40 to 50 percent of litter tax revenues must be used for the youth litter pickup program administered by the Department of Ecology; and no more than 60 percent may be used for public education and awareness programs to control litter, for programs to foster local recycling efforts, encourage recycling, and develop markets for recyclable materials and for compliance with the litter tax. In practice, the statutory distribution formula has been applied only for appropriations made to the Department of Ecology.

A Litter Task Force composed of state agencies, the associations of cities and counties, payers into the litter tax, and recyclers was convened in July 1997 to examine the effectiveness of the state's litter control programs. The task force made a number of recommendations, including making a single agency responsible and accountable for administering agency allocations of litter tax funds, establishing a local government funding program for litter control activities by cities and counties, encouraging the Department of Revenue to increase taxpayer compliance with the litter tax, and creating an additional competitive source of capital and operating funds for local or state agencies. Equipment purchases would receive priority from this fund.

The Department of Transportation is authorized to install "adopt-a-highway" litter control road signs with some restrictions. These signs may not display trademarks or business logos.

**Summary:** Several changes are made to the Waste Reduction, Recycling, and Model Litter Control Act. References to marketing and the Clean Washington Center are removed as a purpose of the act. The term "illegal dumping" is included in the definition of litter. The term "waste reduction" is defined. The Department of Ecology (DOE) is responsible for administering the distribution of appropriations from the waste reduction, recycling, and litter control account to state agencies and local governments. Funds for local governments are no longer distributed as grants but through funding agreements.

The distribution of the litter tax is changed and additional responsibilities are provided to the DOE. Fifty percent of the litter tax is provided to the DOE for use by state agencies for litter collection programs and the development of statewide programs to increase public awareness of recycling. In addition, these funds support a new central coordination function to be provided by the DOE for all litter control efforts statewide and a new biennial litter survey. Twenty percent of the litter tax is provided to the DOE for use by local governments to control litter. Thirty percent of the tax is provided to the DOE for waste reduction and recycling efforts.

Between 5 and 10 percent of the amount appropriated into the waste reduction, recycling, and litter control account must be reserved for equipment purchases that will allow the DOE to achieve the greatest progress toward the goals of waste reduction, recycling, and litter control.

The Department of Revenue is charged with enforcing litter tax collection. In addition, the Department of Revenue will collect the tax at the same time and frequency that tax payers pay their business and occupations taxes.

The DOE is required to develop criteria for evaluating projects proposed by state agencies and local governments, and give priority to those projects that achieve the greatest progress toward waste reduction, recycling, and litter control. All agencies must report information on their litter collection programs to the DOE. The DOE must report to the Legislature in even-numbered years summarizing waste reduction, litter control, and recycling activities.

Trademarks or logos may be displayed on adopt-a-highway litter control road signs.

**Votes on Final Passage:**

House	95	0
Senate	41	3

**Effective:** June 11, 1998

**Partial Veto Summary:** The section of this bill that would allow the use of logos on adopt-a-highway signs to recognize business participation in litter control is vetoed.

**VETO MESSAGE ON HB 3058-S2**

April 1, 1998

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 11, Second Substitute House Bill No. 3058 entitled:

"AN ACT Relating to waste reduction,"

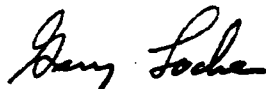
Since 1971, manufacturers and other businesses have paid a tax on the sale of certain products that contribute to litter. The revenues generated from that tax are deposited into the state Litter Account and are used by state and local governments for litter collection and waste reduction and recycling programs. This bill fine tunes those programs to ensure that the most effective litter and waste reduction programs are funded. It also dedicates a portion of the funding to local governments and provides them with greater flexibility in the use of those funds.

Section 11 of this bill would allow the use of logos on adopt-a-highway signs to recognize business participation in litter control. A substantially similar provision was passed by the Legislature in Substitute House Bill 3057, which I signed on March 27, 1998.

For this reason, I have vetoed section 11 of Second Substitute House Bill No. 3058.

With the exception of section 11, Second Substitute House Bill No. 3058 is approved.

Respectfully submitted,



Gary Locke  
Governor

**HB 3060**

C 258 L 98

Changing provisions relating to sufficient cause for nonuse of water rights.

By Representative Chandler.

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

**Background:** If a person abandons or voluntarily fails to use beneficially all or any part of the person's water right for five successive years, the right or portion unused is relinquished and reverts to the state. A number of exemptions from this relinquishment requirement are listed by statute.

**Summary:** A water right is not relinquished for five successive years of non-use if the use of the right is precluded or reduced by federal or state agency leases of, or options to purchase, lands or water rights, or if the water right is leased and the lessee makes beneficial use of the right in accordance with an approved transfer or change of the right.

**Votes on Final Passage:**

House	96	0	
Senate	41	2	(Senate amended)
House	98	0	(House concurred)

**Effective:** June 11, 1998

**2SHB 3070**

**PARTIAL VETO**

C 207 L 98

Increasing penalties for drunk driving.

By House Committee on Appropriations (originally sponsored by Representatives McCune and Mulliken).

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

**Background:** The driving under the influence (DUI) law has a variety of criminal and civil penalty provisions. These penalties escalate on the basis of repeat offenses and on the basis of the offender's blood or breath alcohol concentration (BAC). For purposes of counting "prior" DUIs, there is a five-year washout period: An offense stays on an offender's criminal history as a "prior" offense for only five years. "Prior" offenses for purposes of these escalating penalties include: DUI; DUI-related vehicular homicide or assault; and negligent driving, if the conviction is the result of a charge originally filed as a DUI or vehicular homicide or assault. "Prior offenses" also include deferred prosecutions on DUI or DUI-related charges.



The implied consent law, the DUI vehicle forfeiture law, the occupational license law, and the deferred prosecution law also have provisions based on a five-year washout period for counting prior offenses. Under the Sentencing Reform Act (SRA), serious traffic offenses such as DUI have a five year washout.

The Department of Licensing (DOL) is required to keep DUI records for at least 10 years.

A variety of factors, including local judicial, prosecutorial and police practices, may affect the timing of various events following an arrest for DUI. An arrested person may be released or may be taken directly to jail. Charging and arraignment may occur within a day of arrest, or may not occur for weeks following arrest. Because of these variances, a first appearance in court by a DUI defendant may occur within hours of arrest or much later. At a pre-trial appearance, the court may impose conditions on the release of the defendant pending trial. These conditions may restrict the activities and movements of the defendant. Some district court judges have expressed concern that delays in the first court appearance may result in potentially dangerous persons, such as those with extensive histories of DUI, continuing to drive pending trial.

A provision outside of the DUI law makes it illegal for a minor to drive with an alcohol concentration (BAC) of 0.02 "or more." The standard for DUI currently is 0.10.

**Summary:** All of the DUI-related, five-year washout periods are changed to seven-year periods, except for the periods applicable to deferred prosecutions, and to serious traffic offenses under the SRA. The DOL is required to keep deferred prosecution records permanently and other DUI-related records for 15 years.

Persons cited for DUI at the time of arrest must appear in court within one day for a determination of possible conditions on pre-trial release. Persons arrested for DUI who are cited at a later date must appear in court within 14 days of the citation.

The "minor 0.02" law is clarified to apply only to minors with BACs below the DUI level.

**Votes on Final Passage:**

House	96	0	
Senate	46	0	(Senate amended)
House	95	0	(House concurred)

**Effective:** January 1, 1999

**Partial Veto Summary:** The Governor vetoed a provision, similar to a technically more complete version in E2SSB 6293, that requires offenders to appear in court within specified times after arrest. The Governor also vetoed a provision that restates the existing authority for local governments to submit claims to the state for reimbursement for the costs of implementing new programs.

**VETO MESSAGE ON HB 3070-S2**

March 30, 1998

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 6 and 11, Second Substitute House Bill No. 3070 entitled:

"AN ACT Relating to penalties for driving under the influence;"

2SHB 3070 will make certain that a driver's DUI history will be kept on file for a longer period of time for consideration by the courts in the event of subsequent offenses. I strongly agree with the purpose of this legislation; however, two sections are problematic.

Section 6 of 2SHB 3070 would require drunk drivers to appear in court promptly after arrest or the filing of a charge, and would be a desirable improvement in the way these cases are handled. However, because of a flaw in drafting, the court appearance would be required the day after arrest, even for defendants who had not yet been formally charged by citation, complaint, or information. This would be unworkable, and the District and Municipal Court Judges Association, which initially proposed section 6, has asked me to veto it. Fortunately, E2SSB 6293 includes a similar provision which is better drafted, and I have signed that bill today.

Section 11 of 2SHB 3070 would require that the Office of Financial Management verify claims from local governments for increased levels of services mandated by the act. This section would add an unnecessary additional bureaucratic layer to the existing statutory and procedural process for handling these claims. I will direct the Office of Financial Management and the Department of General Administration to work collaboratively with the appropriate legislative committees to ensure that timely and accurate information is provided to the Legislature.

For these reasons, I have vetoed sections 6 and 11 of Second Substitute House Bill No. 3070.

With the exception of sections 6 and 11, Second Substitute House Bill No. 3070 is approved.

Respectfully submitted,

Gary Locke  
Governor

**SHB 3076**

C 234 L 98

Authorizing sharing of tax information for purposes of investigating food stamp fraud.

By House Committee on Finance (originally sponsored by Representatives H. Sommers, Cooke, Dickerson, Anderson, Gardner and Ogden).

House Committee on Finance  
Senate Committee on Ways & Means

**Background:** Generally, the Department of Revenue is prohibited from disclosing information about taxpayers, but the department may disclose information about a taxpayer at the request of the taxpayer, as part of court

proceedings, and under some other narrowly-defined circumstances.

For official purposes, the department may share confidential taxpayer information with the Governor, the Attorney General, and state agencies and legislative committees that deal with matters of taxation, revenue, trade, and commerce. The department is also permitted to disclose tax information to the proper tax officers of counties, cities, towns, another state, the federal Internal Revenue Service, the Canadian government, or any Canadian province, if these tax officers agree to share tax information on a reciprocal basis with the department.

In addition to the federal Internal Revenue Service, the department is also allowed to disclose for official purposes tax information to the following federal agencies:

- Department of Justice;
- Bureau of Alcohol, Tobacco and Firearms;
- Department of Defense;
- Customs Service;
- Coast Guard; and
- Department of Transportation.

**Summary:** The Department of Revenue may disclose tax information to the U.S. Department of Agriculture for the limited purpose of investigating food stamp fraud by retailers.

A person who receives confidential taxpayer information through the U.S. Department of Agriculture and wrongfully discloses that information commits a misdemeanor offense. If the person is a state employee or officer, then the person also forfeits his or her office or employment.

**Votes on Final Passage:**

House	96	0
Senate	49	0

**Effective:** June 11, 1998

**2SHB 3089**  
**PARTIAL VETO**

C 208 L 98

Limiting eligibility for the deferred prosecution program to once in a lifetime.

By House Committee on Appropriations (originally sponsored by Representatives McDonald, Sheahan, Kessler, Bush, Robertson and Boldt).

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

**Background:** A person charged with a non-felony offense in district court may petition for a "deferred prosecution." Driving under the influence (DUI) is the offense for which a deferred prosecution is most often

sought. To qualify for a deferred prosecution, a person must allege that the charged criminal conduct resulted from the person's alcoholism or drug addiction, that the conduct is likely to recur if the alcoholism or addiction is not treated, and that the alcoholism or addiction is in fact amenable to treatment. Among other things, the person must also acknowledge in writing that he or she waives the right to testify, to call witnesses, to have a speedy trial, or to have a jury. The person must also stipulate to the admissibility of the evidence contained in the police report.

If a person is granted a deferred prosecution and successfully completes a court-ordered, two-year treatment program, the court will dismiss the charges. Conviction for another offense during the two-year program results in judgment being entered on the deferred charge.

A person charged with an offense under the motor vehicle code is not eligible for a deferred prosecution more than once in a five-year period.

**Summary:** No person charged with a violation of the motor vehicle code is eligible for a deferred prosecution program more than once. If the person is convicted of another offense that was committed during the two-year program, the court must enter judgment on the deferred charge. The court may not dismiss the deferred charge until three years after proof of completion of the two-year treatment program.

**Votes on Final Passage:**

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

**Effective:** January 1, 1999

**Partial Veto Summary:** The Governor vetoed a provision that restates the existing authority for local governments to submit claims to the state for reimbursement for the costs of implementing new programs.

**VETO MESSAGE ON HB 3089-S2**

March 30, 1998

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

Ladies and Gentlemen:

I am returning herewith, without my approval as to section 6, Second Substitute House Bill No. 3089 entitled:

"AN ACT Relating to drunk driving;"

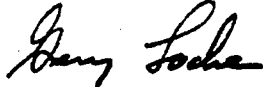
2SHB 3089 allows a person to dispose of a DUI case by deferred prosecution only once in a lifetime, and reinstates the deferred charge if the person has a second DUI within five years. I strongly agree with this legislation; however, one section is problematic.

Section 6 of 2SHB 3089 would require that the Office of Financial Management verify claims from local governments for increased levels of services mandated by the act. This section would add an unnecessary additional bureaucratic layer to the existing statutory and procedural process for handling these claims. I will direct the Office of Financial Management and the Department of General Administration to work collaboratively with the appropriate legislative committees to ensure that timely and accurate information is provided to the Legislature.

## SHB 3096

*For this reason, I have vetoed section 6 of Second Substitute House Bill No. 3089.  
With the exception of section 6, Second Substitute House Bill No. 3089 is approved.*

*Respectfully submitted,*



*Gary Locke*  
Governor

## SHB 3096

C 323 L 98

Declaring the state's preemption of excise or privilege taxes on health care services.

By House Committee on Financial Institutions & Insurance (originally sponsored by Representatives Zellinsky and L. Thomas).

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

**Background:** Insurance companies pay a premium tax of 2 percent on premiums. These taxes are collected by the Insurance Commissioner for deposit in the general fund. Health care service contractors and health maintenance organizations also pay a 2 percent tax on premiums or prepayments. These taxes are deposited in the health services account.

Local governments are preempted by the state from imposing excise or privilege taxes on insurance companies.

**Summary:** Beginning January 1, 2000, local governments are preempted by the state from imposing excise or privilege taxes on premiums or payments for health benefit plans provided by health care service contractors and health maintenance organizations. The preemption does not apply to the services performed by employees of a health maintenance organization.

### Votes on Final Passage:

House	79	19	
Senate	44	5	(Senate amended)
House	83	12	(House concurred)

**Effective:** June 11, 1998

## SHB 3099

C 289 L 98

Revising the definition of "major industrial development" for the purpose of growth management planning.

By House Committee on Government Reform & Land Use (originally sponsored by Representatives DeBolt, Kessler and Johnson).

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

**Background:** Under the Growth Management Act (GMA), counties meeting specified growth criteria must adopt comprehensive plans that include a land use element, a rural element, a transportation element, and several other elements. A county that does not meet the growth criteria may choose to plan under the GMA.

Each county that plans under the GMA must designate an urban growth area sufficient to permit the urban growth expected to occur over the next 20 years. Counties must encourage urban growth within the urban growth areas, and may allow growth outside of the urban growth areas only if it is not urban in nature. Limited intensive rural development, including development of existing industrial areas, is allowed outside urban growth areas in the rural element and does not constitute urban growth.

The GMA contains several exceptions to the general prohibition of urban growth outside urban growth areas:

- Fully contained communities meeting certain criteria are permitted.
- Master planned resorts, which are self-contained and fully integrated planned unit developments in a setting of significant natural amenities, may be authorized if specified conditions are met.
- Specific major industrial developments may be sited outside urban growth areas if criteria are met. A major industrial development is a specific manufacturing, industrial, or commercial business that either: (1) requires a parcel of land so large that no suitable parcels exist within urban growth areas; or (2) is a natural resource-based industry requiring a location near resource land upon which it is dependent.
- Industrial land banks are permitted on a pilot basis. In 1996, the Legislature authorized Clark County to designate a bank of no more than two master planned locations for major industrial activity outside urban growth areas. In 1997, legislation was enacted expanding this authority to include Whatcom County.

The land bank authority allows designation of a location suitable for manufacturing or industrial businesses that: (1) requires a parcel of land so large that no suitable parcels are available within the urban growth area; (2) are natural resource-based industries requiring a location near resource land upon which it is dependent; or (3) require a location with characteristics such as proximity to transportation facilities or related industries such that there is no

suitable location in an urban growth area. The bank may not be for retail commercial development or multitenant office parks.

The following criteria must be met to establish a location for a bank:

- new infrastructure is provided for or impact fees are paid;
- transit-oriented site planning and traffic demand management programs are implemented;
- buffers are provided between the development and adjacent nonurban areas;
- environmental protection including air and water quality has been addressed and provided for;
- development regulations are established to ensure that urban growth will not occur in adjacent nonurban areas;
- adverse impacts on resource lands are mitigated;
- the plan for the development is consistent with critical areas regulations; and
- an inventory has been conducted and the county has found that land suitable to site the location is unavailable within the urban growth area.

The authority to include master planned locations in a bank terminates on December 31, 1998.

**Summary:** Legislative findings are made that it is beneficial to expand the limited authorization for pilot projects for major industrial activity outside urban growth areas. The Legislature further finds that land bank availability may assist economically disadvantaged counties.

Additional counties are authorized to establish industrial land banks. The additional counties are those with a population between 40,000 and 75,000 and unemployment exceeding the state average by 20 percent for the preceding years, and that are either 1) bordered by the Pacific Ocean or 2) located in the I-5 or I-90 corridors. (The effect is to add Lewis, Grant, and Clallam counties.)

The authority to include master planned locations in a bank is extended one year to December 31, 1999.

**Votes on Final Passage:**

House	95	0	
Senate	31	15	(Senate amended)
House	97	1	(House concurred)

**Effective:** June 11, 1998

**HB 3103**

C 93 L 98

Requiring newborn screening for exposure to harmful drugs.

By Representatives Dickerson, Cooke, Tokuda, Keiser, Ogden, Costa and Boldt.

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

**Background:** A 1990 Government Accounting Office (GAO) report to the U.S. Senate Committee on Finance concluded that identifying infants who have been prenatally exposed to drugs is the key to providing them with effective medical and social interventions at birth and as they grow up. The report went on to emphasize the importance of early risk assessment and comprehensive residential drug treatment that includes prenatal care services to increasing the chances that a developing infant will be born healthy.

Many hospitals do not conduct assessments for drug use during pregnancy. Some do not screen infants to determine if they are drug-affected. Hospitals that screen use varying protocols. The GAO report found a wide range of hospital practices.

A uniform procedure for testing or screening does not exist in Washington. Identifying drug-affected babies can be difficult, especially identifying babies suffering from fetal alcohol syndrome. However, the type of screening used by hospitals is significant in determining whether drug-affected babies are identified. Since many drug-affected infants display few overt withdrawal signs and many women deny using drugs out of fear of being incarcerated or losing their child, simple screening protocols may not detect all the infants needing special care.

**Summary:** The Department of Health is directed to consult with medical professionals to develop a screening criteria to use in identifying pregnant or lactating women who are at risk of producing a drug-affected baby. Similarly, the department will develop training methods to instruct personnel to use the identification and screening protocols.

The department must also investigate the feasibility of medical protocols for testing or screening of newborns for drug or alcohol exposure, and consider how to improve the current testing practices.

The department must report its findings to the Legislature by December 1, 1998.

**Votes on Final Passage:**

House	96	0
Senate	45	0

**Effective:** June 11, 1998

SHB 3109

C 148 L 98

Verifying the income of subsidized enrollees of the state basic health plan.

By House Committee on Appropriations (originally sponsored by Representatives Huff, H. Sommers, Dyer and Carrell).

House Committee on Appropriations  
Senate Committee on Ways & Means

**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. 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 copayments. The BHP is administered by the Health Care Authority (HCA), which contracts with privately owned and operated managed care health plans.

The amount the state subsidizes a BHP enrollee depends in part on the enrollee's family income. The HCA is responsible for determining, at the time of application and on a reasonable schedule defined by the HCA, the correct subsidy level based on gross family income. If an enrollee's family income increases to more than twice the federal poverty level after enrolling in the plan and the enrollee knowingly fails to inform the HCA of the increase, the HCA administrator may bill the enrollee for the subsidy paid by the state on the enrollee's behalf during the period of time that the enrollee's income exceeded twice the federal poverty level.

To the extent possible within available funding, the BHP checks the continued eligibility of enrollees who have not reported any income changes within the previous year. In 1997, subsidized enrollment was terminated for approximately 1,100 families as a result of such eligibility recertifications. This was just under 40 percent of the accounts checked. Also, in 1997, the State Auditor conducted a computer match between BHP and Employment Security Department records which suggested there may be a significant issue with enrollees receiving a higher subsidy than they should.

**Summary:** When a Basic Health Plan enrollee fails to report income or income changes accurately, the administrator of the Health Care Authority has the authority either to bill the enrollee for the amount of overpayment or to impose a civil penalty of up to 200 percent of the amount of subsidy overpaid as a result of the incorrect reporting. The administrator must adopt rules to define the appropriate application of these sanctions and the processes to implement the sanctions within available resources.

Votes on Final Passage:

House	96	0
Senate	43	0

Effective: June 11, 1998

SHB 3110

C 181 L 98

Considering fish in advanced environmental mitigation.

By House Committee on Transportation Policy & Budget (originally sponsored by Representatives Mastin, Buck and K. Schmidt).

House Committee on Transportation Policy & Budget  
Senate Committee on Transportation

**Background:** During the design and construction of state Department of Transportation (DOT) projects, efforts are made to avoid and/or minimize impacts on the environment. When adverse impacts cannot be avoided, they have been traditionally mitigated as part of the subject transportation project (i.e., wetlands filled by the transportation project are mitigated by constructing new wetlands within the transportation project bounds). Many times, on-site conditions are not favorable for effective mitigation. Transportation project development time lines may not allow for an adequate mitigation site selection/development process, and cost-effective opportunities for partnering on mitigation sites with other jurisdictions are lost because mitigation is directly tied to project funds. In many instances, local governments or other organizations have asked the DOT to participate in the development of cost-effective, multi-party environmental facilities, but the DOT could not participate due to lack of available funding.

These issues led to the creation of an advanced environmental mitigation revolving account in 1997. This account is structured to purchase and develop environmental mitigation sites that will be needed in the foreseeable future. DOT projects would then replenish the account by using project dollars to purchase "credit" from the advance mitigation site to mitigate adverse impacts caused by the subject project. Advanced environmental mitigation must be consistent with the Council of Environmental Quality regulations and the Governor's executive order on wetlands, and may only be used on projects approved by the Transportation Commission. However, priorities within the advanced environmental mitigation account are not clarified.

**Summary:** Prioritization within the advanced environmental mitigation account is clarified. A legislative finding is made that fish passage, fish habitat, wetlands and flood management to be critical issues in the effective management of watersheds in Washington.

Advanced environmental mitigation must give consideration to activities related to fish passage, fish habitat,

wetlands and flood management. (This provides direction to the DOT when using advanced environmental mitigation.)

Flood management and flood hazard reduction pilot projects are established. The departments of Transportation and Ecology are required to convene a technical committee of state agencies and local and tribal governments that will provide guidance for expenditures related to flood management and flood hazard reduction projects receiving advance mitigation funding. The technical committee is required to identify opportunities for coordination on flood-related issues and report to the appropriate legislative committees by December 1, 1998.

**Votes on Final Passage:**

House 96 0  
Senate 47 0

**Effective:** June 11, 1998

**HB 3902**

C 1 L 97 E1

Restoring the authority of law enforcement officers to check for outstanding warrants when making traffic infraction stops (Introduced with Senate sponsors).

By Representatives Lisk and Appelwick; by request of Governor Locke.

**Background:** On August 28, 1997, the Washington State Supreme Court held that a law enforcement officer does not have the legal authority under state statute or local ordinance to detain a person stopped for a noncriminal traffic offense while the officer conducts a warrant check. The court based its opinion on statutory grounds; the court did not decide any constitutional issues.

A state statute grants law enforcement officers the authority to stop individuals for traffic infractions and governs what may occur during such stops. The state statute grants the officer the authority to detain a person for a reasonable period of time in order to perform four tasks: (1) identify the person; (2) check the status of the person's license and insurance identification card; (3) check the status of the vehicle's registration; and (4) complete and issue a notice of traffic infraction.

It is suggested that existing law should be clarified to specifically authorize law enforcement officers to conduct a warrant search when a person has been stopped for a traffic offense.

**Summary:** Law enforcement officers are given explicit statutory authority to detain a person for a reasonable period of time to conduct a warrant search if the person has been stopped for a noncriminal traffic offense.

**Votes on Final Passage:**

House: 93 1  
Senate: 42 2

**Effective Date:** September 17, 1997

**HJM 4030**

Petitioning for Medicaid flexibility.

By Representatives Backlund, Cody, Dyer, Lambert, Carrell, Koster, Zellinsky, Sherstad and Anderson.

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

**Background:** The federal government provides Medicaid funding to states for a variety of health related services to low-income individuals. Under recently enacted federal welfare legislation, states were granted flexibility in implementing new programs.

**Summary:** The President and U.S. Congress are requested to introduce and enact legislation granting extensive flexibility to the states in the use of Medicaid funding for acute and long term care services.

**Votes on Final Passage:**

House 96 0  
Senate 42 3

**HJM 4032**

Regarding salmon and steelhead under the federal Endangered Species Act.

By Representatives Buck, Butler, Chandler, DeBolt, Sehlin, Hatfield, McCune, Doumit, Kessler, Zellinsky and Thompson.

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

**Background:** The listings of salmon and steelhead under the federal Endangered Species Act are expected to have significant economic impacts on Washington. The state is expected to develop recovery plans for these listed species. Because salmon spend most of their lives outside of waters controlled by the state, federal actions are critical to ensuring the success of salmon recovery efforts in Washington.

**Summary:** The President and the Congress of the United States are petitioned to: immediately resolve the United States-Canada fishing dispute; enforce the 200-mile limit and the ban on high seas drift net fishing; and provide funding for salmon recovery efforts which mitigate the loss of habitat caused by the construction of hydroelectric dams on the Columbia River.

## SHJM 4035

### Votes on Final Passage:

House	96	0
Senate	45	0

## SHJM 4035

Urging legislation facilitating forest land exchange.

By House Committee on Natural Resources (originally sponsored by Representatives Dyer, Butler, Schoesler, Mastin, Linville, Sehlin, Buck, Huff, Mulliken, Chandler and Koster).

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

**Background:** For a number of years, the U.S. Forest Service and Plum Creek Timber Company have been exploring a land exchange. The land proposed for exchange that is currently owned by Plum Creek is approximately 60,000 acres near the Interstate 90 corridor and the Alpine Lakes Wilderness Area. Much of this ownership is in a checkerboard pattern with U.S. Forest Service lands. The land proposed for exchange that is currently owned by the U.S. Forest Service is approximately 40,000 acres in three national forests: the Mount Baker-Snoqualmie, the Wenatchee, and the Gifford Pinchot.

**Summary:** A number of findings are made regarding the value Washington citizens place upon their natural heritage, the growing demand for recreational use of the state's natural resources and the impact this demand may have. In discussing the proposed land exchange between Plum Creek Timber Company and the U.S. Forest Service, it is found that the process has involved extensive public participation and that the exchange complements the President's Forest Plan. It is also found that time is of the essence because the longer it takes to complete the exchange, the less private land will be precluded from harvest activities. The United States government is asked to complete the proposed exchange promptly.

### Votes on Final Passage:

House	96	0
Senate	49	0

## HJM 4039

Petitioning for amendment to the Federal Communications Commission ruling barring direct reimbursement to state agencies that provide telecommunications services.

By Representatives Huff, Carlson, H. Sommers, Kenney and Wolfe.

House Committee on Appropriations  
Senate Committee on Ways & Means

**Background:** In 1987, the Legislature created the Department of Information Services (DIS) as a cabinet-level agency responsible for providing to state agencies and local governments computing and telecommunications services, including: (1) the K-20 educational network, designed to provide universities, colleges, public libraries, and the state's 296 school districts with telecommunications services such as Internet access, interactive video, and other services; (2) long distance telephone services; and (3) other statewide telecommunication services.

Pursuant to the Telecommunications Act of 1996, the Federal Communications Commission (FCC) began implementing a \$2.25 billion universal service fund to discount the cost of telecommunications and information services to schools and libraries ("e-rate"). The e-rate provides discounts on designated commercially available telecommunication services, Internet access, and internal connections. The e-rate discounts on commercial telecommunications services range from 20 percent to 90 percent based on the eligibility of students within a school district for free- and reduced-price school lunch (a measure of poverty) and location.

On December 30, 1997, the FCC ruled that state networks, such as the K-20 network and other DIS networks, may not recover directly from the universal service fund for telecommunication services, other than Internet services and internal connections provided and billed to schools and libraries. The FCC ruling could lead schools and libraries to forego the use of the DIS services and opt instead to procure commercial services which would allow them to receive the e-rated discount.

**Summary:** The Congress is requested to urge the FCC to review and amend its ruling barring direct reimbursement to state agencies that provide telecommunications services. The memorial must be sent to the Congress, President Clinton, and the FCC.

### Votes on Final Passage:

House	96	0
Senate	46	0

**SB 5164**  
C 118 L 98

Removing certain tenants and occupants from a mobile home park.

By Senators Haugen, Long, Goings, Patterson, Franklin and Bauer.

Senate Committee on Financial Institutions, Insurance & Housing  
House Committee on Trade & Economic Development

**Background:** Mobile home park landlords may only evict tenants for the reasons listed in the Mobile Home Landlord-Tenant Act. One of the reasons listed is "engaging in criminal activity," which is defined as "a criminal act defined by statute that threatens the health, safety, or welfare of the tenants." Conviction of a crime is not required. Notice from a law enforcement agency of criminal activity on the part of a tenant is grounds for eviction.

Mobile home park tenants sometimes require the assistance of a live-in care giver. The occupancy rights of care givers are unclear.

**Summary:** The term "occupant" is added to the definitions section of the Mobile Home Landlord-Tenant Act. It is defined as any person, including a live-in care provider, other than a tenant, who occupies a mobile home and mobile home lot.

The eviction provisions of the Mobile Home Landlord-Tenant Act are amended to include "occupants."

The requirement that a tenant or occupant register as a sex offender with local law enforcement is grounds for eviction.

Outdated references to eviction without cause are removed.

**Votes on Final Passage:**

Senate	43	5	
House	97	0	(House amended)
Senate	37	6	(Senate concurred)

**Effective:** June 11, 1998

**2ESB 5185**  
**FULL VETO**

Revising procedures for growth management hearings boards.

By Senators Horn, McCaslin, Long, Benton, Prince and Deccio.

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

**Background:** Three growth management hearings boards, with jurisdiction over different geographic areas, hear appeals on compliance of actions by state agencies,

counties, and cities with the Growth Management Act (GMA). The boards may appoint hearing examiners to assist them.

In 1997, changes were made regarding direct judicial review and regarding determinations of noncompliance and invalidity by the boards. Parties can agree to go directly to superior court and are given time to settle. If boards find noncompliance, they remand for a reasonable time. Boards must follow specific requirements for making determinations of invalidity and use a standard of review that is deferential to local governments.

**Summary:** Hearing examiners may only make findings of fact, not conclusions of law, when assisting growth management hearings boards.

Boards have authority to mediate disputes between counties and cities regarding coordination and consistency of their comprehensive plans. They have authority to decide whether a county or city has met GMA deadlines, has addressed relevant issues, and has achieved consistency among plans; and to decide whether shoreline master programs comply with relevant statutes. They may not consider the adequacy of local government actions.

Any person may file a petition regarding GMA deadlines at any time, but only a person with standing under the State Environmental Policy Act (SEPA) may challenge a SEPA or shoreline master program action. Petitions regarding relevant issues or consistency must be filed within 60 days of publication.

Boards do not have authority to determine compliance by state agencies or need for adjustment of population forecasts by the Office of Financial Management. They do not have authority to determine validity or invalidity of city or county comprehensive plans or development regulations.

Boards render a decision, not a final order.

Aggrieved parties may appeal board decisions directly to the Court of Appeals.

**Votes on Final Passage:**

Senate	27	21
House	56	40

**VETO MESSAGE ON SB 5185**

March 31, 1998

To the Honorable President and Members,  
The Senate of the State of Washington

Ladies and Gentlemen:

I am returning herewith, without my approval, Second Engrossed Senate Bill No. 5185 entitled:

"AN ACT Relating to growth management hearings boards;"

Second Engrossed Senate Bill No. 5185 would substantially weaken the authority of the Growth Management Hearings Boards. Among other provisions, the bill would prohibit the Boards from determining the validity and invalidity of city or county comprehensive plans or development regulations. These changes would effectively take the accountability out of complying with the Growth Management Act.

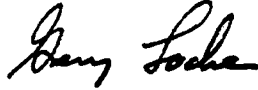
This bill would also lead to citizens, organizations, and government agencies going to the courts to resolve major disagreements about implementation of the Growth Management Act. It



would replace an efficient dispute resolution system with a process that relies on our overburdened court system.

For these reasons, I have vetoed Second Engrossed Senate Bill No. 5185 in its entirety.

Respectfully submitted,



Gary Locke  
Governor

**SB 5217**

C 151 L 98

Providing death benefits for volunteer fire fighters.

By Senators Bauer, Winsley, Franklin, Long, Fraser, Roach, Loveland, Rasmussen, Goings, Swecker, Kohl, Oke, Patterson and Haugen; by request of Joint Committee on Pension Policy.

Senate Committee on Ways & Means  
House Committee on Appropriations

**Background:** In 1996, legislation was passed which provides an additional \$150,000 duty-related death benefit to survivors of members of the Law Enforcement Officers and Fire Fighters and the Washington State Patrol Retirement Systems. The Joint Committee on Pension Policy was directed to study ways to extend coverage to volunteer fire fighters and reserve police officers.

**Summary:** An additional \$150,000 duty-related death benefit is provided to survivors of volunteer fire fighters, for a total of \$152,000.

Local governments have the option of providing death and disability coverage to reserve officers through the Volunteer Fire Fighters' Relief and Pension Act (SHB 1939, Chapter 307, Laws of 1998). The total benefit provided to the survivors is \$152,000 as well.

The primary funding source for the volunteer fire fighters' relief and pension fund is 40 percent of the premium tax paid on fire insurance policies. This dedicated funding source, plus member and municipal contributions, is expected to exceed the required contributions for the plan over the next several years.

**Votes on Final Passage:**

Senate	49	0	
House	97	0	(House amended)
Senate	37	0	(Senate concurred)

**Effective:** March 25, 1998

**ESSB 5305**  
**PARTIAL VETO**

C 290 L 98

Controlling drugs used to facilitate rape.

By Senate Committee on Health & Long-Term Care (originally sponsored by Senators Fairley, Wojahn, Goings, McAuliffe, Patterson and Kohl).

Senate Committee on Health & Long-Term Care  
House Committee on Criminal Justice & Corrections

**Background:** Flunitrazepam, brand named Rohypnol, is a potent tranquilizer which produces a sedative effect, amnesia, muscle relaxation, and a slowing of psychomotor responses. Sedation occurs 20 to 30 minutes after administration and lasts for several hours. Illicit use of the drug in the United States has reportedly been on the increase since the early 1990s. Particular concern has been expressed over the use of the drug to sedate women prior to raping them.

Under the state Uniform Controlled Substances Act, the degree of control exercised over a controlled substance is dependent on the potential for abuse and the degree of psychic or physical dependency which may be caused by the substance. Substances are placed in five schedules to reflect the amount of control necessary, with Schedule I being the most controlled, and Schedule V being the least controlled. The penalty for violations involving a controlled substance varies depending on the schedule on which the substance is placed.

Flunitrazepam is currently listed as a Schedule IV substance under the state Uniform Controlled Substances Act.

Since 1996, several actions were taken at the federal level, including the passage of legislation, to restrict and more severely penalize the illicit use of flunitrazepam.

A person is guilty of rape in the second degree when the person engages in sexual intercourse with another person when the victim is incapable of consent by reason of being physically helpless or mentally incapacitated.

A person is guilty of indecent liberties when he knowingly causes another person who is not his spouse to have sexual contact with him or another by forcible compulsion when the other person is incapable of consent by reason of being mentally defective, mentally incapacitated, or physically helpless.

**Summary:** The criminal penalties for unlawful acts involving flunitrazepam are made the same as the current penalties for unlawful acts involving controlled substances classified under Schedule II that are narcotics.

It is specified that the crime of second degree rape includes sexual intercourse with a person incapable of consent by reason of being physically helpless or mentally incapacitated, including helplessness or incapacity induced by a controlled substance, and requires that the perpetrator know of the helplessness or incapacity.

It is specified that the crime of indecent liberties includes sexual contact with a person incapable of consent by reason of being mentally defective, mentally incapacitated, or physically helpless, including incapacity or helplessness induced by a controlled substance, and requires that the perpetrator know of the defect, incapacity, or helplessness.

Sexual assault investigators must receive training regarding the use of sedating substances in committing sexual assaults.

**Votes on Final Passage:**

Senate	42	0	
House	98	0	(House amended)
Senate	47	0	(Senate concurred)

**Effective:** July 1, 1998

**Partial Veto Summary:** Provisions regarding the crimes of second degree rape and indecent liberties in situations involving the use of a controlled substance are vetoed. Also vetoed is the requirement that sexual assault investigators receive training regarding the use of sedating substances in committing sexual assaults.

**VETO MESSAGE ON SB 5305-S**

April 2, 1998

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, and 8, Engrossed Substitute Senate Bill No. 5305 entitled:

"AN ACT Relating to controlling drugs used to facilitate rape;"

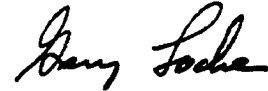
I support the main goal of ESSB 5305, to treat flunitrazepam, the so-called "date rape" drug, with the seriousness it deserves. However, prosecutors and legislators who sponsored and worked for passage of this bill have asked me to veto sections 6 and 7. Those sections would add confusing language to the definitions of second-degree rape and indecent liberties, two very serious sex offenses. The language is not necessary to convict people who use drugs to make victims helpless, and it could make conviction more difficult for other crimes by requiring proof that the accused person knew of the victim's helpless condition.

Section 8 of ESSB 5305 would require rape crisis centers, law enforcement, and hospital emergency rooms to train personnel who investigate sexual assault cases on how to recognize and test for sedatives like flunitrazepam, and how to preserve evidence for use in court. The intent of that section is commendable, but it is vague and lacks any mechanism for implementation. For example, it does not adequately specify who is required to train whom. It is also misplaced in the criminal code. I urge the interested parties to work together to develop effective, workable legislation on this subject for the next session.

For these reasons, I have vetoed sections 6, 7, and 8 of Engrossed Substitute Senate Bill No. 5305.

With the exception of sections 6, 7, and 8, I am approving Engrossed Substitute Senate Bill No. 5305.

Respectfully submitted,



Gary Locke  
Governor

**SSB 5309**  
**FULL VETO**

Providing excise tax exemptions related to horses.

By Senate Committee on Ways & Means (originally sponsored by Senators Morton and Anderson).

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

**Background:** The business and occupation (B&O) tax is levied on the gross proceeds of sale or the gross income of a business, without any deduction for the cost of doing business. The business and occupation tax is paid by the seller.

The B&O tax rate varies depending on the classification of the activity. For example, the training or boarding of horses is considered a service and is subject to 1.75 percent rate. Other businesses that are engaged in wholesaling or retailing are subject to a lower rate.

The business and occupation tax is not applied to farmers who sell any agricultural product at wholesale but does apply to retail sales by farmers of agricultural products. For purposes of the business and occupation tax, agricultural product means any product of plant cultivation or animal husbandry, but does not include animals intended to be pets.

The sales tax is imposed on retail sales of most items of tangible personal property and some services. The state sales tax rate is 6.5 percent and is applied to the selling price of the article or service. In addition, local sales taxes apply. The total retail sales tax rate is between 7 percent and 8.2 percent, depending on the location.

Retail sale is defined to exclude the sale of feed, seed, or fertilizer to farmers for the producing for sale any agricultural product.

The retail sales tax does not apply to the purchase of feed for purebred livestock for breeding purposes where the animal is registered in a nationally recognized breeding association. Thus, feed purchased for gelded or spayed horses technically is subject to the retail sales tax as is feed for nonregistered horses.

**Summary:** Feed sold for horses is exempt from the sales and use tax. The boarding, breeding or selling of horses is exempt from the B&O tax.

**Votes on Final Passage:**

Senate 47 1  
House 94 0

**VETO MESSAGE ON SB 5309-S**

April 3, 1998

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. 5309 entitled:

“AN ACT Relating to excise tax exemptions related to horses;”

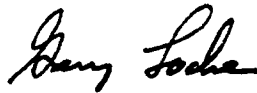
Substitute Senate Bill No. 5309 would exempt the wholesale sale and retail sale of all horses, and the services of boarding and breeding of all horses from the business and occupation tax. The bill would also exempt all horse feed from the retail sales tax.

Today most horses are not owned by farmers or used for agricultural purposes; they are pets or hobbies. Horses used for agricultural purposes or raised as an agricultural product already receive tax breaks. The tax breaks that would be provided by SSB 5309 would mainly help those people in our state who are most able to pay the taxes. Nationally, more than 60 percent of horse owners have a median household income in excess of the median household income in Washington.

Many of the tax exemptions in SSB 5309 would represent a significant departure from current law, and would set a bad precedent. It would be difficult to justify not giving other pet owners similar tax breaks.

For these reasons, I have vetoed Substitute Senate Bill No. 5309 in its entirety.

Respectfully submitted,



Gary Locke  
Governor

**SSB 5355**

C 182 L 98

Exempting certain property donated to charitable organizations.

By Senate Committee on Ways & Means (originally sponsored by Senators Benton, Brown, Swecker, Finkbeiner, Patterson, Rossi and Winsley).

Senate Committee on Ways & Means  
House Committee on Finance

**Background:** The 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 sales tax does not apply to tangible personal property purchased for the purpose of (1) resale in the regular course of business without intervening use, or (2) incorporating the property as an ingredient or component of real

or personal property without intervening use when installing, repairing, cleaning, altering, imprinting, improving, constructing, or decorating real or personal property of or for consumers. However, if the property is used by the purchaser rather than resold or incorporated into another item, the use tax is due.

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. Subsequent transfers, therefore, are subject to use tax. The use by nonprofit charitable organizations, the state, and local governmental entities of tangible personal property donated to them is also exempt from use tax.

**Summary:** An exemption from use tax is provided for the donation of tangible personal property without intervening use to a nonprofit charitable organization, or to the incorporation of tangible personal property without intervening use into real or personal property of or for a nonprofit charitable organization in the course of installing, repairing, cleaning, altering, imprinting, improving, constructing, or decorating the real or personal property for no charge. Also exempt is the subsequent use of the property by a person to whom personal property is donated or bailed by a nonprofit charitable organization, the state, or local government in furtherance of the purpose for which the property was originally donated.

**Votes on Final Passage:**

Senate 49 0  
House 98 0

Effective: June 11, 1998

**ESB 5499**

C 94 L 98

Defining when an assault on a bus driver constitutes assault in the third degree.

By Senators Roach, Johnson, Goings, Jacobsen, Haugen, Horn, Zarelli, McCaslin, Long, Franklin, Winsley, Oke and Rasmussen.

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

**Background:** An assault, in its simplest form, has been defined by case law as any intentional offensive touching or striking of another, regardless of whether any actual physical harm is done to the victim. An act of assault may range from spitting on someone to inflicting a permanently disabling or disfiguring injury. The criminal code divides the crime of assault into four degrees, and into some specific separate crimes. The various crimes are distinguished by the state of mind of the offender, the extent of injury done to the victim, whether or not a weapon was used, and who the victim was.

Fourth-degree assault, sometimes called "simple assault," is a gross misdemeanor. Any assault that does not fall within the definition of one of the other degrees or definitions of the crime is fourth-degree assault. Third-degree assault, the lowest level of felony assault, is a class C felony. Generally, in order to amount to third-degree assault, an assault must involve causing some bodily harm with a weapon, or must involve otherwise causing bodily harm that is "accompanied by substantial pain that extends for a period sufficient to cause considerable suffering."

However, the Legislature has also provided that with respect to certain victims, an assault that would otherwise be a gross misdemeanor will be a felony. That is, with respect to these victims, there is no need to show bodily harm caused by a weapon, or accompanied by substantial pain, in order for the crime to be a felony. A fourth-degree assault becomes a class C felony if committed against:

- a public or private transit vehicle driver;
- a public or private school bus driver;
- a fire fighter;
- a law enforcement officer;
- personnel or volunteers at a juvenile corrections facility;
- personnel or volunteers at an adult corrections facility; and
- personnel or volunteers involved in community corrections.

An otherwise misdemeanor assault against one of these victims becomes a felony only if the victim is engaged in his or her job-related duties at the time of the assault. In the case of transit vehicle and school bus drivers, however, it is also necessary that the driver be operating the vehicle and that there be at least one passenger on the vehicle.

**Summary:** An otherwise misdemeanor assault on a transit vehicle or school bus driver becomes a felony if committed while the driver is performing official duties. The requirements that the driver be operating the vehicle or bus and that at least one passenger be present are removed.

**Votes on Final Passage:**

Senate	48	0
House	98	0

**Effective:** June 11, 1998

**SSB 5517**  
C 95 L 98

Requiring one student member on each state institution of higher education's governing board.

By Senate Committee on Higher Education (originally sponsored by Senators Wood, Kohl, Bauer, Patterson,

Winsley, Brown, Goings, Fraser, Loveland, Benton, Sellar, Franklin and Oke).

Senate Committee on Higher Education  
House Committee on Higher Education

**Background:** The public research institutions, the University of Washington (UW) and Washington State University (WSU), are each governed by a board of regents. Each board has nine members appointed by the Governor, with the consent of the Senate, to serve six-year terms.

The Evergreen State College (TESC) and the regional universities, Central Washington University (CWU), Eastern Washington University (EWU), and Western Washington University (WWU), are each governed by a seven-member board of trustees appointed by the Governor, with the consent of the Senate, to serve a term of six years.

The research universities allow one graduate student, one undergraduate student and one representative of the faculty senate to serve as advisory members to the boards. The advisory members are presidents of their respective associations. Advisory members do not vote, but do have a formal place on the agenda at each meeting.

The regional universities have the chair of the faculty senate and the student body president sit as advisory members to the board. CWU includes the chair of the association of administrators. EWU's board receives from the advisory members a written and an oral report at each meeting. Advisory members do not vote.

Sitting at the table with the board of trustees at TESC are the past chair of the faculty agenda committee, one student volunteer, one alumni representative, and one staff representative elected by the staff. These advisory members do not vote but take part in the discussion.

**Summary:** For the University of Washington and for Washington State University, the Governor, with the consent of the Senate, appoints one full-time student in good standing to the board of regents. The student is chosen from a list of at least three and not more than five names submitted to the Governor by the student governing body. The term of the student regent is for one year from June 1 until the appointment and qualification of the successor. Each board of regents is ten members, with six members constituting a quorum.

For CWU, WWU, and EWU, the Governor, with the consent of the Senate, appoints one full-time student in good standing to the board of trustees. The student is chosen from a list of at least three and not more than five names submitted to the Governor by the student governing body. The term of the student trustee is for one year from June 1 until the appointment and qualification of the successor. Each board of trustees is eight members, with five members constituting a quorum.

For TESC, the Governor, with the consent of the Senate, appoints one full-time student in good standing to the board of trustees. The student is chosen from a list of at

least three and not more than five names submitted to the Governor by the student body. The term of the student trustee is for one year from June 1 until the appointment and qualification of the successor. The board of trustees is eight members, with five members constituting a quorum.

Student members do not participate in personnel matters.

**Votes on Final Passage:**

Senate	31	18	
House	87	11	
House	81	17	(House reconsidered)

Effective: June 11, 1998

**ESSB 5527**  
**FULL VETO**

Providing incentives for water-efficient irrigation systems.

By Senate Committee on Agriculture & Environment (originally sponsored by Senators McDonald, Rasmussen, Sellar, Fraser and Anderson).

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

**Background:** The 1917 Water Code provides that a water right is to remain appurtenant to a particular parcel of land but allows the right to be transferred to another parcel of land or purpose of use if the change can be made without detriment to existing water rights. Transfers require the approval of the state. Water rights for agricultural use generally contain both a limit on the quantity of water that may be used and a limit on the number of acres of land that the water may be applied.

The Department of Ecology administers the water resource statutes. The traditional interpretation does not allow for an expansion in the number of acres that the water can be applied to due to concerns that such expansion would result in an increase in the consumptive use of water and an equivalent decrease in return flows that would be available to meet the needs of existing water right holders. Return flows generally include water that returns to either the ground water or surface water and is part of the supply available to meet other existing rights.

There has been increased public attention to increasing the efficiency in the use of water. More efficient irrigation technologies have been developed that reduce the amount of water that is needed to be applied. A deterrent to the more rapid adoption of such systems is the "use it or lose it" component of the water code. Generally, if a water right holder fails to use all or a portion of a water right for five consecutive years, the portion that is not used is relinquished to the state.

There are also provisions in the water transfer law that specifically address inter and intra irrigation district water right transfers.

**Summary:** Water right holders or persons who have contractual agreements to receive water who employ water saving technologies are allowed to transfer a portion of the water saving to additional uses. The portion that is transferable to another use is limited to the amount of the reduced evaporative loss. Additional quantities of saved water could be transferred if such transfer is determined to not be to the detriment or injury of existing water rights.

The department is authorized to adopt rules to establish streamlined procedures to quantify the reduction in evaporative loss. The department is to use data from the Washington State Cooperative Extension Service to base calculations of reduction in evaporative loss.

Transfers can be to irrigate previously unirrigated land, to land with less senior water rights, or to the state water right trust account for augmentation of instream flows. The Department of Ecology is authorized to enter into contracts to purchase such water when funding is available.

Water rights that are transferred under this act retain their original date of priority.

**Votes on Final Passage:**

Senate	47	0	
House	79	17	(House amended)
Senate	42	4	(Senate concurred)

**VETO MESSAGE ON SB 5527-S**

March 31, 1998

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. 5527 entitled:

"AN ACT Relating to incentives for water-efficient irrigation systems;"

ESSB 5527 would allow water right holders who conserve water through the use of efficient irrigation techniques to apply that water to new parcels of land, or sell or lease it to others, including the state.

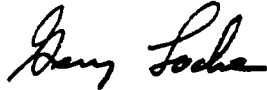
A water right has specific parameters limiting the amount of water, the land on which, and purpose for which it may be used. Those parameters protect the public's interest by ensuring that only the necessary amount of water is used, leaving excess water available for other important uses, after the needs of the water rights holder have been met.

We do not have enough water available in Washington to meet all of our needs. The state has a compelling interest in assuring that water is allocated fairly among different uses, such as increasing in-stream flows for fish. This is an especially important issue today when many streams are over-allocated and have inadequate flows for fish that have been, or may soon be, listed under the federal Endangered Species Act. If we do not take steps to protect fish, the federal government will do it for us, including federal limitations on our water use.

During the interim I will ask the Joint Natural Resource Cabinet to develop a proposal for the next legislative session that will provide an equitable way to allocate conserved water between off-stream and in-stream uses, and that provides incentive for irrigators to conserve. Water allocation issues should also be resolved collaboratively through watershed planning efforts.

*For these reasons, I have vetoed Engrossed Substitute Senate Bill No. 5527 in its entirety.*

*Respectfully submitted,*



Gary Locke  
Governor

**SSB 5532**  
C 119 L 98

Requiring mediation before appeal of land-use decisions involving conditional use permits.

By Senate Committee on Government Operations (originally sponsored by Senators McCaslin, Haugen and Winsley).

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

**Background:** A city or county may adopt a hearing examiner system for amending zoning ordinances when the proposed amendment is not of general applicability.

**Summary:** Before a party may appeal a hearing examiner's final decision involving a conditional or special use permit application for an entity licensed by the Department of Social and Health Services or the Department of Corrections, the party must initiate formal mediation procedures within five days after the final decision. After initial evaluation of the dispute, if the parties agree to proceed, the mediation is conducted by a trained mediator. The mediation process must be completed within 14 days from the time the mediator is selected, unless otherwise agreed by the parties.

The mediator provides the parties with a written summary of the issues and any agreements reached. The mediation report may be made available to the governing jurisdiction, if the parties agree. The parties share the cost of the mediation. Cities, towns and counties are not considered parties who must mediate.

Time limits for filing of appeals are tolled during the mediation process.

**Votes on Final Passage:**

Senate	47	0
House	98	0

**Effective:** June 11, 1998

**SSB 5582**  
C 259 L 98

Prohibiting the purchase of liquor by intoxicated persons.

By Senate Committee on Law & Justice (originally sponsored by Senators Roach, Goings, Schow, Stevens, Oke and Kline).

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.

It is a misdemeanor to sell alcohol to an apparently intoxicated person. However, it is not a crime for the intoxicated person to purchase or consume liquor on any premises licensed by the Liquor Control Board.

**Summary:** No person who is apparently under the influence of liquor may purchase or consume liquor on any premises licensed by the board. Violation of this prohibition is an infraction punishable by a fine of not more than \$500. A defendant's intoxication may not be used as a defense in an action under this law.

Until July 1, 2000, notice of the prohibition against the purchase or consumption of liquor by an intoxicated person must be posted conspicuously in every establishment that sells liquor.

An administrative action for a violation of subsection (1) of this act which prohibits the selling of liquor to a person apparently under the influence of liquor is a separate action from a violation of subsection (2) of this act, even though they may arise from the same incident. Subsection (2) prohibits a person who is apparently under the influence of liquor from purchasing or consuming liquor on any premises licensed by the board.

**Votes on Final Passage:**

Senate	36	13	
House	94	4	(House amended)
Senate			(Senate refused to concur)

Conference Committee

House	84	14
Senate	38	10

**Effective:** June 11, 1998

**SB 5622**

C 183 L 98

Removing the expiration of tax exemptions for new construction of alternative housing for youth in crisis.

By Senators Long, Strannigan and Winsley.

Senate Committee on Ways & Means

House Committee on Finance

**Background:** The retail sales tax is imposed on sales of most articles of tangible personal property and some services. The total state and local rate varies from 7 percent to 8.2 percent, depending on the location. The use tax is imposed on the use of articles of tangible personal property when the sale of the property was not subject to sales tax. The use tax generally applies when property is acquired from out of state. Use tax is equal to the sales tax rate multiplied by the value of the property used.

Nonprofit health or social welfare organizations are exempt from sales and use taxes on items necessary for new construction of alternative housing for youth in crisis. The facility must be licensed as an agency for the care of children, expectant mothers, or the developmentally disabled. A youth in crisis is a person under 18 who is homeless, a runaway, abused, neglected, abandoned, or is suffering from a substance abuse or mental disorder. This exemption expires July 1, 1999.

**Summary:** The expiration date is removed for the sales and use tax exemptions for items necessary for new construction of alternative housing for youth in crisis by nonprofit health or social welfare organizations.

**Votes on Final Passage:**

Senate	48	0	
House	98	0	(House amended)
Senate	45	0	(Senate concurred)

**Effective:** June 11, 1998

**SB 5631**

C 324 L 98

Exempting education loan guarantee services from business and occupation tax.

By Senators Wood, Jacobsen and Oke.

Senate Committee on Higher Education

Senate Committee on Ways & Means

House Committee on Finance

**Background:** Current law provides for an exemption from the payment of business and occupation tax for nonprofit organizations exempt from federal income tax and only if they are also guarantee agencies under the federal guaranteed student loan program or issue debt to provide or acquire student loans.

**Summary:** Nonprofit organizations exempt from federal income tax that provide guarantees for student loans made through programs other than the federal guaranteed student loan program are exempt from payment of the business and occupation tax.

**Votes on Final Passage:**

Senate	46	0
House	94	0

**Effective:** June 11, 1998

**SSB 5636**

C 152 L 98

Revising health inspection warrants for local health officers in response to pollution in commercial or recreational shellfish harvesting areas.

By Senate Committee on Natural Resources & Parks (originally sponsored by Senators Oke, Swecker, Rossi and Horn).

Senate Committee on Natural Resources & Parks

House Committee on Natural Resources

**Background:** Two recent Washington State Supreme Court decisions have made it impossible for local governments to obtain civil inspection warrants. As a result, agencies such as health departments have not been able to have inspections to guarantee health and safety protection provisions of existing law.

There has been a trend to decriminalize health and safety codes so that violations can be dealt with quickly and effectively without a criminal proceeding. The decision of the Washington State Supreme Court has eliminated the authority of local government to have a judge issue a warrant for search on a civil infraction. The court held that authority must be specifically delegated to the local government by the state Legislature and cannot be inferred from any other statutory authority.

**Summary:** A local health officer or county environmental health director or their designee may apply for an administrative search warrant to any court official who is authorized to issue a criminal search warrant. The court official must issue the warrant upon probable cause. Probable cause means that there is a demonstration that the inspection, examination, test or sampling is in response to pollution in commercial or recreational shellfish harvesting areas. A specific administrative plan must be developed in response to the pollution. The property owner must be notified of the warrant request and may be present when it is discussed.

The officer must submit the pollution plan to the court as part of the justification for the civil warrant. The plan must include the overall goal of the inspection, the address of the area included, the survey procedures used, the crite-

ria used to define an on-site sewage system failure and what follow-up actions may be taken.

**Votes on Final Passage:**

Senate	45	3	
House	97	0	(House amended)
Senate	41	2	(Senate concurred)

**Effective:** June 11, 1998

**ESB 5695**

C 235 L 98

Increasing sentences for crimes involving firearms.

By Senators Roach, Long, Oke, Schow, Morton, Benton and Hochstatter.

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

**Background:** For most all felony crimes, if a court finds that the criminal or an accomplice was armed with a deadly weapon at the time of the crime, an additional penalty is added to the standard range sentence. There are different length enhancements for firearms and other deadly weapons. The enhancement cannot cause the criminal to serve more than the maximum penalty for the crimes committed.

A dispute has arisen over how the weapon enhancements are to be applied when a criminal is sentenced for multiple offenses and a weapon finding has been made on one of the counts. The enhancement may be applied to the entire package of crimes at the end of the standard sentence. The enhancement may, instead, be applied to the particular crime where a weapon was used. Where it is applied can affect the length of the criminal's sentence.

**Summary:** When an offender is being sentenced for two or more crimes encompassing the same criminal conduct where a firearm or deadly weapon finding has been made on at least one of the crimes, the enhancement is applied to the end of the total period of confinement, regardless of which underlying offense was subject to the enhancement.

Firearm and deadly weapon enhancements are to be served consecutive to all other sentencing provisions, including other firearm and deadly weapon enhancements.

When an underlying sentence plus an enhancement would exceed the statutory maximum if both were served, the full enhancement must be served and the underlying sentence reduced so that the total does not exceed the statutory maximum.

If an offender is convicted of unlawful possession of a firearm in the first or second degree and for either theft of a firearm or possession of a stolen firearm, or both, the offender must serve consecutive sentences for each conviction and for each firearm unlawfully possessed.

**Votes on Final Passage:**

Senate	42	7
House	96	0

**Effective:** June 11, 1998

**ESSB 5703**

FULL VETO

Concerning a water right for the beneficial use of water.

By Senate Committee on Agriculture & Environment (originally sponsored by Senators Anderson and Morton).

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

**Background:** The surface water code was enacted in 1917 and the ground water code was enacted in 1945. To obtain a water right after these dates requires the filing of an application and the issuance of a water right permit from the state. An exception from the permit requirement is for certain uses of ground water that do not exceed 5,000 gallons per day.

The permit system is based on the prior appropriation doctrine of "first in time is first in right." Prior to the 1917 and the 1945 enactments, water rights were obtained in a variety of ways and under a variety of water doctrines.

**Summary:** A person who placed surface or ground water to beneficial use for irrigation, stock watering, or public water system with 100 or fewer connections before January 1, 1993, for which a right was not issued, may continue to use the water if a statement of claim is filed by June 30, 1999 and the water has been used at least three years of the five preceding years to the full extent of the statement of claim and if two of the following conditions are met:

1. A statement is signed by two persons, other than the person filing the statement of claim, verifying that water was beneficially used by the claimant before January 1, 1993;
2. A copy of a dated photograph or records that clearly demonstrates the presence of grass or a crop requiring irrigation or livestock requiring water, or receipts of the sale of crops indicating irrigation in the amount claimed was required to produce the crops;
3. Records of equipment purchases or repairs associated with the water use specified;
4. Water well construction records identifying the date the well was constructed for a particular point of withdrawal;
5. Electrical bills directly associated with the withdrawal of the claimed water;
6. Personal records, photographs, journals, or correspondence indicating the use of water as asserted.



Public water supply systems must provide evidence of service connections using water including homes that were built and occupied.

If the claimant has not already filed an application for a water right, such application must be filed with the statement of claim. If both have been filed, the person has standing to assert a claim of water right in a general adjudication.

The claimant may continue to use the water on an interim basis until either the department makes a final decision on granting or denying the application following the completion and adoption of a locally developed water resource watershed plan, or a court adjudication is completed. In areas where a local watershed planning process has been commenced by July 1, 2000, the department must not make a final decision on the application until after completion of the watershed management plan.

The Department of Ecology must notify persons who make claims to the use of water under this chapter of the instream flow conditions that each diversion or withdrawal must comply pending the completion of a watershed management plan or a general water right adjudication. If instream flows conditions have been established by rule, the department uses those flows to regulate the diversion or withdrawal during times that the flows are not being met. For areas that instream flows have not been established by rule, the Department of Ecology must consult with the Department of Fish and Wildlife and determine the flows to which diversions will be conditioned.

In making decisions regarding an application associated with such a claim, the department must consider alternative sources or augmented sources of water including storage enhancements, or the substitution of ground water for surface water.

If a watershed management plan adopts locally based standards for water use efficiency, any certificates of water rights issued thereafter are to be conditioned accordingly.

If a claimant's water right application meets the requirements of the water right permitting statutes, then the department must issue a water right permit. The priority date of such permits is the effective date of this act.

**Votes on Final Passage:**

Senate	34	15	
House	67	29	(House amended)
Senate			(Senate refused to concur)
House			(House refused to recede)
House	65	30	(House amended)
Senate	32	11	(Senate concurred)

**VETO MESSAGE ON SB 5703-S**

April 2, 1998

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. 5703 entitled:

"AN ACT Relating to granting water rights;"

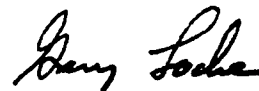
*This bill would allow a person using water without a water right to continue using that water on an interim basis, until a court adjudicates the water right, or the Department of Ecology grants a water right based upon the completion of a watershed management plan. Where no planning is occurring, the Department of Ecology would retain authority to act on a water right application.*

*I vetoed similar legislation last year because it allowed continued interim use of non-permitted water, with a strong predisposition that such use be transformed into a permanent water right. This bill would have set up a separate, parallel track for the issuance of water rights and would have been unfair to the tens of thousands of individuals, farmers, companies, local governments and utilities who have complied with the law for obtaining a water right.*

*I recognize the economic concerns of those who use non-permitted water, and my administration recommended very specific conditions that could make the use of non-permitted water on an interim basis acceptable. However, several of those conditions were not accepted by the Legislature.*

*For these reasons, I have vetoed Engrossed Substitute Senate Bill No. 5703 in its entirety.*

Respectfully submitted,



Gary Locke  
Governor

**2SSB 5727**  
C 2 L 98

Requiring backup alerts or crossview mirrors on delivery trucks.

By Senate Committee on Transportation (originally sponsored by Senators Wood, Haugen, Jacobsen, Hargrove, Finkbeiner, Deccio, Heavey, Goings, McAuliffe, Patterson, Prentice, Winsley, Kohl and Rasmussen).

Senate Committee on Transportation  
House Committee on Transportation Policy & Budget

**Background:** The state has the ability to adopt certain motor vehicle equipment safety standards so long as the standards are at least as stringent as federal law, and so long as the federal government has not preempted state regulation. Currently, there is no requirement under either federal or state law that small delivery trucks be equipped with a backup device that alerts the driver that a person or object is directly behind the vehicle.

The National Highway Traffic Safety Administration (NHTSA) is currently testing the effectiveness of various backup devices on the market in an effort to promulgate federal rules on uniform equipment standards. NHTSA is looking at rear-view mirrors, infra-red devices and radar warning devices. The earliest the federal rules are anticipated to be put in place is September 1998. Once the rules are finalized, all states must comply with the new equipment standards.

**Summary:** Small delivery trucks registered or based in Washington that are up to 18 feet long must be equipped with a rear crossview mirror or backup device to alert the driver that a person or object is behind the truck. Administrative rules for equipment specification, installation and operating condition are developed by the Washington State Patrol. The new standards take effect September 30, 1998.

**Votes on Final Passage:**

Senate	47	0
House	88	9

**Effective:** September 30, 1998

**ESSB 5760**

C 260 L 98

Authorizing courts to order evaluation and treatment of mentally ill offenders.

By Senate Committee on Human Services & Corrections (originally sponsored by Senators Long, Hargrove, Franklin, Deccio, Thibaudeau, Winsley and Kohl).

Senate Committee on Human Services & Corrections  
Senate Committee on Ways & Means  
House Committee on Criminal Justice & Corrections  
House Committee on Appropriations

**Background:** Offenders with a mental illness have a higher likelihood of recidivism and reincarceration. Such offenders often receive adequate treatment during incarceration, then discontinue treatment after release.

Presentence reports are currently required for offenders convicted of felony sex offenses. They are used to collect additional information to assist in determining the sentence to be imposed.

**Summary:** The court must order a presentence report before imposing a sentence when the court determines that the defendant may be a mentally ill person.

The court may order an offender whose sentence includes community placement or community supervision to undergo mental health treatment if reasonable grounds exist to believe that the offender is a mentally ill person and that the offender's condition is likely to have influenced the offense. The order for evaluation must be based on the presentence report and other evaluations filed with the court regarding any defense of insanity.

If an offender violates a condition of a sentence involving failure to undergo mental status evaluation or treatment, the community corrections officer must consult with the treatment provider on the offender's status before taking action on the violation.

Enforcement of orders concerning outpatient mental health treatment must reflect the availability of treatment and must pursue the least restrictive means of promoting participation in treatment. If the offender's failure to re-

ceive care essential for health and safety presents a risk of serious physical harm or probable harmful consequences, the civil detention and commitment procedures in statute are to be considered in preference to incarceration.

Community corrections officers and mental health treatment providers must share information on offenders who are in inpatient treatment.

The Department of Corrections is directed to track outcomes and report to the Legislature on the effectiveness of the provisions of this act.

**Votes on Final Passage:**

Senate	46	0	
House	97	0	(House amended)
Senate	38	1	(Senate concurred)

**Effective:** June 11, 1998

**ESSB 5769**

C 236 L 98

Concerning the theft of beverage crates and merchandise pallets.

By Senate Committee on Law & Justice (originally sponsored by Senators Johnson and Goings).

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

**Background:** Businesses who use merchandise pallets and/or beverage crates in their normal course of operation suffer nearly \$1 million in losses each year due to the misappropriation of the pallets and crates. It is estimated that in each shipment where these items are used, one quarter of the merchandise pallets and/or beverage crates are not returned to the owner.

A vibrant secondary market exists for the purchase and resale of these misappropriated items.

Prosecution of persons found in possession of the misappropriated merchandise pallets and/or beverage crates has historically been unsuccessful because it has been difficult to prove ownership of the pallets and/or crates.

**Summary:** The definitions of "merchandise pallet" and "beverage crate" are added to the definitions section which precedes the theft statutes and the possessing stolen property statutes.

Theft of ten or more merchandise pallets, ten or more beverage crates or a combination of ten or more merchandise pallets and beverage crates is theft in the third degree, a gross misdemeanor.

Possessing ten or more stolen merchandise pallets, ten or more stolen beverage crates or a combination of ten or more stolen merchandise pallets and stolen beverage crates is possessing stolen property in the third degree, a gross misdemeanor.

A person found in possession of ten or more stolen merchandise pallets, ten or more stolen beverage crates or

## SSB 5853

a combination of ten or more stolen merchandise pallets and stolen beverage crates is presumed to know that the property is stolen. This presumption is rebuttable by evidence raising a reasonable inference that the possession was without knowledge that the property was stolen.

### Votes on Final Passage:

Senate	30	16	
House	96	0	(House amended)
Senate	32	16	(Senate concurred)

Effective: June 11, 1998

## SSB 5853

C 5 L 98

Authorizing larger fire protection districts to issue warrants for payment of obligations.

By Senate Committee on Government Operations (originally sponsored by Senators Goings, McCaslin, Haugen, Winsley and Rasmussen).

Senate Committee on Government Operations  
House Committee on Government Administration

**Background:** The county treasurer acts as the financial officer of the fire protection districts, or the largest portion of any fire protection district, lying within its boundaries. The county treasurer receives and disburses revenues, collects taxes and assessments for the benefit of the district and credits district revenues to the proper fund. The county auditor issues the warrants on vouchers approved by the board of commissioners and the district secretary.

Some fire protection districts protect properties with assessed values exceeding \$1 billion and employ full-time professional, secretarial and administrative staff. The annual district operating budgets of five fire protection districts exceed \$5 million. Their financial affairs can be complex.

**Summary:** Fire protection districts with annual operating budgets of \$5 million or more are permitted to adopt a policy for issuing warrants to satisfy the claims or other obligations of the district. The county treasurer retains the obligation of redeeming the warrants.

### Votes on Final Passage:

Senate	49	0
House	97	0

Effective: June 11, 1998

## SSB 5873

C 6 L 98

Defining terms under the model toxics control act.

By Senate Committee on Financial Institutions, Insurance & Housing (originally sponsored by Senators Benton and Winsley).

Senate Committee on Financial Institutions, Insurance & Housing

House Committee on Agriculture & Ecology

**Background:** The Model Toxics Control Act of 1975 creates a system for determining responsibility for toxic waste cleanup. Owners of sites that have been identified as containing toxic materials are potentially liable for the costs associated with cleanup. The term "owners" is extensively defined. The definition includes any person with an ownership interest in the facility (site) or anyone who exercises any control over the facility, or anyone who exercised control over an abandoned facility before its abandonment.

A person exercising control over property on behalf of another under a statute or court order is often referred to as a fiduciary. Examples are executors of estates, court-appointed masters, and trustees in bankruptcy.

**Summary:** The definition of who is not an owner is amended to include a fiduciary in his or her personal capacity. To qualify for the exemption, the fiduciary must meet a list of reporting and compliance requirements which are also applicable to lenders. The exemption does not preclude a claim against the assets of the estate, or against a non-employee agent or independent contractor retained by a fiduciary.

A detailed definition of "fiduciary" is provided.

### Votes on Final Passage:

Senate	48	0
House	94	0

Effective: June 11, 1998

## ESSB 5936

C 261 L 98

Requiring a report on alternatives for increasing offender access to postsecondary academic and vocational opportunities.

By Senate Committee on Human Services & Corrections (originally sponsored by Senators Kohl, Long, Hargrove, Franklin, Bauer and Rasmussen).

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

**Background:** In 1995, the Legislature adopted a law requiring the Department of Corrections (DOC) to prioritize

its available resources to meet the following educational goals, specified in order of priority:

- (1) Achievement of basic academic skills through obtaining a high school diploma or its equivalent and achievement of vocational skills necessary for purposes of work programs and for an inmate to qualify for work upon release;
- (2) Additional work and education programs that are compatible with an offender's case management plan;
- (3) Other work and education programs as appropriate.

The 1995 legislation required DOC to develop a formula by which inmates would contribute to the cost of certain educational and vocational programs, based on their ability to pay. The formula requires offenders to pay a portion of the costs or tuition for any second or subsequent vocational program associated with their work programs and any A.A. or B.A. programs that are part of their case management plans. The formula also requires offenders to pay all costs and tuition of any postsecondary academic program and any second or subsequent vocational program that is not part of their case management plan.

As a result of these statutory priorities, which were implemented in the context of a 5 percent reduction in the department's education budget, most postsecondary academic programs have been eliminated from state correctional institutions. Many vocational programs were also reduced or eliminated that were determined to have insufficient linkages to correctional industries work programs or employment opportunities upon release.

It has been suggested that the elimination of postsecondary academic opportunities and the reduction of many vocational opportunities is not in the long-term best interests of many offenders who need such programs to reduce idleness and make positive changes upon release. It has been further suggested that efforts should be made to test the viability of fee-based courses.

**Summary:** The Department of Corrections must prepare a report to the Legislature by December 1, 1998 on alternatives for increasing offender access to postsecondary academic and vocational programs. The report is to be prepared in consultation with representatives from the community colleges and other educational service providers currently contracting with the department.

The report must present alternatives for increasing access within existing resources as well as alternatives that may require additional funding. Such alternatives must include an implementation plan for pilot projects utilizing fee-based programs, and may include recommendations on correspondence and video tele-courses and the feasibility and desirability of connecting department facilities to the K-20 technology network.

An exemption is made to the mandatory deductions requirement in current law to exclude funds received by the department on behalf of offenders for payment of one fee-based education or vocational program that is associ-

ated with an inmate's work program or a placement decision made by the department to prepare an inmate for work upon release.

**Votes on Final Passage:**

Senate	49	0
House	97	1

**Effective:** June 11, 1998

**SSB 6077**

C 325 L 98

Exempting from business and occupation tax nonprofit hospice agencies.

By Senate Committee on Ways & Means (originally sponsored by Senators McCaslin and Snyder).

Senate Committee on Ways & Means  
House Committee on Finance

**Background:** Washington's major business tax is the business and occupation (B&O) tax. 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. Public and nonprofit hospitals are subject to the B&O tax at the rate of 1.5 percent. Proprietary hospitals are subject to the B&O tax at a rate of 1.75 percent through June 30, 1998, and 1.5 percent thereafter.

Nonprofit health and social welfare agencies are allowed a deduction from the B&O tax for payments from governmental entities for health services. This has been construed to apply to Medicaid and Medicare payments.

An exemption from the B&O tax exists for compensation received for services rendered to patients, and from sales of prescription drugs, furnished to patients by nonprofit kidney dialysis facilities and nursing homes and homes for unwed mothers operated as religious or charitable organizations.

**Summary:** The B&O tax exemption for compensation for patient care is extended to nonprofit hospice agencies licensed by the Department of Health.

**Votes on Final Passage:**

Senate	49	0
House	94	0

**Effective:** June 11, 1998

ESSB 6108  
PARTIAL VETO  
C 346 L 98

Making supplemental operating appropriations.

By Senate Committee on Ways & Means (originally sponsored by Senator West).

Senate Committee on Ways & Means  
House Committee on Appropriations

**Background:** The operating expenses of state government and its agencies and programs are funded on a biennial basis by an omnibus operations budget adopted by the Legislature in odd-numbered years. In even-numbered years, a supplemental budget is adopted, making various modifications to agency appropriations.

State operating expenses are paid from the state General Fund and from various dedicated funds and accounts. The 1997 Legislature appropriated \$19.085 billion from the state General Fund.

**Summary:** Appropriations for various agencies are modified, with no net increase in appropriations from the state General Fund. For additional information, see "1998 Legislative Budget Notes" published by the legislative fiscal committees.

**Votes on Final Passage:**

Senate	29	20	
House	54	43	(House amended)
Senate			(Senate refused to concur)

**Conference Committee**

House	57	41
Senate	26	23

Effective: April 3, 1998

**Partial Veto Summary:** The Governor vetoed several provisions of the budget act, reducing state General Fund appropriations to \$19.0837 billion. For additional information, see "1998 Legislative Budget Notes" published by the legislative fiscal committees.

**VETO MESSAGE ON SB 6108-S**

April 3, 1998

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 115(5); 117(18); 120; 122(6); 124(3); 124(4); 125; 204(3)(b); 205(1)(f); 205(1)(k); 207(9); 211(5); 215(2); 217(11); 219(28); 222(3); 222(8); 222(9); 302(18); 302(19); 302(20); 303(4); 303(5); 307(34); 308, page 112, lines 4-5; 308(10); 308(11); 309(6); 309(7); 906; 907; 908; Engrossed Substitute Senate Bill No. 6108 entitled:

"AN ACT Relating to fiscal matters;"

Section 125, Page 32 (For the Horse Racing Commission)

The proviso in section 125 directs the Horse Racing Commission to conduct a study with the Gambling Commission on the impact to the race tracks and the horse racing and breeding industry of allowing gambling at race tracks. This proviso does not provide the direction or the funds that are needed to ensure

that all affected interests, including the tribes, will come together to perform a thorough study of a very complex issue.

Section 204(3)(b), Pages 50-51 (For the Department of Social and Health Services, Mental Health Program—Special Commitment Center)

Section 204(3)(b) requires the Department to develop a staffing model for the Special Commitment Center by October 1, 1998. I am vetoing this proviso because the October 1998 deadline does not provide adequate time to develop a proper staffing model after the scheduled relocation of the Special Commitment Center from Monroe to McNeil Island in April 1998. I am, however, directing the Department to submit an interim report on staffing by October 1, 1998, to be followed up with a comprehensive staffing model that will be completed in time for budget development for the 1999-01 Biennium.

Section 205(1)(f), Page 54 (For the Department of Social and Health Services, Developmental Disabilities Program—Number of Developmentally Disabled Clients Served)

Section 205(1)(f) directs that the Department shall not reduce the number of persons served in the community residential, employment and day programs, or family support below levels identified in the 1997 Legislative Budget Notes in order to undertake activities proposed by the Department but not funded in the supplemental appropriations act. Because the Legislature did not fully fund the costs of maintaining current service levels in community programs, this proviso could have required reductions in current services to families and disabled individuals. This proviso unduly restricts the ability of the secretary to manage the division's programs. In addition, I do not support attempts to enact Legislative Budget Notes into law through reference in a proviso. For these reasons I am vetoing this section. I am, however, directing that the Department shall make all efforts not to reduce the number of persons being served in these three programs below their current levels.

Section 205(1)(k), Page 55 (For the Department of Social and Health Services, Developmental Disabilities Program—Autism Pilot Program)

Section 205(1)(k) requires the Department to contract for a pilot program to test an alternative delivery model for services to persons with autism. I am vetoing this section for the reason that no funding was provided in the supplemental appropriations act for this requirement.

Section 207(9), Page 63 (For the Department of Social and Health Services, Economic Services Program—TANF Funding For Local Nonprofit Agencies)

This subsection earmarks \$5 million in federal Temporary Assistance to Needy Families (TANF) block funding to provide grants to community action agencies and other local nonprofit organizations. As welfare caseloads decline, it will be necessary to reinvest a portion of our budgetary savings into community-based programs — similar in purpose to those described in this subsection — for WorkFirst participants who need intensive assistance in order to get and keep a job. It is, however, too early in the implementation of WorkFirst to earmark a set amount of funding for the specific purposes identified in this subsection. For this reason, I am vetoing this subsection.

Section 222(3), Page 90 (For the Employment Security Department—Job Placement Levels)

Section 222(3) requires the Department to maintain the current level of job placement services at all 32 community and technical college location sites through the remainder of the 1997-99 Biennium. Because the Legislature did not provide resources to maintain this activity, it would be impossible for the Department to continue the current level of service. Therefore, I am vetoing section 222(3); however, I am directing the Employment Security Department to coordinate with the State Board for Community and Technical Colleges to ensure the greatest level of service possible is provided.

Section 222(8), Page 91 (For the Employment Security Department—Additional Tax Information)

Section 222(8) requires the Department to disclose additional tax information on the 1999 employer tax rate notice. While I support the disclosure of tax related information, this section requires information that could mislead employers about the relationship between the taxes they had paid and the benefits their former employees had received. In addition, tax rates are calculated on a fiscal year basis, while this subsection requires information be provided for a calendar year. It is impossible for the Department to correlate the fiscal year tax rate calculation with the calendar year information. For these reasons, I am vetoing this subsection and directing the Employment Security Department to conduct a study, in consultation with all interested parties, on how to improve the disclosure of information on the employer rate notice.

Section 222(9), Pages 91-92 (For the Employment Security Department—Federal Waiver For Welfare-To-Work Grant Program)

As a condition for receiving \$20,157,000 in federal funding, Section 222(9) requires the Governor to successfully obtain an approved federal waiver for use of an alternative agency or agents to administer the welfare-to-work grants. I am vetoing this subsection because I do not want the success of an important program to depend on the success of obtaining a federal waiver; however, I have directed the Employment Security Department to pursue a federal waiver as required by the Legislature.

Section 302(18), Page 98 (For the Department of Ecology—Coastal Erosion Project Grants)

I am deeply concerned for people whose homes and businesses are threatened by erosion along our state's coastline. As a result, I am signing provisions which provide \$275,000 in the operating budget and \$150,000 in the capital budget for coastal erosion projects in Ocean Shores. However, the Legislature has redirected \$250,000 of funds previously committed to the Department of Ecology for a long-term coastal erosion study to the Department of Community, Trade, and Economic Development (CTED) for new coastal erosion project grants. The Coastal Erosion Study begun by the Department of Ecology and the U.S. Geological Survey in 1996 is already providing sound information for decision making and will continue to provide important information over the next three years. This redirection of funds would seriously compromise this effort. The study is critical to the state, as well as local communities, to make decisions based upon sound science and good information. Therefore I am vetoing this subsection.

Although I am vetoing this subsection, I am directing CTED to immediately begin designing a collaborative process, involving all appropriate interests, to develop short- and long-term policy recommendations on coastal erosion. These recommendations will be based on sound economic and environmental principles, as well as solid scientific research and information. Because I believe the people who will be most directly affected by the outcome should have a say in the process, CTED is to include representatives from communities experiencing coastal erosion, state agencies with mandates to protect coastal resources, and other affected stakeholders.

Section 302(19), Pages 98-99 (For the Department of Ecology—Rural Economic Development Project Assistance To Businesses)

This subsection requires the Department of Ecology (DOE) to expedite its assistance to businesses seeking permitting and technical help, and to give top priority to projects in rural counties which have initiated coordinated permit processing through DOE's Permit Assistance Center. To date, only one project has met these conditions. Although I strongly support efforts to promote business development in rural areas, it is unfair to give one potential project preference over all others in rural communities throughout the state.

Section 302(20), Page 99 (For the Department of Ecology—Lake Steilacoom Scientific Review Contract)

This subsection requires the Department of Ecology to contract with a panel selected by the Society of Environmental Toxicology and Chemistry for a scientific review of various permits and studies related to efforts to control aquatic weeds in Lake Steilacoom. The Legislature failed to provide any funding for this study, which is estimated to cost \$150,000 to \$200,000. In addition, a review of DOE permits related to Lake Steilacoom would have very little benefit because such a review would not have any legal standing and would be after the allowable time limit for appeals has expired.

Section 308, Page 112, Lines 4-5 and Section 308(10) Page 113 (For the Department of Natural Resources—Mobile Radio Replacement)

To comply with Federal Communication Commission requirements, the Department of Natural Resources needs to replace the mobile radio system it now uses for communications while fighting wildfires, an activity funded by the state General Fund. The appropriation in this section, however, is from the Natural Resources Equipment Account, a revolving fund at the Department for ongoing maintenance and replacement of equipment primarily used in the management of public lands held in trust for a variety of beneficiaries, including public schools. Revenues from trust lands, other than those necessary to manage the lands, must be distributed to the trust beneficiaries in accordance with constitutional requirements. Since there is only a nominal fund balance in the Natural Resources Equipment Account attributable to the fire program, the effect of this appropriation would be to inappropriately use revenues generated from trust lands to subsidize fire fighting activities. Therefore, I have vetoed this appropriation and proviso. I will work with the Department to explore alternative options for both the short- and long-term replacement of mobile radio equipment.

Sections 906, 907, and 908, Pages 204-206 (Agricultural Fair Theme Games and Lottery Distribution to the Fair Fund)

Section 906, 907 and 908 seek to replace pari-mutuel tax revenues that support the State Fair Fund and the State Trade Fair Fund with lottery proceeds. Section 906 requires the Washington State Lottery to conduct two to four games with agricultural themes per year in the 1997-99 Biennium. The Washington State Lottery will be unable to meet this obligation for Fiscal Year 1998 due to the length of time required to develop the agricultural theme scratch games. Section 907 distributes lottery proceeds to the State Fair Fund. Lottery proceeds support the General Fund and this proposal could potentially lower the expenditure limit under Initiative 601 if the new games did not increase total lottery revenues. For these reasons, I am vetoing Sections 906, 907, and 908 of the appropriations act to eliminate the possibility of lowering the Initiative 601 expenditure limit and to eliminate confusion regarding conducting agricultural fair theme scratch games by the Washington State Lottery.

I am vetoing the following sections in the operating appropriations bill because the language in each relates to bills that did not pass the Legislature.

Section 115(5), Page 16 (For the Attorney General—Regulating Travel Sales)

This subsection stipulates that if Engrossed Substitute House Bill 2027 is not enacted, the subsection is null and void. Engrossed Substitute House Bill 2027 was not passed by the Legislature, therefore, I have vetoed Section 115(5) of the appropriations act to eliminate confusion regarding the conditions and limitations for the Attorney General.

Section 120, Page 27 (For the Washington State Lottery Commission—Implementation of EHB 3120)

Subsection 3 stipulates that if Engrossed House Bill 3120 is not enacted, subsections 1 and 2 are null and void. Engrossed House Bill 3120 was not passed by the Legislature; therefore, I have vetoed Section 120 of the appropriations act to eliminate confusion regarding the conditions and limitations for the Washington State Lottery.

The following sections are vetoed in the appropriations bill because of provisions or vetoes in other bills:

Section 124(4), Page 32 (For the Insurance Commissioner—ESHB 2439, Bicycle Safety)

This subsection allocates \$100,000 from the Insurance Commissioners Regulatory Account to the Traffic Safety Commission to implement the Cooper Jones Act (Engrossed Substitute House Bill 2439). The bill that passed the Legislature, which I signed, has the authority to expend \$100,000 from the Bicycle and Pedestrian Safety Account. Therefore this appropriation from the Insurance Commissioners Regulatory Account is not needed. For these reasons I am vetoing this subsection.

Section 303(4), Page 101 (For the Department of Ecology—ESSB 5703, Water Right Beneficial Use)

ESSB 5703 allows the interim use of water without authorization (a water right) until either the court grants a water right or DOE grants a water right based on completion of a watershed plan where a planning effort is underway. Allowing the use of this water is unfair to those who have forgone the use of water by following the normal process for obtaining a water right. Because I have vetoed this bill, I have also vetoed this section to avoid confusion.

Section 117(18), Page 22 (For the Department of Community, Trade, and Economic Development); Section 122(6), Page 30 (For the Department of Revenue); Section 124(3), Page 32 (For the Insurance Commissioner); Section 211(5), Pages 68 and 69 (For Department of Social and Health Services, Administration and Supporting Services Program); Section 215(2), Page 73 (For the Human Rights Commission); Section 217(11), Page 78 (For the Department of Labor and Industries); Section 219(28), Pages 84 and 85 (For the Department of Health); Section 303(5), Page 101 (For the Department of Ecology); Section 307(34), Page 111 (For the Department of Fish and Wildlife); Section 308(11), Page 113 (For the Department of Natural Resources); Section 309(6), Page 115 (For the Department of Agriculture)—E2SHB 2345, Regulatory Reform

These subsections stipulate that the funding provided to implement Engrossed Second Substitute House Bill 2345, Regulatory Reform, will lapse if sections 1, 3, 4, 10, 11, and 12 are not enacted. I have vetoed these sections of Engrossed Second Substitute House Bill 2345 because I do not believe that these provisions are in the best interest of the state. Therefore, I have also vetoed these sections of the appropriations act to eliminate confusion regarding the expenditure authority for these agencies.

Section 309(7) Page 115 (For the Department of Agriculture—ESSB 6204 Livestock Identification)

This subsection stipulates that the funding provided to implement sections 2 and 98 of Engrossed Substitute Senate Bill 6204 shall lapse if these sections of the bill are not enacted. I have vetoed these sections of Engrossed Substitute Senate Bill 6204, and most other sections of the bill, because they do not address programmatic and financial issues pertaining to the livestock identification program in an effective and fiscally responsible manner. Therefore, I have also vetoed Section 309(7) of the appropriations act to eliminate confusion regarding the appropriation authority of the Department of Agriculture.

Other Comments

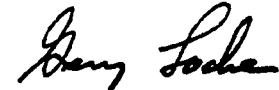
Section 301(2) for the Columbia River Gorge Commission requires Clark County to direct \$30,000 each year from its grants for implementing the Scenic Area Management Plan to Skamania County to cover the county's cost of implementing this same plan. Although I am not vetoing this section, I continue to be troubled by the Legislature's decision not to provide adequate funding for both the Gorge Commission and the counties within the National Scenic Area. The current budget is still \$85,000 a year below what the county has identified as its costs to implement the Scenic Area Act. The Legislature also failed to provide adequate funding for the Gorge Commission itself. As we develop the budgets for next biennium, it is important to under-

stand that the Scenic Area Act cannot be successful without stable and adequate funding.

Section 304(7) for the State Parks and Recreation Commission requires that the Snowmobile Account and the Winter Recreation Program Account provide funds to support the Northwest Avalanche Center (NWAC). The NWAC provides important weather and avalanche forecasts that benefit back country users, search and rescue personnel, counties, ski patrols, the state Department of Transportation (WSDOT), and the Washington State Patrol, as well as snowmobilers and winter recreationalists. Although I have not vetoed this section, I do not support the decision by the Legislature to appropriate \$40,000 from these accounts for the operation of the NWAC. These programs have already voluntarily contributed \$11,000 to the NWAC. This higher level of funding is disproportionate to the benefit derived by the winter recreationalists whose user fees would be diverted from direct program services to the NWAC. Furthermore, these user fees are collected statewide, while the NWAC only provides services in the Cascades and Olympics. As a result, I anticipate seeking future General Fund-State support to reimburse these dedicated funds. I also urge the NWAC, user groups, State Parks, and WSDOT, to continue to work with the Office of Financial Management and the Legislature to find alternative long term funding sources for the NWAC.

With the exception of sections 115(5); 117(18); 120; 122(6); 124(3); 124(4); 125; 204(3)(b); 205(1)(f); 205(1)(k); 207(9); 211(5); 215(2); 217(11); 219(28); 222(3); 222(8); 222(9); 302(18); 302(19); 302(20); 303(4); 303(5); 307(34); 308, page 112, lines 4-5; 308(10); 308(11); 309(6); 309(7); 906; 907; 908; Engrossed Substitute Senate Bill No. 6108 is approved.

Respectfully submitted,



Gary Locke  
Governor

SB 6113  
C 184 L 98

Exempting from taxation property of nonprofit organizations providing medical research or training of medical personnel.

By Senators Wood, West, Thibaudeau, Kohl, Long and Rasmussen.

Senate Committee on Ways & Means  
House Committee on Finance

**Background:** All property in this state is subject to the property tax each year based on the property's value unless a specific exemption is provided by law. The state Constitution exempts public property but allows the Legislature to exempt other property from taxation.

Major property tax exemptions for nonprofit organizations include churches, nonprofit hospitals, nursing homes, homes for the aging, blood banks, the Red Cross, private schools and colleges, sheltered workshops, day care centers, assembly halls and meeting places, libraries, and youth organizations.

All real or personal property owned by a nonprofit corporation or association which is available without charge

for research by or training of medical or hospital personnel or used for medical research which is available without cost to the public is exempt from property tax.

**Summary:** All real or personal property used by a non-profit corporation or association which is available without charge for research by or training of medical or hospital personnel or used for medical research which is available without cost to the public is exempt from property tax. For leased property, the benefit of the exemption must inure to the nonprofit corporation or association.

**Votes on Final Passage:**

Senate	42	0	
House	96	0	(House amended)
Senate	45	0	(Senate concurred)

**Effective:** June 11, 1998

## SSB 6114

C 153 L 98

Preventing the spread of zebra mussel and European green crab.

By Senate Committee on Natural Resources & Parks (originally sponsored by Senators Jacobsen, Oke, Spanel, Kline, Snyder and Haugen).

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

**Background:** Two nonindigenous aquatic species are found in waters of the United States and are causing specific environmental problems. The zebra mussel and the green crab from Europe are both getting nearer and nearer to Washington State.

Zebra mussels, a fresh water specie, have expanded their range in the last 12 months and have invaded a total of 90 lakes in the Great Lakes region of the United States. The United States has tracked the infestation of zebra mussels since 1988 when they were first detected in Lake St. Claire. Zebra mussels and the European green crabs are native to eastern Europe and Asia and have few natural enemies in the United States. Zebra mussels are especially invasive. They clog intake pipes for water systems. They get into generators at power stations and have fouled engine cooling systems on recreational boats. The damage these zebra mussels cause involves millions of dollars a year to both private industry and governmental agencies. The Army Corps of Engineers has reported new sightings of zebra mussel infestations on the Ohio River near Pittsburgh and on the Monongahela River in Pennsylvania. European green crabs, a saltwater specie, can destroy oyster and clam beds.

**Summary:** The Legislature finds that the unauthorized introduction of the zebra mussel and the European green crab into Washington State poses a serious economic and

environmental threat. The zebra mussel and the European green crab have adverse effects on fisheries, waterways, public and private facilities and the functioning of natural ecosystems. The Legislature also finds that the threat of zebra mussel and European green crabs requires a coordinated state response.

To complement programs authorized by the Federal Aquatic Nuisance Species Task Force, the Department of Fish and Wildlife is directed to develop rules to prevent the introduction and dispersal of zebra mussels and European green crabs and to allow eradication of infestations should they appear. The department is specifically authorized to display and distribute material informing boaters and owners of airplanes that land on water of the problem and to publicize and maintain a telephone number for the public to express concerns and report infestations. The department must also prepare, maintain and publish a list of lakes, ponds or other waters of the state or other states infested with zebra mussels or European green crabs. The state must develop a plan for controlling the introduction of zebra mussels and green crabs.

A zebra mussel and European green crab task force is created to develop recommendations for legislative consideration, including control methods, inspection procedures, penalties, notification procedures and eradication and control techniques. The department must seek the participation of interested parties as well as the University of Washington, the Department of Ecology, the Department of Agriculture, the Department of Transportation, the Department of Natural Resources, the Washington State Patrol and appropriate federal agencies. The task force is authorized to look at possible funding mechanisms for controlling the spread of zebra mussels and green crabs. Final recommendations of the task force to the Legislature are due December 1, 1998. The task force ceases to exist January 1, 1999.

**Votes on Final Passage:**

Senate	43	0	
House	96	0	(House amended)
Senate	47	0	(Senate concurred)

**Effective:** March 25, 1998

## SB 6118

C 7 L 98

Clarifying "gifts" for purposes of ethics in public service.

By Senators Long and Spanel.

Senate Committee on Government Operations  
House Committee on Government Administration

**Background:** Under the ethics in public service laws, payment of fees and travel expenses for seminars and educational programs sponsored by nonprofit institutions is not considered a gift.



## SSB 6119

The value of gifts to family members of state officers and employees counts toward their \$50 annual limit from a single source.

**Summary:** Payment of fees and travel expenses for seminars and educational programs sponsored by governmental or nonprofit associations or institutions is not considered a gift.

The value of gifts to guests of state officers and employees also counts toward their limit.

### Votes on Final Passage:

Senate	45	0
House	97	0

**Effective:** June 11, 1998

## SSB 6119

C 326 L 98

Concerning the assumption of a water-sewer district by a municipality.

By Senate Committee on Government Operations (originally sponsored by Senators Schow, Haugen, Patterson, McCaslin and Roach).

Senate Committee on Government Operations  
House Committee on Government Administration

**Background:** If all the territory of a water or sewer district lies within the corporate boundaries of a city, the city legislative authority may assume jurisdiction of the district by resolution or ordinance.

When either 60 percent or more of the area or 60 percent or more of the assessed valuation of real property lying within the district is included within the corporate boundaries of a city, the city may assume the entire district by ordinance, unless another city is included in whole or in part in the district. If two or more cities are involved, the cities of the lesser area or valuation must approve the assumption by the city having 60 percent or more.

When less than 60 percent of the area and less than 60 percent of the assessed valuation is within the corporate boundaries of the city, the city may assume by ordinance the portion of the district lying within the city's corporate boundaries. If a majority of the voters in the district then so vote, the city must assume responsibility for the operation and maintenance of the entire district. The district then pays the city for extending these services to the district.

**Summary:** The 60 percent statutes remain in place. A window is provided in which the city must, if it so desires, assume a water-sewer district under the 60 percent statutes, by majority vote of the whole district. Except for when the district is 100 percent inside the city limits, during the period of the window—from the effective date to July 1, 1999—the assumption cannot be accomplished by ordinance.

### Votes on Final Passage:

Senate	41	8	
House	79	19	(House amended)
Senate			(Senate refused to concur)
House			(House refused to recede)
Senate	22	13	(Senate concurred; failed)
Senate	29	20	(Senate reconsidered)

**Effective:** April 3, 1998

## SB 6122

C 154 L 98

Inspecting horticultural products.

By Senators Morton and Rasmussen; by request of Department of Agriculture.

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

**Background:** The fruit and vegetable inspection program of the Department of Agriculture provides for orderly marketing of fresh fruits and vegetables by establishing uniform grades and standards. State government requirements and the needs and businesses practices of the program's customers have changed over the last 35 years. The last revision was in 1963. The program currently provides inspection services to more than 350 growers and/or shippers, processors and handlers throughout the state of Washington. The department provides onsite inspections which include sampling of commodities such as apples, pears, cherries, potatoes, onions and asparagus to determine compliance with grade, quality, size, labeling and sanitary requirements. The program ensures that all growers and shippers selling fresh fruits and vegetables meet either state or federal standards.

Sanitary certificates issued by the department's program are required by most foreign countries for the importation of fresh fruits and vegetables from Washington State. The program is headquartered in Olympia and has district offices in Yakima, Wenatchee and Moses Lake, with 13 field offices located throughout the state. The program is self-supported and has a fee for service program with an annual expenditure of approximately \$9 million.

**Summary:** The state's fruit and vegetable inspection program statutes are updated to provide modern language. The program's operating authority is altered to reflect current practices. Redundant language is removed and similar provisions are consolidated.

The department is given authority to adopt rules for mandatory inspection of apricots, apples, Italian prunes, peaches, sweet cherries, pears, potatoes and asparagus. The department is given specific authority to enter into certificate of compliance agreements as provided in department rules.

Outdated provisions requiring financial reports to counties are removed. The director's authority is clarified to adopt standards of any other state, as well as federal standards. The late fee for penalties is increased to 1½ percent of the base amount per month. Criminal penalties are removed, and civil penalties are provided for up to \$1,000 for each violation of compliance agreements. A new chapter in Title 15 for ginseng certification is recodified.

**Votes on Final Passage:**

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

**Effective:** June 11, 1998

**ESB 6123**

C 8 L 98

Regulating animal health.

By Senators Morton and Rasmussen; by request of Department of Agriculture.

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

**Background:** The animal health program, administered by the Washington State Department of Agriculture, exists to protect the people of the state, their livestock, and other animals from harmful animal diseases. The program administers livestock disease eradication programs in cooperation with United States Department of Agriculture and regulates the movement and testing of animals coming into the state and being sold within the state. Current law is vague regarding the powers and duties of the director and does not reflect current concerns in the animal health arena. Current law also does not clearly address current or potential animal health problems nor does it reflect changes in the Administrative Procedure Act or new regulatory reform requirements.

Indemnity for mandatory slaughter or destruction of animals is 50 percent of salvage or appraised value under current law. Animals legally imported into this state for immediate slaughter, without a health certificate, are given a 14-day grace period before slaughter must be performed.

Current law provides that persons caught falsifying animal health certificates are prosecuted under the criminal code for fraud as a class C felony.

Ratites are subject to the provisions of the chapter. The director reviews the adequacy of animal health regulations as they pertain to ratites. The department adopts rules as necessary to assure adequate protection to the ratite and poultry industries.

Similarly, the director has authority to prevent, control and suppress diseases in alpacas and llamas to the same extent as in other domestic animals and livestock.

Health regulations for sheep are separate from other livestock regulations and provide specific authority for the director to perform such duties as inspection, quarantine, and treatment of infectious, contagious disease; impose import requirements and restrictions; and enforce quarantine and treatment plans.

**Summary:** Terms such as "quarantine," "infectious disease," "reportable disease," "hold order," and "herd or flock plan" are clarified. Additional authority and power for the director to respond to animal health urgencies and to achieve protection of public health and safety as well as animal health and safety is provided.

The quarantine powers of the director are expanded and clarified. The power to issue a hold order is established giving the director authority to, with defined reason and without establishing a disease causation, isolate animals for seven days while their health status is being determined. The director is granted authority over the hold or quarantine area for as long as the hold or quarantine is in effect. The expense of handling and caring for quarantine animals is assessed to the owner of the animals.

Authority is established to license and regulate the activities of veterinary laboratories that do not have a licensed veterinarian on staff.

Broad power to carry out the purpose and provisions of the chapter is granted to the director with regard to preventing introduction or spread of disease in this state, governing the inspection and testing of animals within, or destined for, this state, and designating any disease as reportable.

The grace period for livestock legally imported without a health certificate into this state for immediate slaughter is decreased to seven days. Falsification of animal health certificates, certificates of veterinary inspection, or other official animal health documents is made unlawful.

The scope of responsibility for notification of reportable diseases is increased to include veterinary laboratories and persons using their own diagnostic services. The director must instigate an investigation and/or maintain records of any animal affected with, suspected of being affected with, or that has been exposed to any reportable disease. The director is empowered to require appropriate treatment or disposition of an affected animal. Importing animals into this state that are infected with, or exposed to, a reportable disease without first obtaining a permit from the director is made unlawful.

Indemnity for mandatory slaughtering or destruction of animals is increased to 75 percent of the appraised or salvage value. The director is given the power to establish the actual indemnity amount by rule. Specific indemnity minimums for beef and dairy breeding cattle are eliminated. Indemnity payment exceptions are unchanged.

The director is given authority to enter into agreements with government agencies of this state, other states, and agencies of the federal government in order to carry out

the purpose and provisions of the chapter and to promote regulatory continuity. Specific language related to the Governor's power to dispose of moneys received under the provisions of any act of Congress for use in carrying out the provisions of the chapter is eliminated.

The director must inspect the premises of garbage fed swine operations to assure that before a license is granted, the applicant is in compliance with all rules adopted under the chapter relating to garbage fed swine operations. License application fees are credited to the general fund regardless of whether a license is granted to the applicant.

The sections of law dealing with poultry, ratites, llamas, and alpacas are repealed.

The hearing rights of persons whose animals are placed under a quarantine, hold, or destruction order are clarified. An animal may not be imported into this state that is not in full compliance with the provisions of the wildlife code of the state of Washington. The director is authorized to recover printing and distributing costs of certificates and other supplies provided to veterinarians.

Sections dealing with diseases of sheep are repealed. The repealed sections are consolidated with existing regulations. Expansion of the definition of the terms "animal" and "livestock" makes consolidation possible.

Provisions relating to the knowingly selling, exchanging, or giving away sheep infected by, exposed to, or treated for any infectious, contagious, or communicable disease are expanded to include all animals, not just sheep. Knowingly releasing an animal that is contagious or infected onto land adjoining another's pasture land without notifying the owner of the adjoining land is made unlawful. Knowingly stabling infected or contagious animals in any barn with other animals without notifying the owners of the other animals is made unlawful. Failing to report or attempting to conceal animals infected with, or exposed to, scrapie or another transmissible spongiform encephalopathy (TSE) is made unlawful. The responsibility for reporting of scrapie or other TSE disease is expanded to owners of all livestock, not just sheep owners. Specific penalties resulting from failure of compliance with reporting requirements are deleted.

**Votes on Final Passage:**

Senate	47	1
House	97	0

**Effective:** June 11, 1998

**SSB 6129**

C 9 L 98

Allowing continued use of pollution control tax credits after facilities are modified to maintain effective pollution control.

By Senate Committee on Agriculture & Environment (originally sponsored by Senators Swecker, Fraser and Winsley; by request of Department of Ecology).

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

**Background:** Tax credits for air and water pollution control facilities may be granted to facilities constructed to meet the purposes of the Washington Clean Air Act or the state Water Pollution Control Act.

To qualify for a tax credit, a facility must have applied for a certificate from the Department of Revenue before November 30, 1981. The application must include the specifications, costs, and operating procedures for the control facility. All applications must be approved by the appropriate control agency prior to approval by the Department of Revenue. The appropriate control agency may be the Department of Ecology or a local or regional air pollution control agency.

Once a certificate is issued, a tax credit equal to 2 percent of the cost of the facility may be claimed against the business and occupation tax, the use tax, or the public utility tax. The cumulative total of the tax credit may not exceed 50 percent of the total cost of the facility.

The Department of Ecology may revoke the certificate if the certificate holder fails to operate the facility for the purposes specified by the appropriate control agency. If a certificate is revoked, all past tax credits are immediately due and payable with interest.

If a facility is modified or replaced, the holder of the certificate must apply for a new certificate. The new application must have been made before November 30, 1981.

It has been suggested that the 1981 deadline for reapplying for a certificate when a facility is modified may create a deterrent to upgrading existing pollution control facilities.

**Summary:** A holder of a certificate for tax credits for a pollution control facility is not required to apply for a new certificate when the facility is modified. The certificate for a tax credit may not be revoked if:

- The pollution control facility is modified or replaced, but still operated for the purpose of air or water pollution control;
- The pollution control facility is modified or removed as a result of a change in process, and the modification results in continued compliance with air and water pollution control laws;
- The plant, or part of the plant, in which the pollution control facility is located ceases operations, and the cessation of operation results in adequate compliance with air and water pollution control laws; or
- The plant is altered, and the alteration results in adequate compliance with air and water pollution control laws.

**Votes on Final Passage:**

Senate 45 0  
House 97 0

**Effective:** June 11, 1998

**SSB 6130**

C 155 L 98

Regulating underground storage tanks.

By Senate Committee on Agriculture & Environment (originally sponsored by Senators Swecker, Fraser, Patterson and Winsley; by request of Department of Ecology).

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

**Background:** The federal Resource Conservation and Recovery Act gives the Environmental Protection Agency (EPA) the authority to regulate underground storage tanks containing petroleum products and hazardous substances. The EPA has established an underground storage tank regulatory program that requires leak detection systems, upgrading of tanks, record-keeping systems, reporting of releases and corrective actions, standards for tank closure, and financial responsibility assurances.

In 1989, Washington adopted a state underground storage tank law requiring the Department of Ecology to adopt rules to establish requirements for all underground storage tanks regulated under the federal law. The state program was approved by EPA in 1993, and operates in lieu of the federal program.

When the state underground storage tank law was adopted, local programs that were more stringent than the state or federal requirements were not preempted. Five local programs were in place prior to 1989. The 1989 legislation encouraged Ecology to delegate authority for the underground storage tank program to other local jurisdictions; however, no other local jurisdictions have sought delegation.

The underground storage tank program licenses tanks annually for a fee of \$75. The Department of Ecology provides educational materials, workshops, and technical assistance visits to help tank owners meet the requirements. Enforcement actions are taken to address violations of the regulations. Since 1989, 27,000 underground storage tanks have been removed or replaced.

The state underground storage tank law expires in July, 1999. The final deadline to replace or upgrade tanks is December 22, 1998. The Department of Ecology and industry groups have suggested that the program should be extended beyond 1999 to provide technical assistance and enforcement for the tanks not yet meeting program requirements.

**Summary:** The expiration date for the underground storage tank law is extended to July 1, 2009. Sunset Act review is required prior to program expiration.

The license requirements of the underground storage tank program are coordinated with the master business license requirements of the Department of Licensing.

A compliance tag is required for all facilities after the December 22, 1998 compliance deadline for corrosion, spill, and overfill protection. The tag is issued by the Department of Ecology and must be displayed on the fire emergency shutoff device, or in close proximity to the fill pipes. No person may deliver substances to a facility that does not have a compliance tag after December 22, 1998.

Provisions allowing local delegation of the underground storage tank program are deleted. The five local governments operating underground storage tank programs prior to 1989 are not affected.

The annual tank fee is set at \$100 for fiscal year 1999. The tank fee may be increased annually each year thereafter in an amount up to the fiscal growth factor calculated according to Initiative 601.

**Votes on Final Passage:**

Senate 47 0  
House 97 0 (House amended)  
Senate 49 0 (Senate amended)

**Effective:** June 11, 1998

**SSB 6136**

C 10 L 98

Including drug offenses in background checks.

By Senate Committee on Human Services & Corrections (originally sponsored by Senators Oke and Long).

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

**Background:** Some people are concerned that the manufacture and distribution of controlled substances greatly affects children, but these crimes are not presently considered in the background check process.

**Summary:** The crimes of manufacture or delivery of a controlled substance, and possession of a controlled substance with intent to manufacture or deliver are added to the list of convictions that the Washington State Patrol uses in preparation of background check information. Employers requesting background checks under Title 43 are permitted to consider these convictions in the employment process.

**Votes on Final Passage:**

Senate 46 0  
House 95 0

**Effective:** June 11, 1998

**ESB 6139**

C 82 L 98

Increasing penalties for manufacture and delivery of amphetamine.

By Senators Oke, Swecker, T. Sheldon, Goings, Rasmussen and Benton.

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

**Background:** Amphetamine is a Schedule II drug. A person convicted of manufacturing, delivering, or possessing with the intent to manufacture or deliver amphetamine is guilty of a class C felony ranked at level IV on the sentencing grid (three to nine months for a first offense). A maximum five-year imprisonment and \$10,000 fine is authorized.

**Summary:** A person convicted of manufacturing, delivering, or possessing with the intent to manufacture or deliver amphetamine is guilty of a class B felony ranked at level VIII on the sentencing grid (21 to 27 months for a first offense). The maximum imprisonment is ten years. The offender is also subject to a fine of no more than \$25,000 for an amount less than two kilograms. For amounts over two kilograms, the fine can be no more than \$100,000 for the first two kilograms nor more than \$50 for each gram over two kilograms. The first \$3,000 of the fines cannot be suspended and are sent to the law enforcement agency responsible for the site cleanup.

**Votes on Final Passage:**

Senate	49	0	
House	98	0	(House amended)
Senate	49	0	(Senate concurred)

**Effective:** June 11, 1998

**ESB 6142**

C 209 L 98

Imposing administrative license suspensions on first-time DUI offenders.

By Senators Kline, Roach, Patterson, Fairley, Swecker, T. Sheldon, Goings, Rasmussen, Oke and Benton.

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

**Background:** Administrative license suspension or revocation is authorized under current statute for violation of the laws pertaining to driving under the influence of alcohol or drugs (DUI). The administrative sanction for a first DUI does not involve suspension or revocation of the driver's license. Instead, the sanction is placement of the

offender's driver's license in probationary status for five years. For a second or subsequent DUI within five years, the administrative sanction is revocation of the driver's license for two years.

**Summary:** A person's driver's license is administratively suspended for 90 days for a first violation of the laws pertaining to driving under the influence of alcohol or drugs.

A person who had his or her license administratively suspended for a first violation of DUI may submit an application for an occupational driver's license to the Department of Licensing.

**Votes on Final Passage:**

Senate	40	8	
House	67	30	(House amended)
Senate	43	5	(Senate concurred)

**Effective:** January 1, 1999

**SB 6149**

C 96 L 98

Requiring the regional fisheries enhancement group advisory board to make recommendations on certain fiscal matters.

By Senator Swecker.

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

**Background:** The Regional Fisheries Enhancement Group Advisory Board is charged with an oversight and support function for the 12 regional fisheries enhancement groups.

There is concern that regional fisheries enhancement groups should limit the number and salary of paid employees in order to emphasize the volunteer nature of the groups, and that overhead charges should also be limited.

**Summary:** The Regional Fisheries Enhancement Group Advisory Board must make recommendations on limiting overhead, restricting the number and salary of paid employees, and limiting or eliminating commissions to regional group employees. The board must report its findings to the appropriate legislative committees by January 1, 1999.

**Votes on Final Passage:**

Senate	49	0
House	98	0

**Effective:** June 11, 1998

## SSB 6150

C 97 L 98

Requiring recommendations concerning selective fishing strategies.

By Senate Committee on Natural Resources & Parks (originally sponsored by Senator Swecker).

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

**Background:** The Department of Fish and Wildlife was required to report to the Legislature its recommendations for selective fishery methods that would minimize fishing impacts on weak fish stocks. Three status reports were due in 1993, 1994 and 1995. In addition, a final report was due on December 31, 1996. None of these reports were completed and presented to the Legislature.

The need for implementation of selective fishing methods has increased in recent years due to the occurrence of more threatened or endangered fish stocks. It is vital that a comprehensive analysis of selective fishing methods be completed.

**Summary:** The Department of Fish and Wildlife must complete a selective fishing study in conjunction with treaty Indian tribes, non-Indian commercial fishers, and the recreational fishing industry. The study must present final recommendations to the Legislature by December 31, 1998.

**Votes on Final Passage:**

Senate	48	0
House	97	0

**Effective:** June 11, 1998

## SSB 6153

C 237 L 98

Revising procedures for bringing actions for the injury or death of a child.

By Senate Committee on Law & Justice (originally sponsored by Senators Fairley, Thibaudeau, Kohl and Winsley).

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

**Background:** Existing law authorizes either a mother or a father, or both, to file a wrongful death action for the death of a minor child. However, in the case of a minor child whose parents have never married, the statute requires the father to have contributed regularly to the financial support of the child before the father can maintain an action. The statute places no such contribution requirement on the mother of such a child.

In *Guard v. Beeston*, the Washington Supreme Court declared that the support requirement violates the Equal

Rights Amendment of the state Constitution (Article 31, Section 1). The court held that differential treatment of the sexes can only be based upon actual differences between the sexes.

**Summary:** The wrongful death statute is amended to require that an action for the injury or death of a minor child can only be maintained by a mother or father, or both, who has regularly contributed to the support of his or her minor child.

**Votes on Final Passage:**

Senate	44	0
House	97	0

**Effective:** June 11, 1998

## SB 6155

C 238 L 98

Revising supervision of municipal court probation services.

By Senators Roach and Fairley.

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

**Background:** Probation services are provided by courts for criminal offenders who are placed in the community. Statutes governing municipal courts in cities with a population of over 400,000 (Seattle) require the judges of the municipal court to appoint a director of probation services to supervise the probation officers of the municipal court. The director of probation services performs this duty under the direction and supervision of the presiding judge of the municipal court.

The presiding judge is responsible for administration of the court and assignment of calendars to all departments of the court. The presiding judge is elected by a majority vote of the municipal court judges for a term of one year.

The court administrator of the municipal court acts under the supervision and control of the presiding judge and is responsible for the supervision of the functions of the chief clerk of the court and the director of the city's traffic violations bureau. In addition, the court administrator is responsible for performing other duties assigned to him or her by the presiding judge. The court administrator is appointed by the judges of the municipal court, subject to confirmation by the majority vote of the legislative body of the city, and serves until removed by the judges upon confirmation of the legislative body.

**Summary:** The court administrator, rather than the presiding judge, is responsible for the direction and supervision of the director of probation services of the Seattle Municipal Court.

## 2SSB 6156

### Votes on Final Passage:

Senate 43 0  
House 98 0

Effective: June 11, 1998

## 2SSB 6156

C 185 L 98

Studying methods for calculating water-dependent lease rates on state-owned aquatic lands.

By Senate Committee on Ways & Means (originally sponsored by Senators Swecker, Fraser and Spanel; by request of Department of Natural Resources).

Senate Committee on Natural Resources & Parks  
Senate Committee on Ways & Means  
House Committee on Natural Resources  
House Committee on Appropriations

**Background:** The Department of Natural Resources has been using a legislatively set lease rate formula established in the early 1980s. The initial statute was drafted in 1983 and has not been changed since that time. The present method of establishing aquatic land lease rates is based on upland values and there have been some problems with that formula. A study of how aquatic-dependent lease rates are assessed in this state and in other states is necessary.

**Summary:** The Legislature finds that the current method for determining water-dependent rental rates for aquatic lands may not be achieving the management goals established by the Legislature.

The Department of Natural Resources is directed to study and prepare a report to the Legislature on alternative methods for determination of rents. The report must be prepared with the assistance of appropriate outside economic expertise and stakeholder involvement. Stakeholders are listed, including private marina operators, the Northwest Marine Trade Association, the Association of Washington Cities, the Association of Washington Counties, the Washington Public Ports Association, commercial waterfront businesses other than marinas, and the Department of Natural Resources.

The report must consider the method and costs of different types of aquatic land lease rental formulas, provide information on the private industry's perspective on public land leasing, describe the public perspective on public land leasing, analyze the impact of changes in rate formulas on lease revenue, and evaluate the ease of administration of any revenue changes. The Department of Natural Resources must evaluate and report on the impacts of water-dependent rates in economically distressed counties.

The annual lease rate in effect on December 31, 1997 for leases for marina uses remains in effect until July 1, 1999.

### Votes on Final Passage:

Senate 49 0  
House 97 1 (House amended)  
Senate 49 0 (Senate concurred)

Effective: June 11, 1998

## SB 6158

C 11 L 98

Repealing duplicate authority for the Washington state wheat commission.

By Senators Morton and Rasmussen.

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

**Background:** Most agricultural commodity commissions have been formed pursuant to two general state enabling statutes: the 1961 Agricultural Enabling Act and the 1955 Agricultural Enabling Act. Approximately 20 agricultural commodity commissions have been formed under these two chapters, including the present Washington Wheat Commission.

The Washington Wheat Commission was formed in 1957 under the 1955 Commodity Commission Enabling Act. However, in 1961 pending litigation challenging the constitutionality of the 1955 statute generated concern by the Wheat Commission. To address this concern, a separate chapter of law was enacted and is now codified as Chapter 15.63 RCW. It is titled the "Washington State Wheat Commission Act."

Because the legal action challenging against the constitutionality of the 1955 enabling statute was unsuccessful, transition by the Wheat Commission to Chapter 15.63 RCW never occurred. The Washington Wheat Commission continues operating under the 1955 general commodity commission enabling chapter.

**Summary:** The unused chapter of law, Chapter 15.63 RCW, is repealed. The existing statute under which the Washington Wheat Commission is established is not affected.

### Votes on Final Passage:

Senate 42 0  
House 95 0

Effective: June 11, 1998

**SB 6159**

C 12 L 98

Repealing the authority for the Washington land bank.

By Senators Morton and Rasmussen.

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

**Background:** During the early 1980s, there was a significant downturn in the agricultural economy on a nationwide basis. Major banks were incurring losses on farm loans due to the inability of operators to make payments. Due to a high rate of losses, traditional farm credit institutions were reluctant to provide loans to farmers except those with a solid financial picture. The federal farm credit system was incurring losses and was in the process of restructuring.

Due to concerns about availability of sufficient farm credit, efforts were made to establish a State Land Bank that was patterned after the Federal Land Bank. In 1986, legislation was passed authorizing the creation of a State Land Bank. Debts and obligations of the land bank were not debts or obligations of the state of Washington.

Because there was no available source of capital funds from which to make loans, a State Land Bank was not established. The current statute and current regulations promulgated by the Office of Financial Management have not been actively used since enactment.

**Summary:** The statute providing authority for the establishment of a State Land Bank is repealed.

**Votes on Final Passage:**

Senate	42	0
House	95	0

**Effective:** June 11, 1998

**SSB 6161****PARTIAL VETO**

C 262 L 98

Creating a dairy nutrient management program.

By Senate Committee on Agriculture & Environment (originally sponsored by Senators Swecker, Newhouse, Rasmussen and Anderson).

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

**Background:** The federal Clean Water Act establishes requirements and a regulatory framework for the regulation of discharges to surface waters from dairy farms. The federal framework differs for three size categories of dairy operations. The Department of Ecology is authorized to administer the federal Clean Water Act in Washington

State. In addition, state water quality laws not only regulate discharges to surface waters, but also to ground water.

The Department of Ecology currently administers a dairy waste management program established in 1993. The program requires inspection of dairy farms if there is a third party complaint or if the Department of Ecology believes that a dairy farm is a likely source of water quality degradation. Under the current program, dairy farms that are found to be discharging are referred to the Conservation Commission and local conservation districts for technical assistance. The dairy farm is required to develop a dairy waste management plan within six months and to fully implement the plan in the ensuing 18-month period.

In early 1997, the federal Environmental Protection Agency conducted inspections of dairy farms in one river basin due to water quality concerns and noncompliance by some dairy farms with federal water quality laws. Currently, there is not a periodic inspection of dairy farms so the rate of compliance with state and federal water quality laws is not known.

**Summary:** The dairy waste management program is modified by requiring that every dairy farm be inspected at least once within two years and that every dairy producer develop a dairy nutrient management plan. Other provisions of the new program include an appeals process, an advisory and oversight committee and technical assistance teams, response times to complaints, creation of an account, and fees for dairy producers who hold a National Pollution Discharge Elimination System (NPDES) permit.

The term "violation" is defined to mean discharges of pollutants to waters of the state except for those discharges that are caused by extreme weather events or as may be allowed under federal regulations or federal permit.

Every dairy producer licensed as a dairy in the state of Washington must register with the Department of Ecology by September 1, 1998. The purpose of registration is to compile baseline information about numbers of cows per acre and the status of dairy nutrient management.

The Department of Ecology must inspect every dairy farm in the state within two years. The department may conduct such additional inspections as necessary to ensure compliance with state and federal water quality requirements. At its option, the local conservation district may accompany a Department of Ecology inspector on any scheduled dairy farm inspection, except random unannounced inspections.

Dairy producers must have an approved dairy nutrient management plan by July 1, 2002, and a certified plan by December 31, 2003. The Conservation Commission, in conjunction with the advisory and oversight committee, defines elements that dairy nutrient management plans must contain. If a person already has a certified plan, that person does not need to plan again. If any plan fails to



prevent the discharge of pollutants to waters of the state, however, the plan must be updated. Alternative dairy nutrient management standards are encouraged, provided they also prevent the discharge of pollutants and are applied appropriately to individual dairy operations.

Certain conservation district decisions pertaining to the review or lack of approval or certification of dairy nutrient management plans are appealable to the Pollution Control Hearings Board. Informal hearings before the Conservation Commission are also available.

To manage and track information from the inspections, as well as information related to planning and enforcement actions, the Department of Ecology, in consultation with the Conservation Commission, must create and maintain a database.

An advisory and oversight committee is created to monitor and advise the overall dairy nutrient management program. Technical assistance teams of persons with expertise in dairy nutrient management are created to serve four geographic areas of the state. These teams are created to assist dairy producers in developing dairy nutrient management plans. The teams also develop standards and specifications that are appropriate to conditions in the four geographic areas.

The department must investigate any written complaint within three days of receiving the complaint. For first offenses of water quality laws, the department may waive a penalty.

Fines for violations of planning requirements may be levied by the Department of Ecology upon request of the Conservation Commission. Fines may not exceed \$5,000 for non-compliance with planning deadlines and \$100 for failure to register.

An account is created to receive any penalties that may be paid by dairy producers for violations of planning requirements. The balance in this account may only be used to provide grants to local conservation districts for assisting dairy producers in developing and fully implementing dairy nutrient management plans.

The fee for a NPDES permit issued for discharges related to dairy nutrients is 50 cents per animal unit covered by the permit, up to the maximum fee provided in the Washington Administrative Code. After fiscal year 1999, such fees may rise in accordance with the fiscal growth factor.

An annual report to the Legislature is required until 2002 on progress made to implement the provisions of Chapter 90.64 RCW.

**Votes on Final Passage:**

Senate	47	0	
House	97	1	(House amended)
Senate	37	12	(Senate concurred)

**Effective:** April 1, 1998

**Partial Veto Summary:** The section establishing an advisory committee and authority for providing reim-

bursement for travel and per diem to members of the advisory committee is vetoed.

**VETO MESSAGE ON SB 6161-S**

*April 1, 1998*

*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. 6161 entitled:*

*"AN ACT Relating to dairy nutrient management;"*

*SSB 6161 makes significant changes in the operation and regulation of dairies in the state of Washington. This bill will be of great benefit to our water quality and the public's health. I commend the dairy industry for its strong support of this bill.*

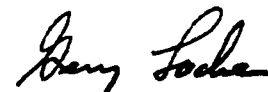
*Section 8 of SSB 6161 would create a Dairy Nutrient Management Program Advisory and Oversight Committee, consisting of governmental and non-governmental members. That committee would provide "direction to and oversight of" the dairy nutrient management program. Clearly, the state can benefit from the advice and counsel of those who will be most affected by this bill. However, the dairy inspection program is a governmental program and must be carried out by the Department of Ecology, the responsible governmental entity. It is inappropriate to give directive and oversight responsibilities to a non-governmental body. In addition, the portion of section 8 that provides for compensation of committee members contains drafting errors and is defective.*

*Very clearly, the advisory functions spelled out in section 8 are beneficial to the effective operation of the program. With this message, I am directing the Department of Ecology to establish such a committee to perform the advisory functions provided for in section 8(5).*

*For these reasons, I have vetoed section 8 of Substitute Senate Bill No. 6161.*

*With the exception of section 8, Substitute Senate Bill No. 6161 is approved.*

*Respectfully submitted,*



*Gary Locke  
Governor*

**ESSB 6165  
PARTIAL VETO  
C 210 L 98**

Directing mandatory ignition interlocks for DUI offenders.

By Senate Committee on Law & Justice (originally sponsored by Senators Rossi, Roach, Rasmussen, Goings, T. Sheldon, McCaslin, Strannigan, Zarelli, Long, Deccio, Oke, Kline, Wood, Schow, Swecker, Stevens, Haugen, Johnson, Benton and Winsley).

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

**Background:** A court may order a person convicted of an offense involving the use, consumption, or possession of alcohol while operating a motor vehicle to drive only a

vehicle equipped with an ignition interlock device for a period of not less than six months. The Department of Licensing must attach or imprint a notation on the license of a person required to drive only a vehicle equipped with an ignition interlock device. It is a misdemeanor for a person with such a notation to drive any vehicle that is not equipped with the ignition interlock device.

**Summary:** This act may be known and cited as the Mary Johnsen Act. The court must require a person convicted of DUI to drive only a motor vehicle equipped with an ignition interlock device, but may waive this requirement if it finds such devices are not reasonably available in the local area. For a first conviction of driving a vehicle not equipped with such a device when the person is restricted to driving only such a vehicle, the minimum jail time is 30 days. A second offense results in a minimum of 60 days in jail and a third offense is 90 days in jail.

When a person is arrested for circumventing the interlock device, his or her car is impounded as evidence until sentencing is complete.

Local governments may submit claims for reimbursement by the Legislature if verifiable additional costs are created by this act.

**Votes on Final Passage:**

Senate	48	0	
House	91	6	(House amended)
Senate			(Senate refused to concur)

**Conference Committee**

House	97	0
Senate	49	0

**Effective:** January 1, 1999

**Partial Veto Summary:** The mandatory jail periods of 30, 60, and 90 days for driving without an interlock device when required to do so are removed.

The requirement that vehicles driven without interlocks in violation of court orders be impounded for use as evidence is vetoed.

The section is vetoed that requires all DUI charges be filed in court and defendants arraigned on the charges within 21 days of arrest.

The Office of Financial Management is not required to verify claims from local governments for increased levels of services mandated by the act.

**VETO MESSAGE ON SB 6165-S**

March 30, 1998

To the Honorable President and Members,  
The Senate of the State of Washington

Ladies and Gentlemen:

I am returning herewith, without my approval as to sections 3, 5, 6, and 8, Engrossed Substitute Senate Bill No. 6165 entitled:

"AN ACT Relating to use of ignition interlock devices;"

ESSB 6165 requires that ignition interlock devices be used by individuals convicted of drunk driving with a blood alcohol content of 0.15 or higher. I support the intent of this legislation; however, some sections are problematic.

Section 3 of ESSB 6165 would mandate jail terms of 30, 60, and 90 days for driving without an interlock when required to do so. These mandatory sentences should not be enacted without a clear showing that they are necessary, and without carefully considering the costs to local governments. Before further restricting judges' discretion in these cases, we should gain experience with mandatory interlock use, frequency of violations, and reasons for violations. Section 3 would deny courts discretion to consider emergencies or other circumstances that might excuse or mitigate this behavior. Driving without an interlock in violation of a court order is currently punishable by up to 90 days in jail. I believe courts should continue to have sentencing discretion, especially in the early stages of mandatory interlock use.

Section 5 of ESSB 6165 would require that vehicles driven without interlocks, in violation of court orders, be impounded "for use as evidence." I am concerned about the substantial costs this requirement could impose on local governments. Currently, police officers have the authority to take custody of evidence when they need to do so, but they may not need to do so in all interlock violation cases. Impoundment, at the driver's expense, would be an appropriate remedy for violating court orders after a DUI, but this section does not assure that the driver, rather than the local government, would be financially responsible.

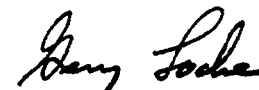
Section 6 of ESSB 6165 would require that all DUI charges be filed in court, and defendants be arraigned on those charges, within 21 days after arrest. I share the policy goal behind this section — to assure that defendants have a reasonable chance to qualify for deferred prosecution in appropriate cases. However, the effect of that requirement amounts to a 21-day statute of limitation on DUI cases. The vast majority of these cases can and should be charged much sooner than 21 days after arrest. But some require more time for legitimate investigative reasons, like getting blood test results or determining whether accident victims will recover. These are likely to be the more serious cases involving drunk driving, cases that should not be subject to dismissal because of such a deadline. The goal of informing defendants about deferred prosecution can be accomplished by bringing them to court promptly after arrest or filing charges, as required by section 2 of E2SSB 6293, which I signed today. Finally, I am concerned that section 6 falls outside the subject of the bill as expressed in the title, in violation of Article II, Section 19 of the State Constitution.

Section 8 of ESSB 6165 would require that the Office of Financial Management verify claims from local governments for increased levels of services mandated by the act. This section would add an unnecessary additional bureaucratic layer to the existing statutory and procedural process for handling these claims. I will direct the Office of Financial Management and the Department of General Administration to work collaboratively with the appropriate legislative committees to ensure that timely and accurate information is provided to the Legislature.

For these reasons, I have vetoed sections 3, 5, 6, and 8 of Engrossed Substitute Senate Bill No. 6165.

With the exception of sections 3, 5, 6, and 8, Engrossed Substitute Senate Bill No. 6165 is approved.

Respectfully submitted,



Gary Locke  
Governor

ESSB 6166

C 211 L 98

Increasing penalties for drunk driving.

By Senate Committee on Law & Justice (originally sponsored by Senators Rossi, Roach, Fairley, Goings, T. Sheldon, McCaslin, Strannigan, Zarelli, Long, Deccio, Oke, Rasmussen, Wood, Kline, Schow, Patterson, Swecker, Stevens, Haugen, McAuliffe, Kohl, Johnson and Benton).

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

**Background:** The sentence a person may receive for a conviction of driving under the influence of alcohol or drugs (DUI) is dependent upon a number of factors, one of which is whether the offense is the person's first, second, or subsequent conviction of DUI within five years. A DUI conviction no longer appears on the convicted person's record after the passage of five years.

A person is not eligible for a deferred prosecution program in connection with a charge of driving under the influence of alcohol or drugs more than once in any five-year period.

**Summary:** An individual convicted of vehicular homicide while under the influence of intoxicating liquor or any drug receives the standard sentence plus an enhancement of two years for each "prior offense" as defined in statute.

A conviction for second degree reckless endangerment or reckless driving counts as a prior offense for the purposes of sentencing for subsequent DUIs when the individual was originally charged with a DUI.

The period of a deferred prosecution is five years and the underlying DUI charge may not be dismissed until five years have passed without the commission of another DUI.

The court is directed to verify current criminal history and driving record before entering a deferred prosecution, dismissing a charge, or sentencing for a DUI.

**Votes on Final Passage:**

Senate	47	1	
House	97	0	(House amended)
Senate	33	0	(Senate concurred)

**Effective:** January 1, 1999

2SSB 6168

C 37 L 98

Developing housing for temporary workers.

By Senate Committee on Ways & Means (originally sponsored by Senators Prentice, Rasmussen, Hale, Sellar,

T. Sheldon, Wood, McAuliffe, Kohl, Anderson, Benton and Winsley; by request of Governor Locke).

Senate Committee on Agriculture & Environment  
Senate Committee on Ways & Means  
House Committee on Trade & Economic Development  
House Committee on Appropriations

**Background:** There is a significant shortage of suitable housing in Washington for both permanent resident farm workers and migrant farm workers. In 1995 the Legislature addressed the issue of migrant farm worker housing by simplifying the regulatory structure, which included designating the Department of Health as the single state agency responsible for encouraging and developing temporary worker housing, and the primary agency to license and inspect temporary worker housing. In addition, the State Building Code Council was directed to develop a separate building code for temporary worker housing, according to certain guidelines, including designs that allow maximum affordability, consistent with providing decent, safe and sanitary housing. A technical advisory group was assembled by the council to develop the code. As directed, the advisory group used existing labor camp standards of the Washington Industrial Safety and Health Act (WISHA) as a baseline safety and health guide. The temporary worker building code was completed and delivered to the Legislature in December 1996.

Growers are not required to provide housing or housing-related facilities for any employees. If they do provide housing for temporary workers, they must obtain a license from the Department of Health. To obtain this license, certain standards must be met. Both the Department of Health and the Department of Labor and Industries have authority to inspect labor camps, and close them down if health and safety standards are not met, or if a license has not been obtained. The two departments cooperate in conducting inspections.

Temporary worker housing is defined in existing law as "... a place, area, or piece of land where sleeping places or housing sites are provided by an employer for his or her employees or by another person, including a temporary worker housing operator, who is providing such accommodations for employees, for temporary, seasonal occupancy, and includes 'labor camps' [as defined]."

**Summary:** The Department of Health is directed to adopt by rule a temporary worker building code, in conformance with the housing standards of WISHA, and other guidelines in the act. It must be a separate code from the state version of the Uniform Building Code, and must be the exclusive code applied to the construction, alteration or repair of temporary worker housing. However, until the rule is adopted, the current Uniform Building Code remains applicable.

The code must encourage the use of innovative designs and material that meet required performance standards. Standards for heating and insulation appropriate to the type of structure and length and season of occupancy are

required. In addition to these guidelines, the department is directed to adopt a code that is substantially equivalent to the code developed by the State Building Code Council at the request of the Legislature.

Operators supplying less than five dwelling units or any combination of dwelling units and dormitories that house fewer than ten occupants may elect to build under the Uniform Building Code or the temporary worker building code. If they elect the latter, they must obtain an operating license from the Department of Health.

The Department of Labor and Industries is directed to adopt rules requiring electricity, and facilities for safe storage, and preparation of food in all temporary worker housing. The rules must be adopted by December 1, 1998.

Application of the new code to factory built housing, when appropriate, is provided for.

The licensing and enforcement authority of the Department of Health is clarified. The department may impose civil fines for operating temporary worker housing without a license. Any person constructing or altering temporary worker housing must first submit plans, pay a fee and obtain a permit from the Department of Health before construction or alteration begins. The department is directed to develop a fee schedule, following a study.

An advisory committee representing growers and farm workers is established to assist the Department of Community, Trade, and Economic Development in the review of grant and loan applications for the construction of housing for low-income farm workers.

**Votes on Final Passage:**

Senate	47	0	
House	68	30	(House amended)
Senate			(Senate refused to concur)

Conference Committee

House	67	31
Senate	44	0

Effective: June 11, 1998

**SB 6169**  
C 120 L 98

Regulating third-party appraisals.

By Senators Winsley and Prentice.

Senate Committee on Financial Institutions, Insurance & Housing

House Committee on Financial Institutions & Insurance

**Background:** Under current law, only individuals who are certified or licensed as real estate appraisers are permitted to conduct real estate appraisals. Current law does provide a number of exemptions to these licensing/certification requirements. Employees of financial institutions or mortgage brokers are not required to be licensed if they

conduct appraisals or appraisal reviews that are not required by the federal regulatory agency to be performed by a state-certified or state-licensed real estate appraiser. Third party vendors performing the same type of appraisals for financial institutions or mortgage brokers are required to be certified or licensed.

**Summary:** An exemption is added to the real estate appraiser certification and licensing act. Third party vendors who perform real estate appraisals or appraisal reviews for financial institutions or mortgage brokers are permitted to do so without being licensed or certified if the federal regulatory agency does not require such appraisals to be performed by a certified or licensed appraiser.

**Votes on Final Passage:**

Senate	45	1
House	95	3

Effective: June 11, 1998

**SB 6171**  
C 13 L 98

Authorizing loans for projects recommended by the public works board.

By Senators Strannigan, Fraser, West and Spanel; by request of Public Works Board.

Senate Committee on Ways & Means  
House Committee on Capital Budget

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

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

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

The public works assistance account appropriation is made in the capital budget, but the project list is submitted annually in separate legislation. CTED received an appropriation of about \$181 million from the public works assistance account in the 1997-99 capital budget. This amount included \$150 million in expected revenue to the account and \$30 million from the account's cash balance. The \$181 million is available for public works project loans in the 1998 and 1999 loan cycles. During the 1997 session, the Legislature approved 34 projects totaling \$57,720,494 for the 1997 loan cycle.

**Summary:** As recommended by the Public Works Board, 71 public works project loans totaling \$124,465,982 are authorized for the 1998 loan cycle.

The 71 authorized projects fall into the following categories:

- (1) Thirty-eight water projects totaling \$55,611,70;
- (2) Nineteen sewer projects totaling \$32,281,917;
- (3) Six road projects totaling \$20,923,038;
- (4) Three bridge projects totaling \$7,694,103;
- (5) Four storm projects totaling \$6,104,218; and
- (6) One solid waste project totaling \$1,851,000.

The sum of \$2,205,326 is authorized to be used by the Public Works Board to provide emergency loans to local governments.

**Votes on Final Passage:**

Senate	49	0
House	95	0

**Effective:** March 11, 1998

**SB 6172**  
C 186 L 98

Clarifying requirements for service of petitions for review on agencies.

By Senator McCaslin.

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

**Background:** In order for the superior court to have jurisdiction to hear an appeal of an administrative decision, the Administrative Procedure Act requires that the petition for judicial review be served on the parties of record. Service on the attorney for a party of record is not sufficient to perfect jurisdiction in the superior court.

**Summary:** Service on the attorney of record of any agency or party of record is sufficient to perfect jurisdiction in the superior court.

**Votes on Final Passage:**

Senate	46	0
House	98	0

**Effective:** June 11, 1998

**ESSB 6174**

C 121 L 98

Changing compensation for special district commissioners.

By Senate Committee on Government Operations (originally sponsored by Senator McCaslin).

Senate Committee on Government Operations  
House Committee on Government Administration

**Background:** The commissioners of fire protection districts, water-sewer districts, hospital districts and port districts are paid per diem compensation of \$50 per day, not to exceed \$4,800 per year. (Commissioners of port districts with a gross operating revenue exceeding \$25 million may not exceed \$6,000 per year.)

The commissioners of public utility districts, diking and drainage districts, drainage districts, diking, drainage, sewerage improvement districts, inter-county diking and drainage districts, flood control districts, and irrigation districts may adopt a resolution to receive per diem compensation of up to \$50 per day, not to exceed \$4,800 per year. (Commissioners of public utility districts may not exceed \$7,000 per year.)

Each eligible member of a public transit benefit area authority, after passage of a resolution, may receive per diem compensation of up to \$44 per day, not to exceed \$3,300 per year.

The commissioners of metropolitan park districts and cemetery districts are not authorized to receive per diem compensation.

The state Constitution prohibits elected officials who set their own salaries from increasing their salaries during their current term of office.

**Summary:** The per diem compensation for commissioners of fire protection districts, water-sewer districts, hospital districts, and port districts is increased from \$50 per day to \$70 per day, and the yearly ceiling is increased from \$4,800 per year to \$6,720 per year (\$8,400 per year if a port district has a gross operating revenue over \$25 million).

The commissioners of metropolitan park districts, cemetery districts, diking and drainage districts, drainage districts, diking, drainage, sewerage improvement districts, inter-county diking and drainage districts, flood control districts, irrigation districts, public transit benefit area authorities, and public utility districts may adopt a resolution providing for per diem compensation at a rate of up to \$70 per day, not to exceed \$6,720 per year (public utility districts may not exceed \$9,800 per year and public transit benefit area authorities may not exceed \$5,250 per year).

**Votes on Final Passage:**

Senate	45	3
House	97	1

**Effective:** June 11, 1998

**SSB 6175**

C 291 L 98

Authorizing financing contracts.

By Senate Committee on Government Operations (originally sponsored by Senators McCaslin, Strannigan, Haugen, Sellar, Brown and Loveland; by request of State Treasurer).

Senate Committee on Government Operations  
House Committee on Financial Institutions & Insurance

**Background:** State agencies have the authority to finance the purchase of real estate and equipment by means of financing contracts. All financing contracts must be approved by the State Finance Committee. The State Treasurer's Office administers this program, called the Lease/Purchase Program, for the State Finance Committee. By pooling agencies' financing requests in the name of the state of Washington, the State Treasurer provides individual state agencies access to the municipal securities markets and lower tax-exempt interest rates.

Local governments and special purpose districts do not have the authority to participate in the Lease/Purchase Program. To finance their purchases, local governments and special purpose districts use vendor financing or seek access individually to the financial markets. Both of these avenues have high costs.

**Summary:** Agricultural commissions, libraries, educational service districts, the Superintendent of Public Instruction, the School Directors' Association, health districts, counties, cities, towns, school districts and any other special purpose district are given the option to participate in the Lease/Purchase Program. The State Treasurer may levy fees sufficient to ensure that the program is self-supporting. The State Treasurer has authority to use the local entity's state revenue share to fulfill any part of a financing contract on which the local entity defaults. The state may assume a contingent obligation to pay under the financing contract. Payments made by the local entity are made through the State Treasurer's Office. The obligation to pay is not a general obligation of the state.

Debts incurred under the Lease/Purchase Program are not excluded from the debt limitations on taxing districts, fire protection districts and port districts.

**Votes on Final Passage:**

Senate	42	0
House	95	0 (House amended)
Senate	36	0 (Senate concurred)

**Effective:** June 11, 1998

**SSB 6181**

C 292 L 98

Regulating probate, trusts, and estates.

By Senate Committee on Law & Justice (originally sponsored by Senators Johnson and Roach).

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

**Background:** Under current Washington law, it is impossible for a person through a new will to modify nonprobate asset arrangements and to effect an equal division of all assets among his or her heirs, without modifying—presumably closing—these accounts. Nonprobate assets include such things as joint bank accounts with a "payable on death" clause. Although the intent in setting up the account may have been to provide for a source of funds for all heirs, the heir on the account may take all the money regardless of the intent of the will.

Slayer statutes exist to prevent one who kills another from gaining financially from the act. Washington's slayer statute specifically forbids a slayer from acquiring or receiving any property or benefit from the death of the victim. However, this law does not allow taking property away from the slayer which was acquired prior to the killing.

When a slayer and victim are related by marriage or business venture, they often own property jointly. This property is distributed on death to the living partner and the deceased's estate, as it would have been if the death had been accidental.

The Court of Appeals has held that a slayer does not lose his or her right to community property because of the murderous act. In some situations this has meant that the slayer receives his or her share of the state retirement benefits of the victim as well as other property.

**Summary:** Persons are allowed to designate by will the beneficiaries at death of certain assets that are not otherwise subject to probate proceedings. By writing his or her will, a person can supersede pre-existing beneficiary designations on joint bank accounts with rights of survivorship, transfer on death securities and certain other limited assets in order to enable the terms of his or her will to govern the disposition of all those assets.

A minor technical correction is made to legislation passed by the Legislature in 1997. The primary correction replaces provisions that were prematurely repealed as of July 27, 1997, though their replacement provisions did not take effect until January 1, 1998.

Minor changes to the Uniform Transfers to Minors Act are made to allow an individual to appoint a custodian to hold an asset for the child when a future event actually occurs.

References made in Washington's probate code and estate tax statutes are updated to the current provisions of the Internal Revenue Code to reflect current law.

## SSB 6182

The slayer's rights to retirement benefits of the victim under the state retirement system are taken away and given to the victim's estate. The Department of Retirement Systems, after notice that a slayer situation exists, determines to whom payment should be made. Any provisions which violated federal law are severable from the remaining provisions.

### Votes on Final Passage:

Senate	48	1	
House	98	0	(House amended)
Senate			(Senate refused to concur)

### Conference Committee

House	98	0
Senate	46	0

**Effective:** April 2, 1998 (Sections 117, 201-205, 301, 401, 501-507, & 604)  
June 11, 1998  
July 1, 1999 (Sections 101-116 & 118)

## SSB 6182

C 293 L 98

Allowing for interstate professional services corporations.

By Senate Committee on Law & Justice (originally sponsored by Senators Johnson and Roach).

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

**Background:** Professional limited liability companies may be composed of persons licensed to render professional services in any state. However, professional service corporations must be wholly owned by persons licensed in Washington.

The Washington State Bar Association has suggested that professional service corporations ought to be allowed to include licensed professionals from other states.

**Summary:** Professionals not licensed in Washington, but properly licensed in any other jurisdiction, may become shareholders, directors, and officers of a professional service corporation in this state. The corporation must serve the same profession as that for which the individual is licensed.

A professional service corporation may render services outside Washington through an individual who is not licensed in Washington. Professional service corporations from another state are allowed to do business in this state.

If a shareholder is personally engaged in a profession in Washington, he or she must be licensed to practice that profession in Washington. Additionally, either one officer and one director of the corporation must be licensed to practice that profession in Washington or each office in Washington must have a corporate officer in charge of that office who is licensed to practice that profession here.

Every director, officer, shareholder, agent, and employee of a professional service corporation open to the public must be qualified at all times to render professional services in at least one state where the corporation does business.

### Votes on Final Passage:

Senate	48	0	
House	98	0	(House amended)
Senate	48	0	(Senate concurred)

**Effective:** June 11, 1998

## ESSB 6187

C 212 L 98

Adding penalties for alcohol offenders.

By Senate Committee on Law & Justice (originally sponsored by Senators Stevens, Oke, Schow, Benton, Zarelli and Swecker).

Senate Committee on Law & Justice

**Background:** The Department of Licensing is authorized to cancel a person's identicard or suspend or revoke a person's driver's license under certain circumstances specified in statute. A person whose license is suspended or revoked due to a violation of the laws pertaining to driving under the influence may seek reinstatement of the license or a new license after the passage of the suspension or revocation period by showing proof of financial responsibility and payment of a reissue fee. In addition, the department determines eligibility for licensing based upon reports provided by the alcoholism agency or probation department regarding the person's enrollment and participation in an approved program. A person whose license is revoked must also successfully pass a driver licensing examination.

**Summary:** A person who seeks a new driver's license after having had his or her license suspended or revoked due to a conviction of driving under the influence of alcohol or drugs must pay a reissue fee of \$150.

The impaired driving safety account is created. Sixty-three percent of the revenue generated by the increased reissue fee is deposited in this account and 37 percent of the revenue is deposited into the highway safety fund.

### Votes on Final Passage:

Senate	36	13	
House	93	1	(House amended)
Senate			(Senate refused to concur)
House			(House refused to recede)
Senate	46	0	(Senate concurred)

**Effective:** June 11, 1998

**2SSB 6190**

C 294 L 98

Strengthening laws on disabled persons' parking permits.

By Senate Committee on Transportation (originally sponsored by Senators Oke, Goings, Bauer, Haugen, Wood and Fraser).

Senate Committee on Law & Justice  
Senate Committee on Transportation  
House Committee on Transportation Policy & Budget

**Background:** The disabled parking placard was created to respond to the unique needs of individuals with disabilities that limit or impair their ability to walk. When the parking placard is displayed on a vehicle's rearview mirror, the vehicle is entitled to free, unlimited on-street parking and may be parked in spaces reserved for permit holders. Because the placard has no identification qualities which would link it to the legal permit holder, the fraudulent use of disabled parking placards may be quite widespread, particularly in urban areas where parking places are scarce and expensive.

Due to other law enforcement priorities, violations of the disabled parking statutes are not strictly enforced. Additionally, the penalty for fraudulent obtainment or misuse of a parking placard is only a misdemeanor which may lessen the incentive for those in the criminal justice system to actively pursue such violators.

It has been suggested that the disabled parking statutes need to be rewritten to provide greater permit identification, stricter issuance and renewal procedures, revised penalties, and more options for local government enforcement.

**Summary:** Each permit holder receives a parking placard and an identification card bearing the picture, name and date of birth of the permit holder, as well as the placard's serial number.

Permanent permit holders are required to submit a written request to receive an additional parking placard. Temporary permit holders are not eligible to receive additional placards. For permanent permits, a five-year maximum permit renewal cycle is required. The Department of Licensing is required to verify the status of permit holders by matching their disabled permit database with available death record information. Based on the results, the database will be purged of all permits belonging to deceased permit holders.

Unauthorized use of a parking placard, license plate or picture identification card is a traffic infraction with a monetary penalty of \$250. Obtaining a parking placard, license plate or identification card in a manner other than that established under law is a traffic infraction with a monetary penalty of \$250. Blocking the access aisle located adjacent to a space reserved for physically disabled persons is a parking infraction with a monetary penalty of \$250. The fine for parking in a disabled parking place is

increased to \$250. Second or subsequent violations of disabled parking laws carry the additional penalty of serving a minimum of 40 hours of community service. Failure of a property owner to sign and/or maintain parking spaces reserved for physically disabled persons is a class 2 civil infraction. Failure to ensure that the parking spaces are accessible is a class 2 civil infraction as well. Knowingly providing false information on a disabled parking permit application is a gross misdemeanor with a penalty of up to one year in jail and a fine of up to \$5,000 or both. The court may not suspend more than one half of the amount of most fines.

Local law enforcement agencies are authorized to appoint volunteers with a limited commission to issue notices of infractions for violations of disabled parking laws. Local jurisdictions are authorized to impose, by ordinance, time restrictions of no less than four hours on the use of on-street parking spots by vehicles displaying a parking placard. A minimum time limit standard for the use of on-street parking spaces reserved for physically disabled persons is set at four hours. It is required that all time restrictions be clearly posted.

**Votes on Final Passage:**

Senate	49	0	
House	97	0	(House amended)
Senate			(Senate refused to concur)

**Conference Committee**

House	96	0
Senate	48	0

**Effective:** June 11, 1998

**ESSB 6191**

C 295 L 98

Changing statutes affecting deeds of trust.

By Senate Committee on Law & Justice (originally sponsored by Senators Johnson, Roach and Fairley).

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

**Background:** A deed of trust is a financing tool created by statute which is, in effect, a tri-party mortgage. The real property owner or purchaser (the grantor of the deed of trust) conveys the property to an independent trustee, who is usually a title insurance company, for the benefit of a third party (the lender) to secure repayment of a loan or other debt from the grantor (borrower) to the beneficiary (lender). The trustee has the power to sell the property nonjudicially in the event of default, or, alternatively, foreclose the deed of trust as a mortgage. Nonjudicial foreclosure is not available if the property involved is used "principally for agricultural or farming purposes." Furthermore, the deed of trust must provide its own terms for sale.



The Deed of Trust Act, adopted in 1965, establishes a streamlined, statutory method for foreclosing on deeds of trust. It was designed to avoid time consuming and expensive judicial foreclosure proceedings and to save time and money for both the borrower and lender.

Practice in this area has departed somewhat from the strict statutory requirements, resulting in a perceived need to clarify and update the act. In 1997 the Governor vetoed SB 5554, regulating deeds of trust, for lack of adequate public exposure and comment. This bill is proposed by the Washington State Bar Association.

**Summary:** The Deed of Trust Act is amended to clarify and modernize its procedures, and reflect current practices. A definition section is added. The list of those who can act as a trustee is revised. Trustees must maintain a street address for personal service.

Notice provisions are revised. New requirements are added to notify more people who are affected by the deed or by a foreclosure and sale. Several types of notices must be more detailed to give more information to the affected parties, including tenants, the borrower, and guarantors (i.e. co-signers). The processes and requirements for giving notice are more streamlined and defined.

Requirements are placed on participants that enhance their accessibility and ease the mechanics of the foreclosure process. The process for giving notice is streamlined and obligations are specifically defined. When a bankruptcy is also occurring, provisions are added to minimize unnecessary delay in a foreclosure sale.

Ambiguities about court involvement and other requirements are clarified, and when a trustee's sale is final is made clear. It is clarified that a receiver may be appointed for any of the independent reasons listed; more than one is not necessary.

Unnecessary involvement by extra parties is eliminated. The beneficiary has more direct power over the trustee.

Sale details and procedures are specified. Consumer Protection Act coverage is added for interfering with a sale. Liability of borrowers and guarantors after sale is defined.

**Votes on Final Passage:**

Senate	44	0	
House	98	0	(House amended)
Senate	49	0	(Senate concurred)

**Effective:** June 11, 1998

Providing for the operation of the state investment board.

By Senators Sellar, Snyder and Winsley; by request of State Investment Board.

Senate Committee on Financial Institutions, Insurance & Housing

House Committee on Financial Institutions & Insurance

**Background:** The State Investment Board was created in 1981. The board has the responsibility for safeguarding and investing public trust funds and retirement funds.

The board is held to a certain prudence standard in its investment activities. The current standard requires the board to make investments using the same judgment and care that a prudent individual would use in managing his or her own private affairs, not for speculation but for investment, considering probable safety and probable income return.

The current standard could be interpreted as applying to each individual investment on a stand-alone basis without regard to consideration of the entire portfolio of investments.

Investments must be diversified to the extent that no single holding may exceed 3 percent of the cost or 6 percent of the market value of the total assets of any fund.

**Summary:** The prudence standard, or the standard of judgment and care, is modified to allow contemplation of the entire portfolio and an integrated investment strategy. In addition, the board is directed to use the care, skill, prudence and diligence of a prudent person acting in a like capacity familiar with such matters. This standard would appear to be a measurement against other investment fund managers rather than individuals.

The diversification requirements of current law are moved to the section describing the prudence standard. Other technical changes are made to reflect the new language and relocation of the diversification requirement.

**Votes on Final Passage:**

Senate	48	0
House	95	0

**Effective:** June 11, 1998

## SB 6202

C 15 L 98

Changing the securities act to conform with federal statute.

By Senators Winsley and Prentice; by request of Department of Financial Institutions.

Senate Committee on Financial Institutions, Insurance & Housing

House Committee on Financial Institutions & Insurance

**Background:** Washington State is one of many jurisdictions trying to comply with the National Securities Markets Improvement Act of 1996 and the Uniform Securities Act. Provisions of those acts affect definitional and procedural matters regarding the offer and sale of securities by investment advisers, and investment adviser representatives. The manner in which federal covered securities are offered for sale in the state is also affected.

At the request of the Department of Financial Institutions, numerous technical and conforming provisions are sought in order to provide consistency.

**Summary:** The investment adviser definition is clarified to exclude broker-dealers, salespersons and investment adviser representatives (IARs), to coordinate with characteristics found in the Uniform Securities Act. Publishers of electronic information are also excluded from the definition of "investment adviser." "Investment adviser representative," "federal covered security" and "federal covered adviser" are defined.

It is unlawful to buy or sell a security without disclosure and consent of the client, or to engage in dishonest or unethical practices.

IARs are added to those who may register or be exempt, and categories of exemption are established, such as organizations with no place of business in Washington, or those who service specified limited clients who are not members of the general public.

"Federal covered advisers" are among those who can hold themselves out as "financial planners" or "investment counselors."

It is unlawful for investment advisers to employ unregistered IARs.

Filing fees and requirements are detailed, and application and accounting information is specified for registration and renewal of securities offerings.

It is unlawful to offer or sell a security unless it is registered, exempt from registration, or is a federal covered security, with filing and fee required at the discretion of the Director of the Department of Financial Institutions.

The director also has the ability to require a filing fee, and reporting of federal covered securities, including the authority to issue stop orders for failure to comply. The director may investigate and identify relevant criminal activities and assist prosecutors.

An exemption from filing is provided, based on type of security or dollar amount.

Filers are required to consent to service of process.

**Votes on Final Passage:**

Senate 46 0

House 95 0

**Effective:** June 11, 1998

## ESSB 6203

C 156 L 98

Authorizing exemptions from solid waste designations.

By Senate Committee on Agriculture & Environment (originally sponsored by Senators Morton, Fraser, Snyder and Swecker).

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

**Background:** In the 1997 session, the Legislature adopted ESHB 1419, directing the Department of Ecology to conduct a comprehensive review of the solid waste permit system. The review was to include recommendations for regulating materials in a manner that is commensurate with any risk the material may pose, with the goal of removing barriers to material recycling or reuse.

The Department of Ecology, in conjunction with the state Solid Waste Advisory Committee, completed this review and submitted a report to the Legislature in December 1997. The report included recommendations for both statutory and regulatory changes. Recommended legislative changes included the following:

- Allow *categorical exemptions* for wastes that are recycled that pose no human health or environmental threat.
- Allow *categorical exemptions* for solid waste handling practices that pose no human health or environmental threat.
- Establish a *use review determination process* for materials that are land applied, to determine whether certain materials may be exempt from solid waste regulation.
- Provide local health departments with the option of *deferring to other environmental permits* that adequately address environmental and human health protection.

**Summary:** *Categorical exemptions:* The Department of Ecology may by rule exempt a solid waste from permitting requirements for certain beneficial uses. The department must consider whether the material will be beneficially used, and whether the use will present threats to human health or the environment.

The department may also adopt rules to exempt categories of solid waste handling facilities from the requirement to obtain a solid waste handling permit, if the department determines the facilities pose little or no environmental risk. Facilities that receive municipal solid

## ESSB 6204

waste; apply waste to land for disposal; receive mixed waste; or receive materials for composting may not be exempt from permitting.

*Use review determination process:* The Department of Ecology must also establish procedures by rule for seeking a determination that materials not specifically exempted by rule should be exempt from solid waste permitting. The rules must include criteria for making this determination. Application must be made to the Department of Ecology. The Department of Ecology must forward a copy of the application to the local health departments. Within 45 days, the health departments must forward comments to the Department of Ecology which must then approve or disapprove the application.

The Department of Ecology must provide for public and industry notice and an opportunity to comment on each exemption application. Any local health department or applicant may appeal the department's decision to the Pollution Control Hearings Board.

*Deferral to other environmental permits:* The Department of Ecology must develop rules describing when a local health department may defer solid waste permitting to other environmental permits issued for the same facility. A deferral may be done at the option of the local health department, if the health department determines that human health and environmental protection are adequately covered by existing permits.

*Penalties:* Civil penalties of \$1,000 per violation are authorized for any person who is exempt from solid waste permitting but fails to comply with the terms of the exemption.

### Votes on Final Passage:

Senate	44	3	
House	80	18	(House amended)
Senate	46	2	(Senate concurred)

**Effective:** June 11, 1998

## ESSB 6204

### PARTIAL VETO

C 263 L 98

Increasing the efficiency of registering and identifying livestock.

By Senate Committee on Agriculture & Environment  
(originally sponsored by Senator Morton).

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

**Background:** Washington's livestock identification program is administered by the Department of Agriculture. The department maintains official recordings of livestock brands and inspects livestock at mandatory inspection points to verify ownership. The department licenses certi-

fied feed lots as well as bonded public livestock markets. The livestock identification program is funded entirely by fees paid by the livestock industry.

Since 1992, the livestock identification program experienced a negative account balance which was addressed by increasing fees for service in 1993 and 1994. The program improved its financial condition over the ensuing four years, but fee increases and administrative adjustments have not resolved the negative balance which, in 1997, was approximately \$92,000. The negative balance is expected to increase in 1998 due to a 3 percent salary adjustment, inflationary increases, and a legislatively mandated 20 percent rollback in most fees effective July 1, 1998.

The three major functions of the program, brand maintenance and recording, livestock inspection, and enforcement of livestock identification and inspection rules, has been carried out by the department exclusively.

**Summary:** A livestock identification board is established. The board consists of six members, appointed by the Governor, including one beef producer, one cattle feeder, one dairy producer, one livestock market owner, one packer, and one horse producer. The director is also designated as a nonvoting member.

The board is responsible for the administration of the livestock identification program including review and registration of brands, administration of inspection and enforcement activities, employment of personnel, fee setting and holding hearings and adopting rules necessary to administer the program. The board must contract with the Department of Agriculture for livestock inspection, investigation work, and brand registration until June 30, 2004. Beginning July 1, 2004, the board may contract with the department or other entities to provide such registration, livestock inspection, or investigation work. The board is authorized to provide for a central location in the state for its administrative offices.

The board is authorized to contract with Washington State licensed, accredited veterinarians, who have been certified by the board, to perform livestock identification. Fees collected by the veterinarians are remitted to the board. The board may adopt rules necessary to implement inspection performed by veterinarians and may adopt fees to cover the cost associated with certification of veterinarians.

A Washington State livestock identification account is established wherein all moneys collected or received from registration, inspection, or enforcement are deposited.

The brand registration fee is \$70 for a two-year registration period. The fee for brand reissue is \$20.

Heritage brand registration is provided. The board may adopt rules establishing criteria and fees for the permanent renewal of registered brands as heritage brands. The heritage brand is not intended to be used on livestock.

The board must not require inspection for any individual private sale of unbranded dairy breed milk production

cattle involving 15 head or less. Additionally, inspection is not required for male dairy calves less than 30 days of age if sold by the owner of a licensed dairy.

Inspection fees for livestock identification are specified as 75 cents per head of cattle and \$3 per head of horses.

Horses and cattle are required to be accompanied by a livestock inspection certificate when they are moved out of the state. The board may, by rule, designate any point for mandatory livestock inspection of cattle and horses passing through that point. The board or any peace officer may stop vehicles carrying cattle or horses to determine if these animals are identified, branded or accompanied by a certificate of permit, inspection certificate, or other satisfactory proof of ownership.

The board certifies feed lots and issues licenses. The fee for a certified feed lot license is \$750. Audits of feed lots are mandatory. The handling fee for cattle passing through feed lots is 15 cents per head.

The board is responsible for livestock inspection at livestock saleyards and for administration of pertinent rules.

**Votes on Final Passage:**

Senate	42	6	
House	65	33	(House amended)
Senate			(Senate refused to concur)

**Conference Committee**

House	64	33
Senate	33	16

**Effective:** June 11, 1998

**Partial Veto Summary:** Two sections of the bill are not vetoed: allowing families to register heritage brands, and enabling veterinarians to be certified to conduct livestock identification.

**VETO MESSAGE ON SB 6204-S**

April 1, 1998

To the Honorable President and Members,  
The Senate of the State of Washington

Ladies and Gentlemen:

I am returning herewith, without my approval as to sections 1, 2, 3, 4, and 7 through 101, Engrossed Substitute Senate Bill No. 6204 entitled:

"AN ACT Relating to livestock identification;"

ESSB 6204 would transfer program administration for livestock inspection to a seven-member board, all of whose voting members would be industry representatives. The board would administer a regulatory program with rule-making, fee-setting and enforcement powers. It would use its budget without legislative appropriation and be given a vast array of responsibilities, including entering into agreements with other states on behalf of Washington.

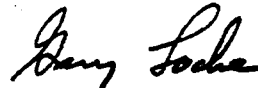
This approach is fraught with problems, conflicts of interest, and lacks any accountability to the public. But most seriously, the underlying problem — the inadequate fee system under the current law — is not remedied by this bill. Under this bill, the program fund balance would still be \$187,000 in the red at the end of the current biennium and \$193,000 in the red at the end of next biennium. It is unacceptable for the Legislature to continue avoiding the difficult issue of inadequate funds, and instead simply create a new entity to oversee livestock inspections.

I do support section 5 of this bill, which will allow families to register "heritage brands" that have been in their families for many years, and section 6, which will enable veterinarians to be certified to conduct livestock identification.

For these reasons, I have vetoed sections 1, 2, 3, 4, and 7 through 101 of Engrossed Substitute Senate Bill No. 6204.

With the exception of 1, 2, 3, 4, and 7 through 101, Engrossed Substitute Senate Bill No. 6204 is approved.

Respectfully submitted,



Gary Locke  
Governor

**ESSB 6205**

C 327 L 98

Allowing waiver of interest and penalties on property taxes delinquent because of hardship.

By Senate Committee on Government Operations (originally sponsored by Senators McCaslin, Haugen, Patterson, Benton, Bauer, Winsley and Oke).

Senate Committee on Government Operations  
House Committee on Finance

**Background:** Property taxes are due April 30 each year. If one-half the tax is paid by April 30, the other half is due October 31. However, if the first half is not paid on time, the entire tax is delinquent and interest is charged at the rate of 12 percent per year. In addition, delinquent taxes are subject to penalties.

**Summary:** Interest and penalties on delinquent property taxes are waived by the county treasurer on the taxpayer's personal residence if the taxpayer claims that the delinquency is due to hardship caused by the death of the taxpayer's spouse or the taxpayer's parent's or step-parent's personal residence if the taxpayer claims that the delinquency is due to hardship caused by the death of the taxpayer's parent and the taxpayer notifies the county treasurer of the hardship within 60 days of the tax due date. The county treasurer may require the taxpayer to furnish a death certificate and to sign an affidavit.

**Votes on Final Passage:**

Senate	47	0	
House	94	0	(House amended)
Senate	43	0	(Senate concurred)

**Effective:** June 11, 1998

**SSB 6208**  
**PARTIAL VETO**  
C 296 L 98

Revising procedures for at-risk youth.

By Senate Committee on Human Services & Corrections  
(originally sponsored by Senators Hargrove, Long,  
Franklin, Winsley and Oke).

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

**Background:** In 1995, the Legislature passed a comprehensive act dealing with runaway, truant, and at-risk youth, commonly referred to as the Becca Bill. Part of the act dealt with parents' rights to seek chemical dependency and mental health treatment for their minor children. The Legislature intended to broaden parents' rights to seek professional help for their children without the necessity of a court proceeding.

The Washington State Supreme Court ruled, in *State v. CPC Fairfax Hospital*, 129 Wn2d 439 (1996), that the mental health treatment process set up by the Becca Bill allowed a child to be released from treatment upon his or her request, unless the parents filed a petition under the state's involuntary commitment procedures. The child who was the subject of the *CPC Fairfax* case was not released upon her request, nor did her parents file a petition with the court. The court therefore ruled that the child's due process rights were violated. The court did not rule on the constitutionality of the ability of parents to seek treatment for their children.

In 1997, the Legislature passed ESSB 5082 in response to the court's ruling in *Fairfax*. The Governor vetoed the bill in its entirety citing due process and fiscal concerns.

The 1995 Becca Bill provided parents court access to deal with issues relating to their children's behavior. Those petitions are known as "Children in Need of Special Services" (CHINS) and "At-Risk Youth" (ARY) petitions. Two recent appellate court decisions have limited the use of contempt in CHINS and ARY proceedings.

**Summary:** The processes for the admission of a child to mental health or chemical dependency treatment are clarified by clearly separating the procedures for (1) voluntary outpatient and inpatient treatment, (2) parent-initiated treatment, and (3) court-authorized involuntary treatment petitions.

Mental health and chemical dependency treatment of children is allowed, without the child's consent, when the decision is made by a medical professional at the request of a parent.

Admitting professionals may admit a child to treatment when the professional determines the treatment is medically necessary. The professional must be appropriately trained, as provided by rule, to conduct the evaluation. The evaluation must be completed within 24 hours unless

the professional determines additional time is necessary. A decision to hold or release the child must be made within 72 hours. During the evaluation period, the professional may only provide such treatment as necessary to stabilize the child's condition. The child must be provided with a statement of his or her rights within 72 hours of admission.

The independent review of the professional's decision to treat the child is made on the basis of whether the continued treatment is medically necessary. The review must be conducted by a professional person and occur between seven and 14 days after admission to the facility. Five days after the independent review, the child may file a petition requesting judicial review. At the hearing, the facility or parents must show the medical necessity for continued treatment.

Thirty days after the independent or judicial review, whichever is later, a professional person or a county designated mental health professional must file a petition under the Involuntary Treatment Act or the child must be released. The department may contract out the independent reviews. The child must be released upon written request of the parent.

If the department determines that the treatment is no longer medically necessary, and the parents and the treating professional disagree, the facility may hold the child for up to three judicial days in order to allow the parents to file an ARY petition with the court. This determination may occur following any review by the department.

The Department of Health must conduct a survey of providers of mental health services to minors. The survey collects information relating to parental notification of their minor children's mental health treatment.

Parents are notified of their child's chemical dependency treatment only if the child consents to the notice or the treatment provider determines the child lacks the capacity to provide consent to the notice. The chemical dependency notice provision is based upon federal law.

The court may use remedial (civil) contempt when enforcing CHINS, ARY and truancy petitions.

Counties may apply to DSHS for funding to operate staff secure treatment facilities for youth. Secure crisis residential centers may be located on the grounds of a juvenile detention center. Staffing ratios at secure crisis residential centers are modified to provide not less than one staff person per 10 children.

The crime of unlawful harboring is expanded to include providing shelter to a runaway with the intent to engage the child in a crime or contribute to the delinquency of a minor.

**Votes on Final Passage:**

Senate	45	3	
House	98	0	(House amended)
Senate	34	9	(Senate concurred)

**Effective:** June 11, 1998

**Partial Veto Summary:** The Governor vetoed the provisions allowing DSHS to transfer funds to the counties for the operation of staff secure crisis residential centers; requiring DSHS to report the number of parent-initiated admissions of their children to treatment facilities; and expanding the crime of "unlawful harboring of a minor child."

### VETO MESSAGE ON SB 6208-S

April 2, 1998

To the Honorable President and Members,  
The Senate of the State of Washington

Ladies and Gentlemen:

I am returning herewith, without my approval as to sections 2, 3, 5, 10, 41 and 42, Substitute Senate Bill 6208 entitled:

"AN ACT Relating to at-risk youth;"

This bill clarifies the processes for the admission of a child for mental health or chemical dependency treatment. It clearly separates the procedures for voluntary outpatient and inpatient treatment, parent-initiated treatment and court-authorized involuntary treatment. Safeguards are provided for inpatient mental health and chemical dependency treatment, including an independent review by a mental health or chemical dependency professional, the opportunity for a child to petition the court for review, and automatic release from a facility unless a court allows the child to be retained for further treatment.

Sections 2, 3 and 5 relate to the Department of Social and Health Services contracting with counties for the operation of staff secure group homes. Section 2 would require DSHS to transfer funds to counties to operate these homes based on a formula that is inconsistent with other formulae related to at-risk youth. Section 3 would incorrectly change state child welfare duties to include providing funding to counties to staff these homes. Section 5 apparently would require counties, which would be subcontracting with the state, to in turn subcontract with private vendors to provide staff secure group homes for certain youth. DSHS already contracts for such services, so that section is unnecessary.

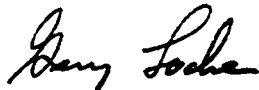
Section 10 would require DSHS to report to the Legislature annually on the number of parent-initiated admissions of minors to evaluation and treatment facilities. A costly hospital record review would be needed to gather such information, but no funding was provided.

Sections 41 and 42 would amend the law relating to unlawful harboring of a minor child. The language is redundant with existing law and may lump together effective shelters for youth with those individuals who prey upon them.

For these reasons, I have vetoed sections 2, 3, 5, 10, 41 and 42 of Substitute Senate Bill No. 6208.

With the exception of sections 2, 3, 5, 10, 41 and 42, Substitute Senate Bill No. 6208 is approved.

Respectfully submitted,



Gary Locke  
Governor

### 2SSB 6214 PARTIAL VETO C 297 L 98

Revising provisions relating to commitment of mentally ill persons.

By Senate Committee on Ways & Means (originally sponsored by Senators Long, Hargrove, McDonald, Deccio, Franklin, Stevens, Strannigan, Wood, Schow, Swecker, Hale, Sellar, Thibaudeau, Haugen, Winsley and Oke).

Senate Committee on Human Services & Corrections  
Senate Committee on Ways & Means  
House Committee on Criminal Justice & Corrections  
House Committee on Appropriations

**Background:** During the 1997 legislative interim, a King County Task Force on Mentally Ill Offenders was created to address issues related to the mentally ill misdemeanor offenders. The task force made recommendations concerning both internal process changes and statutory changes. The changes to the statutes included recommendations concerning focusing the process on public safety, increasing the sharing of information, and ensuring additional opportunities for treatment of mentally ill offenders.

**Summary: Civil Commitment (RCW 71.05):** The definition for "likelihood of serious harm" is expanded to include situations where an individual who has a history of violent acts makes threats to the physical safety of another. In determining the use of likelihood of serious harm, the use of history of violent acts is restricted to ten years, with exclusion for periods of confinement. Definitions of "county designated mental health professional (CDMHP)," "history of violent acts," and "violent act" are added.

The court must focus on whether the person poses a danger to public safety or security rather than whether his or her action constituted a felony offense. A person's right to refuse medications is limited to the refusal of psychiatric medications at specified proceedings; other prescribed medication may not be refused.

The court, when making a determination of whether a person poses a likelihood of serious harm, must give "great weight" to the following evidence: (1) a recent history of violence; or (2) a recent history of one or more prior civil commitment orders, entered because the person posed a "likelihood of serious harm." A prior commitment or violent act may not be the sole basis for a determination of likelihood of serious harm. "Recent" is defined to mean three years.

A CDMHP must conduct, within 48 hours, a civil commitment evaluation of any nonfelon who is not in custody and is referred pursuant to the criminal competency statutes. If the CDMHP does not believe the individual should be detained, the decision must be reviewed by the court on the next judicial day. An evaluation and treat-

ment facility must conduct a civil commitment evaluation of any nonfelon who is in custody and is referred pursuant to RCW 10.77. If the facility does not believe the individual should be detained, the decision must be reviewed by the court on the next judicial day. The professional person conducting the evaluation and the prosecuting attorney or the Attorney General, as appropriate, may stipulate to waive the court hearing. The individual's rights are specified.

The CDMHP or professional person conducting an evaluation for civil commitment must consider prior recommendations for civil commitment made pursuant to RCW 10.77; the person's history of violent acts; prior determinations of incompetency or insanity; and prior civil commitments.

A person who is on a conditional release has his or her condition reviewed on the basis of whether there has been a substantial decompensation and whether there is a reasonable probability that the condition can be reversed by inpatient treatment. Conditionally released persons must be returned to inpatient treatment if: (1) they fail to adhere to treatment, or their condition decompensates; and (2) they present a likelihood of serious harm.

A patient's consent is not necessary in order for a professional to communicate with, or provide records to, professional staff at a state or local correctional facility where the patient is now confined. The court must enter findings when it disagrees with a professional person's recommendation on civil commitment. The findings must include whether the state met its burden of proof.

The Department of Social and Health Services (DSHS) must develop statewide protocols for use by CDMHPs covering chapters 71.05 and 10.77 of the RCW. The protocols must be developed by September 1, 1999 and updated at least every three years.

**Criminal Competency (RCW 10.77):** This focuses on whether the person poses a danger to public safety or security rather than whether his or her action constituted a felony offense. Definitions of "expert or professional person," "CDMHP," "history of violent act," and "violent act" are provided. Violent act means behavior that resulted in, or if completed would have resulted in, homicide, nonfatal injuries, or substantial damage to property; or reckless behavior that creates an immediate risk of serious physical harm to another person.

When a person has been held for mental health treatment for the statutory maximum possible period of confinement allowable under Chapter 10.77 RCW, he or she must be referred to a CDMHP. Timelines are added for notice and transfer of records.

Deferral of bail is authorized pending evaluations for sanity or competency and standards are provided for setting bail. The department's authority to contract out sanity or competency evaluations is clarified.

Orders committing a defendant for a sanity or competency evaluation must be transmitted to the CDMHP located in the county where the defendant was charged.

Defendants who have been committed for sanity or competency evaluations must be referred for civil commitment evaluations if: (1) they are charged with a felony; or (2) they are charged with a nonfelony crime and (i) are charged with, or have, a history of one or more violent acts; (ii) pose a threat to public safety; (iii) have been previously acquitted by reason of insanity; or (iv) have been previously found incompetent under Chapter 10.77 RCW. If a civil commitment evaluation is recommended under this section, the court must order the civil commitment evaluation to be conducted prior to the defendant's release. Timelines are added for conducting a civil commitment evaluation of incompetent defendants. Information sharing is mandated between courts, CDMHPs and prosecutors.

Current law in regards to felony offenders is retained, except when the court finds a felon incompetent, he or she must be committed to DSHS for evaluation and treatment.

Nonfelony defendants who are determined to be incompetent and who: (1) have a history of one or more violent acts or a pending charge involving one or more violent acts; (2) have been acquitted by reason of insanity; or (3) have been previously found incompetent regarding an offense which caused harm to another, must be placed in a facility designated by DSHS for up to 14 days and/or up to 90 days on conditional release for mental health treatment and competency restoration. If competency is restored, the defendant is returned to the original court for trial. If competency is not restored, the criminal charges are dismissed and the person is referred to a CDMHP or evaluation and treatment facility for evaluation of a commitment under RCW 71.05. The court may refer any other nonfelony defendant to a CDMHP for evaluation. The CDMHP must provide notice of evaluation results to specified persons.

Conditionally released persons under RCW 10.77 must be apprehended and returned to treatment if they present a threat to public safety.

Relevant records and reports, as defined by DSHS, must be made available to law enforcement. Relevant records and reports, as defined by DSHS, must accompany a defendant who is transferred to a mental health facility or correctional facility.

**Miscellaneous Provisions:** Outpatient mental health treatment providers must be notified of their patient's release from a state correctional facility. Records and reports must be made available to the treatment provider upon request. This section only applies to persons committed to a correctional facility after the effective date of this section, who received treatment within two years prior to their confinement. The local regional support network is notified if the treatment provider cannot be located.

A defendant's criminal history must identify acquittals by reason of insanity and dismissals due to lack of competency.

The Washington State Institute for Public Policy must conduct an evaluation of this act. The Department of Cor-

rections is directed to conduct a study on the efficacy of the regional support networks (RSNs) in implementing the act. The Joint Legislative Audit and Review Committee (JLARC) must conduct an evaluation of the efficiency and effectiveness of the act. The final JLARC report is due January 1, 2001 and the act sunsets June 30, 2001.

An account is created to fund the use of atypical antipsychotic medications by the RSNs. A budget note is included directing \$210,000 be provided for this account. [NOTE: These provisions were repealed in the 1998 supplemental budget.]

A null and void clause is included.

**Votes on Final Passage:**

Senate	48	0	
House	98	0	(House amended)
Senate	45	0	(Senate concurred)

**Effective:** July 1, 1998

March 1, 1999 (Sections 18, 35, 38, & 39)

**Partial Veto Summary:** The Governor vetoed the study of the RSNs by the Department of Corrections. The sunset provision terminating the act on June 30, 2001 is also vetoed.

**VETO MESSAGE ON SB 6214-S2**

April 2, 1998

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 55 and 60, Second Substitute Senate Bill No. 6214 entitled:

"AN ACT Relating to mental illness;"

2SSB 6214 broadens the Involuntary Treatment Act (ITA) commitment standards to take greater account of a history of violence. Among other things, it requires greater information sharing between treatment providers and criminal justice agencies, and creates mechanisms to protect public safety in the context of ITA treatment.

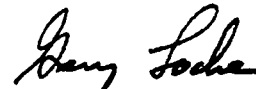
Section 55 of 2SSB 6214 would require the Department of Corrections to report annually to legislative fiscal committees on the efficacy of the regional support networks in implementing this legislation, including information on their administrative costs. While such reporting has value, DOC has neither the audit authority, the specialized expertise, nor the funding to perform this task. The bill already requires evaluations and reports by the Joint Legislative Audit and Review Committee and the Washington State Institute for Public Policy.

Section 60 would cause the entire act to expire on June 30, 2001. "Sunset" provisions can be valuable, but this would be too soon. This complex new law will be difficult to implement and may well require revision in the years to come. The studies required by the Institute for Public Policy and the Joint Legislative Audit and Review Committee can help identify problems and opportunities for improvement.

For these reasons, I have vetoed sections 55 and 60 of Second Substitute Senate Bill No. 6214.

With the exception of sections 55 and 60, Second Substitute Senate Bill No. 6214 is approved.

Respectfully submitted,



Gary Locke  
Governor

**SB 6219**

**PARTIAL VETO**

C 245 L 98

Making technical corrections to the Revised Code of Washington concerning reports to the legislature that are no longer necessary.

By Senators McDonald, McCaslin, Patterson, West and Hale; by request of Office of Financial Management.

Senate Committee on Government Operations  
House Committee on Government Administration

**Background:** There are numerous instances of state law where a report to the Legislature is required by a date certain and numerous instances where formerly a report to the Legislature was required, but is no longer necessary.

**Summary:** Numerous laws either requiring a report to the Legislature by a date certain or requiring unnecessary reports to the Legislature are eliminated.

**Votes on Final Passage:**

Senate	44	3	
House	95	0	(House amended)
Senate	37	1	(Senate concurred)

**Effective:** June 11, 1998

**Partial Veto Summary:** Three repealed sections of law are vetoed to avoid inadvertent disruption of ongoing programs, and section 56 is vetoed for technical reasons.

**VETO MESSAGE ON SB 6219**

March 31, 1998

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 56, 176(14), 176(15), and 176(17), Senate Bill No. 6219 entitled:

"AN ACT Relating to reports to the legislature;"

Senate Bill No. 6219 is an excellent piece of legislation that will contribute to the efficiency of state government. It eliminates approximately 230 obsolete or unnecessary reports that agencies are required to submit to the Legislature by amending or repealing numerous sections of law.

However, the statutes that would be repealed by sections 176 (14), (15), and (17) also contain substantive language regarding ongoing programs that should be retained in law. To avoid inadvertent disruption of the programs, I have vetoed those sections.

Section 56 of SB 6219 would amend RCW 43.19.554 by removing a reference to a report from the Department of General Administration on motor vehicle management. However, HB



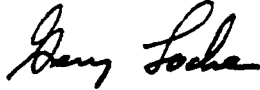
## SB 6220

2568, which I signed on March 23, 1998, already repealed that section.

For these reasons, I have vetoed sections 56, 176 (14), 176 (15), and 176 (17) of Senate Bill No. 6219.

With the exception of sections 56, and 176 (14), 176 (15), and 176 (17), I am approving Senate Bill No. 6219.

Respectfully submitted,



Gary Locke  
Governor

## SB 6220

C 239 L 98

Allowing airline employees to trade shifts without overtime pay.

By Senators Horn, Heavey, Schow, Fraser, Anderson, Franklin, Newhouse, Winsley and Patterson.

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

**Background:** Employees in the airline industry have a long-standing practice of trading shifts voluntarily which may, in some instances, mean that they are working more than 40 hours per week. While federal law exempts airline employees from the provisions of federal overtime regulations, they are not exempt under state wage and hour provisions. Thus, the voluntary trading of shifts among airline employees in Washington may obligate airlines to pay time and a half to those employees arranging with fellow employees to work an extra shift during the week, even though the airline is not requiring the extra hours of work.

**Summary:** The state wage and hour laws requiring pay of one and one-half times the regular rate of pay for employees working over 40 hours per week do not apply to airline employees if those overtime hours are worked as a result of the employees' voluntary shift-trading.

### Votes on Final Passage:

Senate	49	0
House	97	0

Effective: June 11, 1998

## SB 6223

C 54 L 98

Revising provisions for filing with the state tax board.

By Senators McCaslin, Winsley, West, Haugen and Sellar, by request of Board of Tax Appeals.

Senate Committee on Government Operations  
House Committee on Government Administration

**Background:** For property tax appeals, the date of filing is determined by the postmark, but there is no similar provision for excise tax appeals.

Parties who appeal are responsible for timely notice to other parties.

**Summary:** For all tax appeals, the date of filing is determined by the postmark.

The Board of Tax Appeals is responsible for sending a copy of the notice of appeal to all named parties within 30 days.

### Votes on Final Passage:

Senate	46	0
House	98	0

Effective: June 11, 1998

## SB 6228

C 187 L 98

Adjusting aircraft dealers' license fees and their distribution.

By Senators Haugen, Morton, Rasmussen, Prentice, Prince and Wood.

Senate Committee on Transportation  
House Committee on Transportation Policy & Budget

**Background:** Under current law, if an individual sells two or more aircraft in one year, he or she is required to obtain an aircraft dealer's license. There are currently 55 registered aircraft dealers in Washington State. The license costs \$25 for the first year and \$10 per year after that for license renewal. One hundred percent of registration fee revenue is deposited in the general fund. Despite this fact, the aircraft dealers license program is entirely administered by the Department of Transportation's Aviation Division.

**Summary:** The aircraft dealer's license fee is increased from \$25 to \$75. The annual renewal fee is increased from \$10 to \$75. The cost for additional dealer license certificates is increased from \$2 to \$10. If a dealer's license expires, the fee to reapply is increased from \$25 to \$75. Registration fee revenue must be credited to the aeronautics account, as opposed to the general fund.

**Votes on Final Passage:**

Senate	45	3
House	94	3

Effective: June 11, 1998

**SSB 6229**

C 188 L 98

Enhancing compliance with aircraft registration laws.

By Senate Committee on Transportation (originally sponsored by Senators Haugen, Morton, Goings, Winsley, Prince, Rasmussen, Prentice and Wood).

Senate Committee on Transportation  
House Committee on Transportation Policy & Budget

**Background:** Of the 9,868 aircraft based in Washington State, 4,807 aircraft were registered in 1997. An additional 2,000 aircraft requiring registration were confirmed to be operating without a registration. There are only two registration enforcement options currently available: (1) request the State Patrol to investigate a potential evasion of registration; or (2) send Aviation Division staff out to public use airports to record aircraft identification numbers for purposes of running registration checks at a later time. Due to various limiting factors of both options, neither of them has been able to significantly reduce the number of unregistered aircraft in the state. Adding to the problem is the fact that an aircraft can lease or purchase tiedown or hangar space at a local, public use airport without having to show proof of registration to airport authorities.

**Summary:** Port districts and municipalities who operate an airport must require from an aircraft owner proof of aircraft registration or proof of the intent to register an aircraft as a condition of leasing or selling tiedown or hangar space for an aircraft. If the owner is found to have an unregistered aircraft, the airport must present the owner with the appropriate state registration forms and direct the owner to comply with the law. After doing so, the airport may lease or sell the space to the owner of the unregistered aircraft, as it then becomes the aircraft owner's responsibility to register the aircraft. At the end of each month, the airport must report the identification numbers of the unregistered aircraft and the names and addresses of the owners to the Aviation Division for further investigation.

**Votes on Final Passage:**

Senate	37	5
House	98	0

Effective: June 11, 1998

**E2SSB 6235**

C 264 L 98

Creating the community outdoor athletic fields advisory committee.

By Senate Committee on Ways & Means (originally sponsored by Senators Jacobsen and Kohl).

Senate Committee on Government Operations  
Senate Committee on Ways & Means  
House Committee on Trade & Economic Development

**Background:** In 1997, Referendum 48 approved a mechanism established by the state to finance stadium and exhibition centers and education technology grants through a combination of state, local, and private sources. The portion of resulting state and local tax revenues that is in excess of bond payments and a private contribution of \$10 million are used to fund youth athletic facility grants. The Interagency Committee for Outdoor Recreation administers the youth athletic facility grants and awards them competitively to city, county, and nonprofit organizations.

**Summary:** A community outdoor athletic fields advisory council is established within the Interagency Committee for Outdoor Recreation (IAC). The nine members are appointed from the public at large: four by the chairperson of the IAC, two by the House, two by the Senate, and one, who is the chairperson, by the Governor. Compensation is limited to reimbursement of travel expenses. The council advises the IAC, which is responsible, subject to available resources, for awarding youth athletic facility grants and other duties that may include a community outdoor athletic fields strategic plan, inventory, demand forecast, and funding analysis. The IAC is authorized to receive public and private funds.

**Votes on Final Passage:**

Senate	47	0	
House	97	0	(House amended)
Senate	39	0	(Senate concurred)

Effective: June 11, 1998

**ESSB 6238****PARTIAL VETO**

C 328 L 98

Changing provisions relating to dependent children.

By Senate Committee on Human Services & Corrections (originally sponsored by Senators Stevens and Swecker).

Senate Committee on Human Services & Corrections  
Senate Committee on Ways & Means  
House Committee on Children & Family Services  
House Committee on Appropriations

**Background:** Parents have experienced an inability to provide input to the courts regarding their opinions with respect to their children. Further, in cases of negligent treatment, there exists a perception that families have been harmed by state intervention in situations where the conduct of the parents has not been egregious enough to outweigh the harm resulting from state intervention.

Under current law, a law enforcement officer, probation counselor, or child protective services official may, pursuant to a juvenile court order, remove a child and place the child in state custody if a petition is filed that alleges the child is dependent and the child's health, safety and welfare will be seriously endangered if the child is not taken into custody. The court can issue an order without notice to the parents or guardians, and without a preliminary hearing where the parents, guardians or their counsel can present opinions and challenge information.

There is no statutory requirement that the petition be served upon the parent or guardian at the time the child is removed if ordered by the court. Child dependency statutes provide that a shelter care hearing must follow and will occur no later than 72 hours after the child is taken into state custody, with customary exceptions for weekends when the court may not be in session. To aid the court in its decision for disposition, the person or agency filing the petition is charged with the task of providing a social study of matters relevant to the case.

**Summary:** Any petition to take a child into custody must be accompanied by an affidavit or declaration, setting forth specific factual information evidencing reasonable grounds that the child's health, safety and welfare are seriously endangered if not taken into custody. At least one of the grounds set forth by the petitioner must demonstrate a risk of imminent harm to the child. Imminent harm is defined to include sexual abuse or sexual exploitation of a child. The petition, affidavit or declaration and order must be served upon the guardian or parent at the time the child is removed from the home. An order must not be issued and a child must not be removed via this statute without an affidavit or if the affidavit is insufficient.

Records the Department of Social and Health Services intends to rely upon in support of its shelter care hearing must be produced within 15 days of a written request and prior to any shelter care hearing. If the records are served upon legal counsel, legal counsel must have an opportunity to review these records prior to the shelter care hearing with the parents.

A summons served giving notice of a hearing on child custody must state that the parent or guardian has a right to records the department intends to rely upon at the time of its hearing.

Courts must consider whether nonconformance with any conditions upon the parent or custodian as it relates to child placement resulted from circumstances beyond the control of the parent or custodian.

The parent may submit a counselor's or health care provider's evaluation of the parents which is included in the social study or considered in conjunction with the social study. The social study identifies any services chosen and approved by the parents.

Substance abuse is a risk factor in the department's risk assessment for services. The department must report to the Legislature statistical information annually regarding the relationship between dependency cases and abuse and neglect.

**Votes on Final Passage:**

Senate	45	2	
House	97	0	(House amended)
Senate			(Senate refused to concur)

Conference Committee

House	98	0
Senate	46	0

**Effective:** June 11, 1998

**Partial Veto Summary:** The Governor struck Section 6, which required the department to report to the Legislature statistical information annually regarding the relationship between dependency cases and abuse and neglect.

**VETO MESSAGE ON SB 6238-S**

April 3, 1998

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 6, Engrossed Substitute Senate Bill No. 6238 entitled:

"AN ACT Relating to dependent children;"

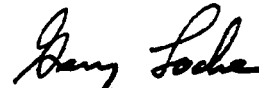
This bill requires the Department of Social and Health Services to specify, via affidavit, evidence that harm will come to a particular child if the child is not taken from his home. The affidavit must contain evidence of the risk of imminent harm. The bill also requires quicker access to information for parents, to help give them an adequate opportunity to make their case at the shelter care hearing. Under this legislation, parents will be able to become more engaged in the process of identifying the services they require to prevent serious harm to a child, were the child returned to them.

Section 6 of this legislation would require DSHS to publish a great deal of new information in its annual quality assurance report. The required information is not now collected, and there is no indication why DSHS should start collecting it, or what the usefulness of that information would be. And, no funding was provided for this purpose.

For these reasons, I have vetoed section 6 of Engrossed Substitute Senate Bill No. 6238.

With the exception of section 6, Engrossed Substitute Senate Bill No. 6238 is approved.

Respectfully submitted,



Gary Locke  
Governor

**SSB 6253**

C 265 L 98

Reimbursing state liquor stores and agency liquor vendors for costs of credit and debit sales of liquor.

By Senate Committee on Commerce & Labor (originally sponsored by Senators Schow, Horn, Swecker, Rasmussen, Goings and T. Sheldon).

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

**Background:** In 1997, the Liquor Control Board was authorized to allow the use of credit and debit cards by non-licensees for purchases of liquor in all state liquor stores and agency liquor stores. The board was given rule-making authority to implement the use of credit and debit cards at both state liquor stores and agency liquor stores.

The board was authorized to use money from the liquor revolving fund to pay transaction fees associated with credit and debit card purchases. The law was silent on the payment of other costs associated with credit and debit card purchases incurred by liquor vendors operating agency liquor stores.

As of December 1997, all state liquor stores were equipped to use credit and debit cards for retail liquor purchases. The board has initiated the rule-making process for implementing the use of credit and debit cards by liquor vendors in agency stores. Pending adoption of rules, those liquor vendors who wish to use credit and debit cards for liquor purchases may do so at their own expense.

Agency liquor stores are located in areas of the state where no state liquor store exists. The board may appoint a person as a liquor vendor who sells spirits either through an existing private retail business such as a drug store or grocery store or as a separate business. Liquor vendors operating agency stores are considered independent contractors.

A report evaluating the implementation of this program was due January 1, 1998.

**Summary:** The Liquor Control Board is authorized to pay for the costs of supplying, installing and maintaining equipment used by agency liquor vendor stores for the sale of liquor by debit or credit card in these stores. This equipment must only be used for the purchase of liquor. The costs associated with such equipment is paid for from the liquor revolving fund.

An intent section is added stating that implementation of credit and debit card purchases in agency liquor vendor stores must not reduce the liquor revolving fund balance and the resulting transfers to the general fund.

If expenditures made in implementing credit and debit card use in state liquor stores and agency liquor vendor stores exceed the revenue generated, the board must con-

sider raising retail prices of alcohol products to offset the excess.

Statutory reference to transaction fees associated with credit and debit card purchases is clarified to include transaction fees for both state liquor stores and agency liquor vendor stores.

**Votes on Final Passage:**

Senate	41	7	
House	89	8	(House amended)
Senate			(Senate refused to concur)
House			(House refused to recede)
Senate	40	4	(Senate concurred)

**Effective:** June 11, 1998

**ESB 6257**

C 213 L 98

Lowering statutory levels for legal alcohol intoxication.

By Senators Strannigan, Roach, Goings, Anderson, Long, Oke, Swecker, Benton, Wood, Stevens, Rasmussen and Patterson.

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

**Background:** A person is guilty of driving under the influence of intoxicating liquor if the person drives a vehicle and has a blood alcohol concentration of .10 or higher.

There is research which indicates the vast majority of drivers are impaired at a blood alcohol concentration level of .08 in critical driving tasks. There is concern that the risk of being involved in a crash rises rapidly after a driver reaches or exceeds a .08 blood alcohol concentration.

At least 15 states, including Oregon, California, Utah, and Maine have reduced their illegal per se blood alcohol concentration limits to .08.

**Summary:** The illegal per se breath and blood alcohol concentration standard is .08.

The offense of a driver under 21 consuming alcohol is limited to those persons under 21 years of age who have an alcohol concentration of at least .02 but less than the blood alcohol level of .08 for the offense of driving under the influence of alcohol.

**Votes on Final Passage:**

Senate	48	0	
House	95	2	(House amended)
Senate	48	0	(Senate concurred)

**Effective:** January 1, 1999

**SSB 6258**

C 55 L 98

Making technical corrections to the Revised Code of Washington.

By Senate Committee on Law & Justice (originally sponsored by Senators Roach, Kline and Hargrove; by request of Statute Law Committee).

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

**Background:** Seven errors have been discovered in the Revised Code of Washington. These consist of drafting errors and inconsistencies.

**Summary:** Technical changes are made to make the statutes conform to the Legislature's intent.

**Votes on Final Passage:**

Senate	48	0
House	98	0

**Effective:** June 11, 1998  
June 30, 2000 (Section 5)

**2SSB 6264**

C 250 L 98

Providing for the mass marking of chinook salmon.

By Senate Committee on Ways & Means (originally sponsored by Senators Oke, Rasmussen, Morton, Swecker and Anderson).

Senate Committee on Natural Resources & Parks  
Senate Committee on Ways & Means  
House Committee on Natural Resources  
House Committee on Appropriations

**Background:** The Department of Fish and Wildlife currently operates salmon hatcheries that provide fishery benefits in mixed stock fisheries. In order to continue to provide hatchery origin coho salmon for the fishery, all coho salmon are externally marked to enable fishers to determine which salmon are hatchery origin, while releasing nonmarked wild salmon. This program is known as mass marking.

The same approach can be utilized with chinook salmon to allow fisheries to continue on hatchery chinook while protecting wild chinook salmon.

**Summary:** The Department of Fish and Wildlife is instructed to mass mark all appropriate hatchery origin chinook salmon by June 30, 1999.

The department must work with the treaty Indian tribes in order to reach mutual agreement on the implementation of the mass marking program and report to the Legislature by January 1, 1999.

**Votes on Final Passage:**

Senate	44	4	
House	62	35	(House amended)
Senate	42	5	(Senate concurred)

**Effective:** June 11, 1998

**SB 6270**

C 329 L 98

Eliminating the business and occupation tax on internal distributions.

By Senators Anderson, Spanel, Swecker, West and Oke; by request of Department of Revenue.

Senate Committee on Ways & Means  
House Committee on Finance

**Background:** The business and occupation tax (B&O) is levied for the privilege of doing business in Washington. The tax is levied on the gross receipts of all business activities (except utility activities) conducted within the state.

Although there are several different rates, beginning July 1, 1998 the principal rates are as follows:

Manufacturing/wholesaling	0.484%
Retailing	0.471%
Services	1.5%

The B&O tax is imposed on the gross receipts of business activities conducted within the state without any deduction for the costs of doing business. For this reason, 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.

Firms distributing merchandise from their own warehouses to two or more of their own retail stores must pay a B&O tax on the value of the articles distributed. This "internal distributions" tax applies (at the 0.484 wholesaling rate) to integrated firms that perform wholesale functions but that are not technically wholesalers.

The intent of the internal distributions tax is to tax both independent wholesalers and integrated firms in the same way. The tax is now being avoided by large integrated retailers who have restructured to provide a subsidiary or other entity to operate the warehouse.

**Summary:** The internal distributions tax is eliminated.

**Votes on Final Passage:**

Senate	48	0
House	94	0

**Effective:** July 1, 1998

**SB 6278**  
C 240 L 98

Specifying the number of signatures required on a petition to place on the ballot the question of changing the name of a port district.

By Senators Horn, McCaslin and T. Sheldon.

Senate Committee on Government Operations  
House Committee on Government Administration

**Background:** The signatures of at least 250 registered voters residing within a port district are required on a petition to place on the ballot the question of changing the name of the district.

**Summary:** The signatures of at least 10 percent of the voters in the last general port election are required on a petition to place on the ballot the question of changing the name of the port district, which must be done at the next general port election.

**Votes on Final Passage:**

Senate	44	3	
House	97	0	(House amended)
Senate	40	1	(Senate concurred)

**Effective:** June 11, 1998

**SSB 6285**  
C 16 L 98

Revising provisions relating to imposition of benefit charges by fire protection districts.

By Senate Committee on Government Operations (originally sponsored by Senators Goings, McCaslin, Haugen, Winsley, Patterson and Rasmussen).

Senate Committee on Government Operations  
House Committee on Government Administration

**Background:** The board of commissioners of a fire protection district may impose a benefit charge for up to six years on personal property and improvements to real property if the benefit charge is approved by 60 percent majority of the voters of the district voting at a general election or a special election. If the benefit charge is imposed, a fire protection district is prohibited from imposing a third property tax levy not exceeding 50 cents per thousand dollars of assessed value. The benefit charge may not exceed 60 percent of the district's operating budget.

A benefit charge must be reasonably proportioned to the measurable benefits to property resulting from the services afforded by the district.

Even if a ballot proposition is for reauthorization of a benefit charge, the ballot proposition must read (in part) "... be authorized to impose benefit charges ..."

**Summary:** It is clarified that the benefit charge on any single property may be compiled into a single charge, but the fire protection district must provide an itemized list of charges for each measurable benefit upon request of the property owner.

Fire protection districts renewing the benefit charge may use an alternative ballot proposition which reads (in part) "... be authorized to 'continue voter-authorized' benefit charges ..."

A fire protection district that discontinues the use of a benefit charge is allowed to set its third 50 cent levy at the amount which would have been allowed under the 106 percent limitation if the levy, rather than the benefit charge, had been imposed.

**Votes on Final Passage:**

Senate	48	0
House	95	0

**Effective:** June 11, 1998

**E2SSB 6293**  
C 214 L 98

Establishing penalties for drunk driving.

By Senate Committee on Transportation (originally sponsored by Senators Benton, Roach, T. Sheldon, Rossi, McDonald and Oke).

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

**Background:** When sentencing a person convicted of driving under the influence of alcohol or drugs (DUI), the court considers whether the person has had any prior DUIs within the past five years. If a person convicted of DUI with a blood alcohol concentration (BAC) of less than .15 has had no prior convictions for DUI within the past five years, the punishment includes one day of imprisonment, a fine of not less than \$350 and suspension of the driver's license for 90 days. The sentence of a person convicted of DUI with no prior DUIs within five years and a BAC level of .15 or more includes two days of imprisonment, a fine of not less than \$500 and suspension of the driver's license for 120 days. The sentence of a person convicted of DUI with a blood alcohol level of less than .15, but who has a prior DUI within the past five years, includes imprisonment for not less than 30 days, a fine of not less than \$500 and revocation of the driver's license for one year. If a person is convicted of DUI with a BAC of .15 or more and the person has a prior DUI within five years, he or she will receive imprisonment for not less than 45 days, a fine of not less than \$750 and revocation of the driver's license for 450 days.

## SSB 6297

**Summary:** A person convicted of DUI with a BAC of less than .15, who has one prior offense within five years is punished, in addition to current law, by 60 days electronic home monitoring which may not be suspended or deferred. A person convicted of DUI with a BAC of at least .15 or more and who has one prior offense within five years is punished, in addition to current law, by 90 days of electronic home monitoring which may not be suspended or deferred. A person convicted of DUI with a BAC of less than .15, who has two prior offenses within five years is punished, in addition to current law, by 120 days of electronic home monitoring which may not be suspended or deferred. A person convicted of DUI with a BAC of at least .15 or more, who has two prior offenses within five years is punished, in addition to current law, by 150 days of electronic home monitoring which may not be suspended or deferred.

No driver's license may be issued to a habitual offender for a period of seven years from the date of the license revocation.

At the end of four years, the habitual offender may petition the Department of Licensing (DOL) for early reinstatement of his or her operator's license upon good and sufficient showing and the department may wholly or conditionally reinstate the privilege.

At the end of seven years from the date of any final order finding a person to be a habitual offender, the person may petition DOL for restoration of the driving privilege.

A person arrested for DUI or "driving after consuming alcohol" is required to appear in person before a magistrate within one judicial day after arrest. At the time of appearance, the court determines the necessity of imposing conditions of pretrial release.

Whenever the court imposes less than one year in jail for a DUI offender, the court also suspends a period of five years of confinement and imposes conditions of probation.

### Votes on Final Passage:

Senate	48	0	
House	96	1	(House amended)
Senate	45	0	(Senate concurred)

Effective: January 1, 1999

## SSB 6297

C 266 L 98

Revising the formula for local public health financing in a county where a city annexed territory with fifty thousand residents or more in 1996 or 1997.

By Senate Committee on Ways & Means (originally sponsored by Senators Benton, Bauer and Snyder).

Senate Committee on Ways & Means  
House Committee on Appropriations

**Background:** The state imposes an excise tax (MVET) for the privilege of using a motor vehicle upon the highways of this state. The tax is levied annually on the value of the vehicle at a rate of 2.2 percent.

The revenues generated by the motor vehicle excise tax (MVET) are deposited into various accounts for various purposes. Revenues remaining after all of these distributions are retained in the state general fund and are subject to appropriation for general governmental purposes.

Of the basic 2 percent MVET rate, 1.6 percent is deposited into the county sales and use tax equalization account for allocation by the State Treasurer to counties receiving lower than average sales and use tax revenues. Revenues in excess of the amounts needed to make the distributions are deposited in the state general fund.

Of the basic 2 percent MVET rate, 2.95 percent is deposited into the county public health account for public health purposes. The MVET distribution to cities for public health was reduced by 2.95 percent to accomplish this. Funds are provided to counties based on a funding formula that was designed to ensure that no city contribution was less than the calendar year 1995 level expended for public health purposes.

**Summary:** If funds are available, the populations of cities over 50,000 that incorporated in 1996 and 1997 are included in the calculation of city contributions to counties for public health purposes. Excess revenues in the county sales and use tax equalization account are used to cover the cost of including these city populations in the local public health funding calculation.

### Votes on Final Passage:

Senate	49	0
House	95	3

Effective: July 1, 1998

## SB 6299

C 56 L 98

Identifying where actions for unlawful issuance of a check or draft may be brought.

By Senators Johnson and Heavey.

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

**Background:** The plaintiff in a civil suit for the unlawful issuance of a check must bring the action in the county where the defendant resides. Some counties have adopted court rules which further require the suit be brought in the local division where the defendant resides within that county.

**Summary:** In an unlawful check case, a plaintiff is allowed to bring suit in the county where the defendant resides or in any division of the judicial district where the check was issued or where the check was presented as payment.

**Votes on Final Passage:**

Senate	48	0
House	96	1

**Effective:** June 11, 1998

**SB 6301**

C 298 L 98

Regulating franchise agreements between motor vehicle manufacturers and dealers.

By Senators Schow, Horn, Franklin and Heavey.

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

**Background:** Under current law, new vehicle dealers must have an agreement with a vehicle manufacturer to perform warranty repair work. Warranty work is completed by the dealer regardless of where the vehicle is purchased. Dealers are reimbursed by the manufacturer for the costs of performing such work. Current law does not dictate the specific time period or other conditions related to a manufacturer reimbursing an auto dealer for the performance of warranty work on the manufacturer's products.

Under the Motor Vehicle Warranty Act, consumers of new motor vehicles that are defective request repair from the manufacturer. If repairs are not accomplished in a specified number of attempts and period of time, the manufacturer must replace or buy back the vehicles. In a buy back, consumers are entitled to refund of the purchase price and various charges and costs, including costs of repair, less a reasonable offset for use. Consumers may also request arbitration. Arbitration boards may award the same remedies. The act applies to the self-propelled vehicle and chassis of a motor home but not to the portions used as dwelling, office, or commercial space.

**Summary:** Franchise agreements between motor vehicle manufacturers and dealers must specify the dealers' obligation to perform warranty work or service.

Manufacturers must pay all approved claims for warranty work by dealers within 30 days of receipt. Claims must be approved or disapproved within 30 days of receipt. Claims not specifically disapproved in writing within 30 days are considered approved. Claims must be submitted on the form and in the manner specified by the manufacturer.

For up to one year following payment, manufacturers may audit claims and charge dealers for unsubstantiated, incorrect, or false claims. If fraud is suspected, manufac-

turers may audit and charge dealers under the fraud statutes.

"Motor home" and "motor home manufacturer" definitions for purposes of warranty work are added.

A reasonable number of attempts at repair for a motor home is one attempt for a serious safety defect, or three attempts for the same nonconformity.

The out-of-service period for a motor home is 60 days. After 30 days out of service, an owner must notify the manufacturers. The manufacturers may attempt to coordinate repairs. The period after which the consumer can request arbitration includes the time to complete repair attempts.

The motor home manufacturers are responsible for the cost of transporting the motor home to the repair facility in the case of a serious safety defect or a distance of more than 100 miles.

A reasonable offset for use of a motor home is calculated using a denominator of 90,000.

Arbitration boards may increase or decrease an offset by one-third and may allocate liability among the motor home manufacturers.

Motor homes acquired after June 30, 1998 are covered.

**Votes on Final Passage:**

Senate	48	0	
House	97	0	(House amended)
Senate	46	0	(Senate concurred)

**Effective:** June 11, 1998

**SSB 6302**

C 241 L 98

Establishing risk-based capital standards for health carriers.

By Senate Committee on Financial Institutions, Insurance & Housing (originally sponsored by Senators Winsley and Prentice; by request of Insurance Commissioner).

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

**Background:** The National Association of Insurance Commissioners (NAIC) and several states are moving towards standardization of risk assessment tools, in order to protect insureds by improving the ability to monitor solvency of carriers.

**Summary:** For the purpose of monitoring health carrier solvency, a method of tracking and reporting of "risk based capital" (RBC) is established. The RBC of all domestic carriers (and foreign or alien carriers under some circumstances) is reported by the carriers to the Insurance Commissioner, the NAIC, and in other jurisdictions where the carrier is authorized to do business.



The goal is to maintain an excess of capital above the required RBC level. There are various problematic levels of RBC. For each of these levels, the Insurance Commissioner requires explanation and corrective action by the carrier, including revision of the RBC plan. At the mandatory control level, the commissioner can place the carrier under regulatory control.

A carrier's "authorized control level RBC" is determined by a formula, taking into account the carrier's assets, the risks of adverse experience, interest rate risk, and other business risk.

Three additional RBC levels are calculated, by using a multiplier with the "authorized control level." The three RBC levels at which the commissioner takes action are the "company action level," the "regulatory action level" and the "mandatory control level." These three levels represent perceived levels of seriousness of risk.

Rights to notice and hearing are provided, with specified times for the carriers and the commissioner to respond to one another. Carriers have the ability to challenge the commissioner's findings, reports and determinations.

The Insurance Commissioner may contract for experts and consultants, whose fees, costs and expenses are paid by the affected carrier being reviewed.

All RBC reports and plans are confidential, to be used only as a regulatory tool, and cannot be used to rank carriers, or for ratemaking, or to calculate appropriate premium levels or rates of return.

**Votes on Final Passage:**

Senate	46	0	
House	95	0	(House amended)
Senate	47	0	(Senate concurred)

**Effective:** June 11, 1998

**SB 6303**  
C 17 L 98

Restoring retirement service credit.

By Senators Bauer, Long, Franklin, Winsley, Rossi, Roach and Fraser; by request of Joint Committee on Pension Policy.

Senate Committee on Ways & Means  
House Committee on Appropriations

**Background:** Prior to 1973, classified employees of state colleges and universities participated in the same retirement plan provided for faculty, Teachers Insurance and Annuity Association/College Retirement Equities Fund (TIAA/CREF).

When a Washington State University (WSU) employee is hired into an eligible position, he or she can choose to delay making contributions to the TIAA/CREF plan for up to two years. During this voluntary deferral period, the employee is not considered a member of the plan.

In 1973, the Legislature transferred the membership of classified employees hired after April 24, 1973 to the Public Employees Retirement System. Classified employees employed before that date had the option of remaining in TIAA/CREF or transferring to PERS.

Both contributing members of TIAA/CREF and those employees in the voluntary two-year waiting period were offered the opportunity to purchase all their eligible service upon transfer to PERS. The window of opportunity for purchasing the additional service closed January 1, 1978.

In 1994, a uniform policy for purchase or repurchase of service credit was enacted. This act removed all time limitations for establishing or repurchasing service credit in all of the state's retirement systems. The member has to pay the full actuarial costs for the benefits they receive.

The statutes which transferred WSU classified staff from the TIAA/CREF program to PERS had been decodified and were not amended with a cross reference in the uniform policy.

**Summary:** WSU classified employees are allowed the opportunity to purchase service credit under the current purchase/repurchase provisions.

WSU employees who were not contributing members of TIAA/CREF when they transferred to PERS are extended the opportunity to purchase service credit for employment during the TIAA/CREF waiting period.

Coverage of the current service credit purchase/repurchase policy is also extended to other groups who meet the requirements for establishing or restoring service credit but were not covered by the 1994 bill language.

**Votes on Final Passage:**

Senate	48	0
House	95	0

**Effective:** June 11, 1998

**ESB 6305**  
C 157 L 98

Providing a death benefit for certain general authority police officers.

By Senators Roach, Long, Rossi, Fraser, Oke and Rasmussen; by request of Joint Committee on Pension Policy.

Senate Committee on Ways & Means  
House Committee on Appropriations

**Background:** In 1996, the Legislature passed Engrossed Second Substitute Senate Bill 5322 (Chapter 226, Laws of 1996) which provided an additional \$150,000 duty-related death benefit to survivors of members of Law Enforcement Officers and Fire Fighters (LEOFF) and Washington State Patrol retirement systems.

The result of the 1996 legislation is that LEOFF university and port police officers are eligible for the

additional death benefit; Public Employees Retirement System (PERS) university and port police officers are not eligible.

**Summary:** A \$150,000 duty-related death benefit is provided to survivors of PERS I and PERS II members who had the opportunity to transfer to the LEOFF retirement system pursuant to Chapter 502, Laws of 1993, but elected to remain in PERS.

RCW 41.20.060 is divided into two separate sections, distinguishing between disability benefits received for duty-related disabilities and those received for disabilities not incurred in the line of duty.

**Votes on Final Passage:**

Senate	47	0	
House	98	0	(House amended)
Senate	46	0	(Senate concurred)

**Effective:** March 25, 1998

## SSB 6306

C 341 L 98

Creating the school employees' retirement system.

By Senate Committee on Ways & Means (originally sponsored by Senators Long, Winsley, Rossi, Bauer, Roach and Anderson; by request of Joint Committee on Pension Policy).

Senate Committee on Ways & Means  
House Committee on Appropriations

**Background: Plan III.** In 1995, two new retirement plans were proposed, one for the public employees (PERS) and one for state teachers (TRS). Only a TRS Plan III was enacted and it was implemented July 1, 1996.

The basic design of Plan III is different from Plans I and Plans II. Plan III has two components, a defined benefit and a defined contribution (Plans I and Plans II are defined benefit plans). For Plan III, the defined benefit provides a retirement allowance based on a formula that multiplies a member's years of service times his or her final average salary times 1 percent. The defined contribution allows a member to choose an investment contribution percentage option from a menu. The member may invest with the State Investment Board or one of several other funds offered through the Employee Retirement Benefits Board.

TRS Plan II members who transferred to TRS Plan III before January 1, 1998 were paid a transfer payment of 40 percent which is deposited into the member's defined contribution account.

Members of TRS Plans I, II, and III are certificated employees of school districts and educational service districts.

Classified employees of school districts are members of the Public Employees' Retirement System (PERS).

**Extraordinary Gains and Gain Sharing.** The Joint Committee on Pension Policy has proposed a means for using better-than-expected investment returns to develop a new mechanism for funding retirement benefits increases called "gain sharing."

The better-than-expected investment gains are defined as "extraordinary gains" and occur when the State Investment Board (SIB) earns an average of 10 percent or more on the assets invested in the retirement trust accounts over a four-year period.

The distribution through gain sharing would be 50 percent of the amount over the 10 percent average for the four-year period. Using fiscal years 1993-1997 as an example, the SIB average rate of return for fiscal years 1993-1997 was 13.70 percent. Fifty percent of 3.7 percent, the amount over 10 percent, would be distributed as gain sharing.

The gain-sharing payment will be made once each biennium.

**1997 Legislative Session.** During the 1997 legislative session, a proposal was introduced to create the Washington Educational Employees' Retirement System (WEERS). WEERS would have included TRS I, II, and III members and classified school district employees transferred from the Public Employees' Retirement System Plan II. (SB 5929)

**Summary:** On September 1, 2000 classified school district employees are transferred from PERS II to the School Employees' Retirement System (SERS). They have the option of staying in Plan II (SERS II) or transferring into Plan III (SERS III). (Classified school district employees first hired after September 1, 2000 become members of SERS III.)

Members who choose to transfer from SERS II to SERS III before February 28, 2001 receive a transfer payment of 65 percent of their member contributions into their defined contribution accounts.

An additional 25 percent transfer payment, for a total of 65 percent, is made on July 1, 1998 to all TRS III members who were TRS II members and transferred to TRS III prior to January 1, 1998.

Both TRS III and SERS III members are eligible for gain sharing. TRS III members receive gain sharing effective July 1, 1998. SERS III members receive retroactive gain sharing March 1, 2001, based upon service credit accumulated as of August 1997. A second gain-sharing calculation is made for SERS III members in March 2001, based upon service credit accumulated as of August 1999. The amount distributed to a member is based upon the member's years of service.

The Office of the State Actuary calculates the amount per year of service to be distributed and informs the Department of Retirement Systems of that amount.

Provisions are made for ongoing gain-sharing distributions. However, the Legislature reserves the right to amend or repeal the gain-sharing provisions.

## SB 6311

The Joint Committee on Pension Policy (JCPP) must study the policy and costs of merging TRS with SERS and report its findings to the Legislature by January 15, 1999.

The Department of Retirement Systems is directed to study the costs of administering the Plan III systems, ways to decrease those costs, and methods of charging members for higher cost investment options. The department must report to the JCPP by September 1998.

The SIB, in consultation with the Employee Retirement Benefits Board, must develop and implement administrative changes to mitigate the impact on the other pension funds of the movement of Plan III members in and out of the SIB portfolio.

### Votes on Final Passage:

Senate	48	0	
House	64	33	(House amended)
Senate	46	1	(Senate concurred)

**Effective:** April 3, 1998 (Sections 303, 306-309, 404, 505, 507, 515, 701, 707, 710-713)  
September 1, 2000

## SB 6311

C 189 L 98

Exempting assembly halls or meeting places used for the promotion of specific educational purposes from property taxation.

By Senators Snyder, Prince, Rasmussen and Goings.

Senate Committee on Ways & Means  
House Committee on Finance

**Background:** Nonprofit public assembly halls or meeting places are exempt from property taxes.

The assembly hall or meeting place exemption is restricted to the buildings, the land under the buildings, and up to one acre of parking area. For essentially unimproved property, the exemption is limited to 29 acres. To qualify for exemption, the property must be used for public gatherings and be available to all organizations or persons desiring to use the property.

The property cannot be used for pecuniary gain or to promote business activities except:

1. For fund-raising activities of a nonprofit organization.
2. The use for pecuniary gain for periods of not more than seven days in a year.
3. An inadvertent use of the property which is inconsistent with the purpose of the exemption if the use is not part of a pattern of use. An inadvertent use that is repeated in the same assessment year or in successive assessment years is presumed to be part of a pattern of use.

**Summary:** Nonprofit public assembly halls and meeting places may be used for dance lessons, art classes, or music

lessons in a county with a population of less than 10,000 without losing the property tax exemption.

### Votes on Final Passage:

Senate	47	0
House	98	0

**Effective:** June 11, 1998

## ESSB 6323

C 57 L 98

Clarifying the law of adverse possession affecting forest land.

By Senate Committee on Law & Justice (originally sponsored by Senators Roach, Long, Heavey, Swecker, Snyder, McCaslin, Goings and Rasmussen).

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

**Background:** Adverse possession is a process through which a person can acquire title to land and extinguish the landowner's legal title. It has existed since the days of the English common law and is rooted in the policy that society is best served by landowners utilizing their land and not allowing the land to be unproductive. Under the adverse possession doctrine, if land owners ignore their land while a third party enters the land and uses it, the third party can gain title to that piece of land.

Under current Washington law initially enacted in 1854, if a third party has used a piece of land for ten years, he or she may bring an action to acquire title to that property. The use of the land must be actual, open and notorious, hostile, uninterrupted and exclusive. In short, the use must give the landowner notice that someone is using the land and the level of use must be consistent with the nature and locale of the land. Exceptions exist for landowners who are incapacitated. The state of mind of the adverse possessor is not relevant to the action to acquire title. Adverse possession can only occur between private parties.

A typical, modern day, adverse possession case involves a boundary line dispute where a neighbor has built a structure or fence over the boundary line. It has been suggested that timberland owners are especially vulnerable to adverse possession claims because there is no need to "walk the ground" on a regular basis. Thus, despite making a productive use of their land, the timberland owners have little opportunity to discover an adverse possessor.

**Summary:** Adverse possessors of forest lands, defined as land used for growing and harvesting timber, must show, by clear and convincing evidence, that they have erected substantial improvements on the lands and made use of the improvements for ten years. Substantial improvements means a structure that cost \$50,000 to build. It

does not affect claims brought under the statutory schemes of "payment-of-taxes," "connected-title" or "vacant-lands."

Limitations are included for an adverse claimant who relied in good faith on a bona fide land survey, and does not apply to any landowner who owns less than 20 acres for forest land.

**Votes on Final Passage:**

Senate	42	6
House	95	2

**Effective:** June 11, 1998

## SSB 6324

C 251 L 98

Rehabilitating salmon and trout populations with a remote site incubator program.

By Senate Committee on Ways & Means (originally sponsored by Senators Morton, Rasmussen, Oke, Swecker and West).

Senate Committee on Natural Resources & Parks  
Senate Committee on Ways & Means  
House Committee on Natural Resources  
House Committee on Appropriations

**Background:** Remote site incubators are a cost-effective means of bypassing the early period of high mortality experienced by salmonid eggs that are naturally spawned in streams.

Remote site incubators may be useful for reintroduction of fish into areas that are not seeded by natural spawning and can therefore assist recovery efforts for threatened or endangered fish.

**Summary:** The Department of Fish and Wildlife is required to develop a program to utilize remote site incubators for restoration of coho, chum and chinook salmon. Approval of remote site incubator projects by the department must only occur when the projects are compatible with conservation of wild salmonid stocks. Volunteer groups are the primary means of implementing remote site incubators. Remote site incubators may be constructed by department employees. The Director of Fish and Wildlife works with the Secretary of Corrections to investigate the possibility of producing incubators through the prison industries program. The department must test remote site incubators for warm water fish production and report on the results of the remote site incubator program to the Legislature by December 1, 2000.

**Votes on Final Passage:**

Senate	48	0	
House	97	0	(House amended)
Senate	47	0	(Senate concurred)

**Effective:** June 11, 1998

## ESB 6325

C 166 L 98

Authorizing additional state ferry vessels.

By Senators Oke, B. Sheldon and T. Sheldon.

Senate Committee on Transportation  
House Committee on Transportation Policy & Budget

**Background:** Passenger-only ferry service first began in 1986 with service from Seattle to Bremerton. Expanded service to Bremerton and Vashon Island began in 1990.

A 1989 study conducted by the Puget Sound Council of Governments reviewed cross-sound travel through the year 2020 and identified the Southworth to Seattle and the Kingston to Seattle passenger-only ferry routes as promising, based on criteria evaluating cost effectiveness, time savings, non-duplication of service, and ability to relieve congestion. The ridership analysis for these routes showed that an expanded passenger-only ferry program could serve as a transportation demand management measure, changing travel behavior from use of the single-occupant vehicle to high occupancy passenger vessels.

It is predicted that a Seattle-Kingston passenger-only ferry route would reduce congestion on the Seattle-Bainbridge and Edmonds-Kingston routes as well as traffic demand on the SR 305 corridor. Direct passenger-only service from Southworth to Seattle would reduce congestion on the Fauntleroy/Vashon/Southworth route and reduce traffic demand on the SR 16/I-5 corridor.

Four new passenger-only vessels would bring the total fleet of high-speed, low-wake vessels to six and allow Washington State Ferries to deliver the program identified in the Transportation Commission's 1993 Passenger-Only Implementation Plan. Two 350-passenger vessels each would serve Seattle-Southworth and Seattle-Kingston and allow 30-35 minute crossings and departures every 45 minutes during the peak periods.

**Summary:** Legislative intent to construct additional passenger-only ferries and supporting terminals to serve the Southworth to Seattle and Kingston to Seattle routes is declared.

The Department of Transportation (DOT) is authorized to construct a maximum of four passenger-only ferry vessels with technology that will respond to the service demands of a Southworth-Seattle and Kingston-Seattle route and the necessary terminal and docking facilities.

The acquisition, procurement and construction of vessels and terminals must be carried out in accordance with existing competitive bid procedures using an Invitation For Bid (IFB) process which results in a contract award to the lowest responsible bidder, unless the Secretary of DOT determines in writing that the IFB is either not practicable or not advantageous to the state. If the latter occurs, DOT is authorized to use a competitive Request For Proposals (RFP) procurement process that allows evaluation of technical and performance factors (such as

## ESSB 6328

maintainability, reliability, commonality, cost of spare parts, etc.) in addition to price.

DOT's authority to construct new vessels and terminals is contingent on an appropriation in the 1998 transportation budget or an omnibus appropriations bill. The appropriation must not reduce the current level of funding for the maintenance and repair of vessels and terminals currently in service.

### Votes on Final Passage:

Senate	25	24
House	88	9

Effective: June 11, 1998

## ESSB 6328 PARTIAL VETO

C 190 L 98

Enacting the fish and wildlife code enforcement act.

By Senate Committee on Natural Resources & Parks (originally sponsored by Senators Oke, Jacobsen and Swecker, by request of Department of Fish and Wildlife).

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

**Background:** The fisheries enforcement code and the wildlife enforcement code, Title 75 RCW and Title 77 RCW, respectively, have become difficult to administer and enforce subsequent to the merger of the Department of Fisheries and the Department of Wildlife. The two codes contain dissimilar levels of punishment for similar crimes, dissimilar penalties for identical levels of offense, and confusing cross references. Citizens have difficulty complying with the two codes because of this lack of continuity and coherence. Enforcement of fish and wildlife laws has become unnecessarily complicated.

**Summary:** New provisions define offenses, redefine existing criminal laws, and create a uniform approach to laws authorizing prosecution, sentencing, and punishment.

Punishment for crimes is standardized according to whether the crime is defined as an infraction, a misdemeanor, a gross misdemeanor, or a felony. The fisheries code definition of "conviction" is retained and incorporated for resolution of issues involving wildlife restitution. Washington criminal code provisions are incorporated as the standard for classification of crimes.

Two levels of violation, first and second degree, are established for certain offenses such as game bird offenses, endangered wildlife violations, and unlawful trafficking. The release of deleterious exotic fish or wildlife and harvesting while a license is suspended are each classified as class C felony violations. Offenses involving big game, protected species, and endangered species are treated as separate violations for each animal taken or possessed. License suspension procedures are standardized.

The Fish and Wildlife Commission must promulgate rules regarding the taking of unclassified species, the violation of which constitutes a crime.

The threshold for violation of "unlawful hunting of game birds," "unlawful taking of endangered fish or wildlife," "unlawful taking of protected fish or wildlife," and "unlawful taking of unclassified fish or wildlife" is increased. The "reckless" standard is eliminated and, instead, a person must act maliciously in order to be in violation of certain provisions of these sections.

The definition of what constitutes a loaded firearm is clarified and expanded. A firearm is not considered to be loaded if the detachable clip or magazine is not inserted or attached to the firearm.

When fish and wildlife officers inspect commercial enterprises involved with wildlife, they may search without a warrant if they meet certain requirements and conditions.

Even if fish and wildlife officers have reason to believe that a person may have pertinent evidence on his or her person, they may not search such a person without a warrant.

Clarification is made regarding the criminal wildlife penalty assessment statute and changes are made regarding the disposition of collected fines. The disposition changes from depositing moneys in the wildlife fund to depositing moneys with the clerk of the court who disperses the moneys to the general fund's public safety and education account.

The department is authorized to revoke licenses or suspend privileges. The grounds, form, and procedure for departmental revocation of licenses and suspension of privileges are provided. The commission must revoke licenses and suspend privileges of a person convicted of assault of a fish and wildlife officer. Courts may order suspension of privileges only if grounds are provided by statute.

The provision granting the department with broad powers to suspend privileges, imposing conditions on privileges, and requiring the posting a bond is eliminated. The provision mandating that the director suspend privileges of a person who has committed an act punishable by suspension when the court fails to do so is eliminated.

Civil forfeiture provisions are reconciled with current legal forfeiture standards. Language is standardized to reflect the merger of the Department of Fisheries and the Department of Wildlife. The terms "wildlife agent" and "fisheries patrol" are replaced by the term "fish and wildlife officers."

The commission is given authority and power to administer various provisions of the fish and wildlife enforcement code as necessitated by the merger of the Department of Fisheries and the Department of Wildlife.

Sections of the wildlife code and the fisheries code are repealed as unnecessary or redundant.

**Votes on Final Passage:**

Senate	49	0	
House	97	1	(House amended)
House	98	0	(House reconsidered)
Senate			(Senate refused to concur)
House			(House refused to recede)
House	94	0	(House amended)
Senate	45	0	(Senate concurred)

**Effective:** June 11, 1998

**Partial Veto Summary:** A section is vetoed to prevent a double amendment with previously signed 2SSB 6330. The veto does not result in a substantive change.

**VETO MESSAGE ON SB 6328-S**

March 27, 1998

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 123, Engrossed Substitute Senate Bill No. 6328 entitled:

"AN ACT Relating to fish and wildlife code enforcement;"

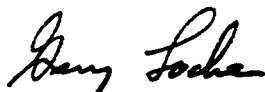
The codes for the former Departments of Fish and Wildlife were not properly dealt with when those departments were merged several years ago. ESSB 6328 consolidates and standardizes the enforcement code for the Department of Fish and Wildlife. This bill is long overdue, and I commend the Department and the Legislature for their hard work in developing this legislation.

Section 123 of ESSB 6328 amends a part of the statute that is also amended in SSB 6330. The double amendment appears to have been unintended, and would cause confusion.

For this reason, I have vetoed section 123 of Engrossed Substitute Senate Bill No. 6328.

With the exception of section 123, Engrossed Substitute Senate Bill No. 6328 is approved.

Respectfully submitted,



Gary Locke  
Governor

**SB 6329**  
C 158 L 98

Providing for a certain disclosure of health care information without patient's authorization.

By Senators Deccio, Thibaudeau, Wood and Loveland.

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

**Background:** Currently, health care providers may disclose health care information about a patient without the patient's authorization under circumstances specified in statute. As examples, these recipients may include other health care providers who are caring for the patient, other providers who have previously cared for the patient, persons who need the information to protect the patient or

others, and federal, state or local law enforcement authorities.

County coroners and medical examiners serve in an official capacity to determine the cause and manner of death. Coroners in counties under 40,000 may be the county's prosecuting attorney. In counties over 40,000, coroners are elected. There are no specific credentials associated with this position. By statute they may act as sheriff in certain circumstances. Medical examiners are forensic pathologists.

While current law permits the disclosure of patient health information to law enforcement officials, there is no clear statutory authority for this information to be released to county coroners.

**Summary:** County coroners and medical examiners are specifically allowed to receive health care information from health care providers.

**Votes on Final Passage:**

Senate	48	0
House	97	0

**Effective:** June 11, 1998

**2SSB 6330**  
**PARTIAL VETO**  
C 191 L 98

Modifying provisions concerning recreational fish and wildlife licenses.

By Senate Committee on Ways & Means (originally sponsored by Senators Oke, Jacobsen, Swecker, Spanel, Loveland and Rasmussen).

Senate Committee on Natural Resources & Parks  
Senate Committee on Ways & Means  
House Committee on Natural Resources  
House Committee on Appropriations

**Background:** In 1996, the Legislature passed a measure that prompted the Washington Department of Fish and Wildlife to conduct surveys, perform inquiries and make recommendations regarding the simplification, modernization, and consolidation of Washington State's recreational fishing and hunting licensing program. This legislation is the result of those efforts.

Current law provides that fishing license fees and requirements are based on whether the fish being caught are food fish or game fish. A person must obtain two licenses to fish for food fish and game fish. Food fish license requirements and fees are administered under the food fish provisions of the fisheries laws. Game fish license requirements and fees are administered under the game fish provisions of the wildlife laws. Food fish include such species as salmon, whereas game fish include such species as trout and bass.

A personal use food fish license is required of all persons except residents under the age of 15 years. The fee for a personal use food fish license is \$8 for a person over 15 years and under 70 years of age, \$3 for a resident over the age of 70, and \$20 for a nonresident. The fee for a three-consecutive-day personal use food fish license is \$5.

A game fish license is required of all persons over the age of 15 years and under 70 years of age. The fee for a game fish license is \$17 for a resident between the ages of 15 and 70, \$3 for a resident over 70 years of age, \$20 for a nonresident under 15 years of age, and \$48 for a nonresident 15 years of age or older. A separate license is required to fish for steelhead. The fee for a steelhead fishing license is \$18 and requires that the fisherman have a valid game fish license. For \$6, a juvenile steelhead license is available for residents and nonresidents under the age of 15.

A personal use seaweed and shellfish license is required of all persons except residents under the age of 15. The fee for a personal use seaweed and shellfish license is \$5 for a resident over 15 years and under 70 years of age, \$3 for a resident over 70 years of age, and \$20 for a nonresident.

Hunting licenses are required to hunt wild game in Washington. The fee for a hunting license in Washington is \$15 for residents and \$150 for nonresidents. The license allows the holder to hunt anywhere in the state.

In addition to a basic hunting license, a separate transport tag is required to hunt deer, elk, bear, cougar, sheep, mountain goat, moose, or wild turkey. The current fees for transport tags are: deer - resident \$18, nonresident \$60; elk - resident \$24, nonresident \$120; bear - resident \$18, nonresident \$180; cougar - resident \$24, nonresident \$360; mountain goat - resident \$60, nonresident \$180; sheep - resident \$90, nonresident \$360; moose - resident \$180, nonresident \$360; wild turkey - resident \$18, nonresident \$60; lynx - resident \$24, nonresident \$360.

**Summary:** A definition section is added to the current law governing recreational fishing which defines "resident," "nonresident," "youth," "senior," "game fish," and "license year." Personal use freshwater, saltwater, and combination recreational licenses are established which replace the personal use food fish license and game fish license. A combination license is established that permits license holders to fish for food fish and game fish in all state waters and offshore waters.

Authorization is granted to the commission to issue "designated harvester cards" to persons of disability. Persons of disability may have another person take or harvest shellfish, game fish, or food fish, but that person must have a valid license and must have a designated harvester card. Furthermore, the disabled person for whom the designated harvester is fishing or harvesting must be present on site and possess a combination fishing license. However, the licensed disabled person does not have to be at the specific location where the designated harvester is har-

vesting shellfish, but he or she must be within line of sight. The disabled person needs to be present and participating in the fishing activity of the designated harvester.

A personal use saltwater, freshwater, or combination fishing license is required of all persons except residents under the age of 15 years. The fee for a combination saltwater, freshwater, shellfish license is \$36 for residents, \$72 for nonresidents, and \$5 for youth.

The personal use saltwater license fee is \$18 for residents, \$36 for nonresidents, and \$5 for seniors.

The personal use freshwater fishing license is \$20 for residents, \$40 for nonresidents and \$5 for seniors.

A family fishing weekend license is established with specific requirements relating to the permitted number of youths, residents and nonresidents. The fee for the family weekend license is \$20.

The fee for a personal use shellfish and seaweed license is \$7 for residents, \$20 for nonresidents, and \$5 for seniors. The license is required for all persons other than residents or nonresidents under 12 years of age.

The commission must adopt rules that sustain continued funding of enhancement programs at levels equal to the revenues generated from license sales representing the individual enhancement programs.

The definitions section of the current law governing hunting and trapping licenses is amended to add definitions for "youth," "senior," "food fish," "shellfish," "seaweed," and "license year" which correlate and compliment the definitions section in the fishing license statute. The youth category is defined as persons under the age of 16 years for hunting or persons under 15 years old for fishing. The senior category means a person 70 years old or older.

Two categories of hunting licenses are created that replace previous hunting license fee requirements and tag fee provisions.

The first category, big game license, has five options and allows the holder to hunt for forest grouse and the individual species identified within the specific license package. The big game #1 package permits hunting for deer, elk, bear, and cougar; residents pay \$66, nonresidents pay \$660, and youth pay \$33. The big game #2 package permits hunting for deer AND elk; residents pay \$56, nonresidents pay \$560, and youth pay \$28. The big game #3 package permits hunting for deer OR elk, bear, and cougar; residents pay \$46, nonresidents pay \$460, and youth pay \$23. The big game #4 package permits hunting for deer OR elk; residents pay \$36, nonresidents pay \$360, and youth pay \$18. The big game #5 package permits hunting for bear and cougar; residents pay \$20, nonresidents pay \$200, and youth pay \$10.

A transport tag for one animal is included in the fee for each of the options.

The second category is the small game hunting license which allows the holder to hunt for all wild animals and wild birds except big game. The fee for this license is \$30 for residents, \$150 for nonresidents, and \$15 for youth. A

fee reduction is provided when a hunter purchases a big game combination license package.

Freshwater, saltwater, and combination license fees under the provisions of the wildlife statute are identical to the comparable provisions in the fisheries statute listed above.

All hunting license fees are reduced to the youth fee amount for residents who are honorably discharged veterans of the United States armed forces and (1) are 65 years or older and have a service-connected disability, (2) have a 30 percent or more service-connected disability, or (3) are confined to a wheelchair. Similar reduced fee provisions are made for all fishing license fees for veterans with disabilities, blind persons, persons with developmental disabilities, and severely handicapped persons. The fee for a fishing license for these individuals is \$5.

The migratory bird stamp replaces the migratory waterfowl stamp. Migratory bird stamps are required for all bird hunters 16 years of age and older. Revenue from the sale of the migratory bird stamp to waterfowl hunters must be used for migratory waterfowl projects. Revenues from the sale of the stamp to nonwaterfowl hunters must be used for nonwaterfowl migratory bird projects. The method used in determining the relative amounts to be deposited for use in the two projects is specified.

Language is updated to reflect recent legislation that created and provided administrative powers to the Wildlife Commission. Language is similarly updated regarding the substitution of the term "fish and wildlife enforcement officer" for "wildlife agent."

#### Votes on Final Passage:

Senate	44	3	
House	97	1	(House amended)
Senate	34	11	(Senate concurred)

**Effective:** March 27, 1998 (Sections 10, 24, 31-33, 37, 43, & 45)  
June 11, 1998  
January 1, 1999 (Sections 1-9, 11-23, 25-30, 34-36, 38-42, & 44)

**Partial Veto Summary:** A section is vetoed that dealt with revocation of hunting licenses to persons convicted of big game poaching. This section is recodified in ESSB 6328 and the veto makes the two measures compatible.

The section on retaining personal license information as confidential is vetoed.

#### VETO MESSAGE ON SB 6330-S2

March 27, 1998

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 34 and 37, Second Substitute Senate Bill No. 6330 entitled:

"AN ACT Relating to fish and wildlife licenses;"

2SSB 6330 will simplify the recreational hunting and license system, which will ultimately reduce the number of license documents and improve service to the public. The bill is also neces-

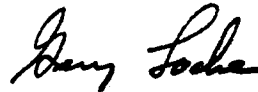
sary to implement a point-of-sale license system which allows dealers to make sales through an on-line terminal rather than using the existing paper system.

Sections 34 and 37 of 2SSB 6330 would amend statutes that were repealed by Engrossed Substitute Senate Bill No. 6328, which I signed today. This partial veto will ensure that the two bills are consistent.

For these reasons, I have vetoed sections 34 and 37 of Second Substitute Senate Bill No. 6330.

With the exception of sections 34 and 37, Second Substitute Senate Bill No. 6330 is approved.

Respectfully submitted,



Gary Locke  
Governor

#### SSB 6341

C 267 L 98

Allowing certain charter boats to be operated by persons without an alternate operator's license in specific circumstances.

By Senate Committee on Natural Resources & Parks  
(originally sponsored by Senator Snyder).

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

**Background:** A commercial license is required to engage in the operation of a charter boat. When applying for a commercial license to operate a charter boat, the applicant may designate a vessel and up to two alternate operators. A person who is not the holder of the commercial charter boat license may operate the vessel designated on the license only if (1) the person holds an alternative operator license, and (2) the person is designated as an alternative operator on the underlying commercial charter boat license.

**Summary:** Licensed charter boat operators are permitted to designate persons who do not have an alternative operator's license to operate their charter boats. The applicant for a commercial charter boat license need not designate a vessel to be used with the license or designate an alternative operator at the time of application. A person designated by a commercial charter boat license holder is not required to hold an alternative operator's license or to be designated on the underlying license as an alternative operator in order to operate the charter boat.

#### Votes on Final Passage:

Senate	47	0	
House	97	0	(House amended)
Senate	46	0	(Senate concurred)

**Effective:** April 1, 1998



**SSB 6346**

C 192 L 98

Allowing withdrawals from regional transportation authorities.

By Senate Committee on Transportation (originally sponsored by Senators Johnson and Heavey).

Senate Committee on Transportation  
House Committee on Transportation Policy & Budget

**Background:** Regional transit authorities are authorized under state law to provide high capacity transit services. The central Puget Sound Regional Transit Authority (RTA) was created by the action of the King, Pierce and Snohomish county councils. The authority board developed a high capacity transit system plan and defined the boundaries of the authority. Boundary requirements are that: it include the largest population urban growth area of each county; it follow election precinct lines; and if a portion of a city is determined to be within the service area, the entire city must be included within the boundaries of the authority. A process is set forth to annex areas to the RTA; however, no provision is made for boundary reduction.

This plan and the boundaries were approved by the three county councils. In November 1996, voters within the boundaries of authority approved a high capacity transit plan and authorized local option taxes to fund the plan.

At the same time that the voters approved the RTA, voters within a portion of unincorporated King County approved incorporation of the city of Covington. A portion of Covington lies within the boundary of the RTA, and a portion lies without the RTA boundary.

**Summary:** A city that lies partially within and partially outside the boundaries of a regional transit authority, and whose vote to approve incorporation occurred simultaneously with a vote to impose local option taxes for the authority, may request to be removed from the authority's boundaries. With approval of two-thirds of the authority board, the city is removed.

This provision expires December 31, 1998.

**Votes on Final Passage:**

Senate	49	0
House	98	0

**Effective:** June 11, 1998

**SB 6348**

**PARTIAL VETO**

C 330 L 98

Eliminating requirements for filing certificates or annual summaries for sales and use tax exemptions on manufacturing machinery and equipment.

By Senators Hale and Haugen; by request of Department of Revenue.

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

**Background:** Machinery and equipment used directly in a manufacturing operation or research and development operation are exempt from sales and use taxation. Taxpayers must provide the Department of Revenue with either a duplicate copy of the exemption certificate or an annual summary report as a requirement for the exemption. This is to ensure that taxpayers would report exempt manufacturing machinery and equipment so that the department could complete a legislatively mandated study to measure the economic effect of the exemption. The department has found that it is an excessive burden on taxpayers to properly submit a report and that the department will still be able to obtain the information needed to complete the study.

**Summary:** The reporting requirement for sales and use tax exemptions for machinery and equipment used directly in a manufacturing operation or research and development operation is eliminated as of January 1, 1999. It is clarified that an exemption cannot be denied solely on the basis that the duplicates were not filed.

**Votes on Final Passage:**

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

**Effective:** June 11, 1998

**Partial Veto Summary:** Sections 3 and 4 are vetoed. The Governor stated these sections would create conflicting policies and extend the period during which businesses must submit redundant paperwork to the Department of Revenue.

**VETO MESSAGE ON SB 6348**

*April 3, 1998*

*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 of Senate Bill No. 6348 entitled:*

*"AN ACT Relating to eliminating requirements for filing certificates or annual summaries for sales and use tax exemptions on manufacturing machinery and equipment;"*

*Senate Bill No. 6348 amends the state retail sales and use tax statutes to relieve taxpayers of the burden of making reports and annual summaries of tax exempt purchases, for submission to the Department of Revenue.*

*One of my goals as Governor is the simplification of our tax system and the reduction of regulations for businesses. The Department of Revenue developed this legislation in an effort to reach that goal. The original intent of the bill was to immediately relieve taxpayers eligible for the machinery and equipment tax exemption from the burden of submitting duplicate exemption certificates or purchase summaries to the Department.*

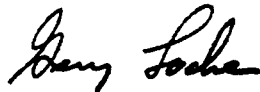
*The Legislature amended the bill by adding sections 3 and 4. Section 4 would require taxpayers to submit, for an additional six months, reports of machinery and equipment purchases be-*

fore qualifying for the sales and use tax exemption. However, section 3 would not require the Department to deny exemptions if the taxpayers did not send in reports. This would create conflicting policies and extend the period during which businesses must submit redundant paperwork to the Department. This is unnecessary, burdensome, and contrary to the bill's original purpose.

For these reasons, I have vetoed sections 3 and 4 of Senate Bill No. 6348.

With the exception of sections 3 and 4, Senate Bill No. 6348 is approved.

Respectfully submitted,



Gary Locke  
Governor

**SB 6352**

C 193 L 98

Specifying examination eligibility requirements for Washington state patrol officers.

By Senators Wood and Haugen; by request of Washington State Patrol.

Senate Committee on Transportation  
House Committee on Transportation Policy & Budget

**Background:** In order to be considered for promotion, Washington State Patrol officers participate in a testing process. Testing is a six-week process that is conducted every two years.

Current law requires a patrol officer to have a certain number of years of experience before he or she can take a test for promotion. It is unclear whether the statutorily required experience must be completed before beginning the six-week testing process or whether it is sufficient that the patrol officer have the required experience by the time the testing process is concluded.

**Summary:** A patrol officer must complete the statutorily required years of experience before he or she can begin the testing process.

**Votes on Final Passage:**

Senate	48	0
House	98	0

**Effective:** June 11, 1998

**SB 6353**

C 194 L 98

Reflecting actual working hours for disability of Washington state patrol officers.

By Senators Sellar and Goings; by request of Washington State Patrol.

Senate Committee on Transportation  
House Committee on Transportation Policy & Budget

**Background:** Under current law, a commissioned officer of the Washington State Patrol can qualify for temporary disability leave. While on temporary disability, the officer no longer needs to use sick leave to cover the period of absence. To qualify, the officer must be unavailable for duty for more than five consecutive work days due to a disabling injury suffered while on duty. The length of a work day can vary between eight and 12 hours depending upon an officer's assignment. Because of the variance in the length of a work day, the amount of sick leave an officer must use before qualifying for temporary disability can vary.

For instance, an officer assigned to ten-hour shifts would have to utilize 50 hours of sick leave (five ten-hour days) prior to qualifying for temporary disability leave. In contrast, an officer assigned to eight-hour shifts would only need to use 40 hours of sick leave in order to qualify.

**Summary:** Disability leave may be approved after a State Patrol officer has been unavailable for duty for 40 work hours. The number of work days that an officer has to be absent before being eligible to qualify for temporary disability varies depending upon the officer's assigned shift.

**Votes on Final Passage:**

Senate	48	0
House	97	0

**Effective:** June 11, 1998

**SB 6355**

C 122 L 98

Regulating share insurance for credit unions.

By Senators Winsley, Prentice, Sellar, Heavey, Benton and Hale; by request of Department of Financial Institutions.

Senate Committee on Financial Institutions, Insurance & Housing

House Committee on Financial Institutions & Insurance

**Background:** In 1975, the Legislature enacted a program of credit union share and deposit guarantee known as the Washington Credit Union Share Guarantee Association (WCUSGA). In 1996, the Legislature required credit unions insured under the WCUSGA to convert to federal share/deposit insurance by December 31, 1998. To date, 67 of the 71 affected credit unions have received approval from the National Credit Union Administration to convert to federal insurance.

WCUSGA members that convert to federal insurance after the effective date of the 1996 act must maintain contingency and capital reserves available to WCUSGA until December 31, 1998. WCUSGA itself must wind up its affairs by December 31, 2000.

Several technical issues have arisen concerning the phase out of WCUSGA. For example, there is no indication in the WCUSGA dissolution act as to how the organization should dissolve. The organization does not seem to be subject to any other law specifying a process for dissolution. Also, at the time WCUSGA dissolves, remaining assets must be distributed to former members. There is no indication in the dissolution act as to which former members are entitled to receive a distribution, or what the basis for the pro rata distribution should be. The 1996 dissolution bill requires that credit unions must either convert to federal share insurance, merge with a federally insured credit union, or dissolve by the end of 1998. An issue has arisen as to whether credit unions with a very high safety and soundness rating that have not technically qualified for federal insurance by that deadline should be allowed an interim period with insurance approved by the Director of the Department of Financial Institutions.

**Summary:** The expiration of WCUSGA's share/deposit guarantee is confirmed to be December 31, 1998, at the latest. The director is authorized to put a credit union into conservatorship or receivership if it fails to obtain federal insurance or to obtain interim insurance approved by the director by the end of 1998.

The amount of WCUSGA reserves to be maintained by former members is based on the shares of that member as of year end prior to its conversion to federal insurance. Further details are provided for the dissolution of WCUSGA and the distribution of assets. Dissolution does not affect certain internal corporate governance of WCUSGA.

A method is provided for notifying creditors of dissolution and providing a means of accepting or rejecting claims against the organization. If a claim is not filed within 12 months after the effective date of dissolution, it is forever barred.

Articles of dissolution must be filed with the director by the officers of WCUSGA after the organization has been dissolved and liquidated.

By the end of 1998, and after that date, credit unions must have federal insurance or interim insurance approved by the director as described in the act. Credit unions with a high safety and soundness rating which have not been approved for federal insurance by September 30, 1998 can be insured under a program approved by the director until July 1, 2001. The director has the authority to begin liquidation proceedings against any credit union that fails to meet this deadline. That authority expires September 1, 2000. At that time, credit unions must obtain federal insurance or an equivalent share insurance program as provided under current law.

**Votes on Final Passage:**

Senate	48	0	
House	95	0	(House amended)
Senate	45	0	(Senate concurred)

**Effective:** June 11, 1998

**SSB 6358**

C 123 L 98

Providing the utilities and transportation commission authority to regulate certain pipeline facilities.

By Senate Committee on Energy & Utilities (originally sponsored by Senators Rossi, Finkbeiner, Brown and Jacobsen; by request of Utilities & Transportation Commission).

Senate Committee on Energy & Utilities  
House Committee on Energy & Utilities

**Background:** The Washington Utilities and Transportation Commission (WUTC) operates under an interagency agreement with the U.S. Department of Transportation, Office of Pipeline Safety (OPS), to administer the federal pipeline safety program. The federal law includes authority to enforce pipeline safety standards through injunctions and civil penalties, including civil penalties of up to \$25,000 per violation, for each day that a violation persists, up to a maximum of \$500,000.

Currently, OPS exercises regulatory jurisdiction over the enforcement of pipeline safety regulations for intrastate hazardous liquid private pipeline companies, and WUTC exercises jurisdiction over similar public service companies or common carriers.

WUTC is requesting this legislation to clarify its safety jurisdiction over certain types of pipelines that are not otherwise regulated by the commission as public service companies or common carriers.

**Summary:** The Washington Utilities and Transportation Commission (WUTC) is directed to adopt rules relating to safety standards for intrastate pipeline companies. Such authority is extended only to the extent it is not duplicative of the Energy Facility Site Evaluation Council.

Violations of the act or WUTC rules are punishable by criminal and civil penalties. Civil penalties may not exceed the penalties specified in federal pipeline safety laws. The commission determines the amount of penalties after considering specified circumstances. The amount of the penalty may be recovered in a civil action and credited to the public service revolving fund.

**Votes on Final Passage:**

Senate	48	0	
House	97	0	(House amended)
Senate	45	0	(Senate concurred)

**Effective:** June 11, 1998

**SB 6380**

C 124 L 98

Providing mobile home relocation assistance.

By Senators Winsley, Prentice, Hale, Oke, Patterson and Goings; by request of Department of Community, Trade, and Economic Development.

Senate Committee on Financial Institutions, Insurance & Housing

House Committee on Trade & Economic Development

**Background:** Mobile home park closures present a substantial financial hardship to tenants due to the expense involved in moving mobile homes. The Legislature has made several attempts to provide assistance, and a small amount of money remains in a fund for that purpose.

Currently, tenants whose park is closed and are eligible for assistance must submit vouchers for actual expenses and are paid actual expenses up to a ceiling.

The maximum amounts available now are \$6,500 for a double-wide home and \$3,500 for a single-wide home.

**Summary:** The grants for owners of double-wide homes who are eligible for relocation assistance are increased to \$7,000. Grants for single-wide home owners remain at \$3,500. Grants are limited to actual costs submitted by homeowners.

Persons eligible for assistance will receive the maximum amount minus relocation assistance received from other sources.

Amendments are made to the installer certification act. The definition of "installation" includes earthquake resistant bracing systems.

Private installer training courses are authorized subject to Department of Community, Trade, and Economic Development approval.

Installation permits and final approvals must indicate the name and registration number of the contractor and identify the work done by each contractor that worked on the installation.

**Votes on Final Passage:**

Senate	47	0	
House	97	0	(House amended)
Senate	43	0	(Senate concurred)

**Effective:** June 11, 1998

**SSB 6396****FULL VETO**

Creating the Washington center for real estate research.

By Senate Committee on Higher Education (originally sponsored by Senators Wood, Kohl, Winsley, Haugen, Prince, Bauer and West).

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

**Background:** The Washington Center for Real Estate Research was created at Washington State University (WSU) in 1989 with funding provided by a series of grants from a real estate education account administered by the Department of Licensing. The education account's resources are derived from interest earned on real estate brokers' trust accounts.

The combination of lower interest rates and the decision made by an increasing number of brokers not to maintain trust accounts reduces the available funding.

**Summary:** The Washington Center for Real Estate Research is established, to be located in the College of Business and Economics at WSU.

The center is financed by a fee of \$10 assessed on each real estate broker, associate broker, and sales person original license and renewal license, including inactive renewals. The center may charge for its publications, may receive gifts and grants, and may engage in contract work for both public and private clients.

The Washington Center for Real Estate Research account is created in the custody of the State Treasurer. The account is subject to allotment procedures under Chapter 43.88 RCW, but an appropriation is not required for expenditure.

**Votes on Final Passage:**

Senate	35	7
House	94	3

**VETO MESSAGE ON SB 6396-S**

April 3, 1998

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. 6396 entitled:

"AN ACT Relating to the Washington center for real estate research;"

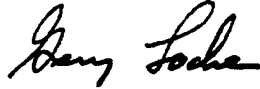
SSB 6396 would codify the Washington Center for Real Estate Research in the Washington State University College of Business and Economics. This Center has been in existence since 1989 without statutory mention, and I do not think it should be codified now. I support the Center and the good work of real estate professionals, which have had a very positive impact on the economic health of our state. However, I have a fundamental disagreement with the establishment of programs or centers at our higher education institutions by statute.

I am not opposed to generating funding for the Center through a fee on real estate licenses, and I am certainly not opposed to the Center. But the funding should be directed to the Center through a mechanism that does not create the Center in statute.

## SB 6398

*For this reason, I have vetoed Substitute Senate Bill No. 6396 in its entirety.*

*Respectfully submitted,*



Gary Locke  
Governor

### SB 6398 C 58 L 98

Regulating voting system tests.

By Senators McCaslin and Winsley; by request of Secretary of State.

Senate Committee on Government Operations  
House Committee on Government Administration

**Background:** New election equipment must pass an acceptance test, set by the Secretary of State, to show that it is identical to equipment certified by the secretary and is operating correctly.

Programming of election equipment is tested by the secretary, before each state primary or general election, and certified by the secretary, county auditor, and political party observers.

Manuals of recommended procedures for operating election equipment are published by the secretary.

**Summary:** An acceptance test need not be set by the Secretary of State or show that equipment is identical, only that it is the same as that which is certified.

The secretary is authorized to adopt rules for testing programming, which is certified by the county auditor and political party observers.

The secretary has discretion to publish procedures that restrict or define operation of election equipment.

#### **Votes on Final Passage:**

Senate	47	0
House	88	0

**Effective:** June 11, 1998

### SB 6400 C 159 L 98

Extending the Washington telephone assistance program through 2003.

By Senators Brown, Finkbeiner, Oke and Thibaudeau; by request of Department of Social and Health Services.

Senate Committee on Energy & Utilities  
House Committee on Energy & Utilities

**Background:** The Washington Telephone Assistance Program (WTAP) expires on June 30, 1998, unless extended by the Legislature. It was originally created in

1987, as the "Lifeline Assistance Program" to assist low-income persons in obtaining basic telephone services. The program was reauthorized by the Legislature in 1993. It is administered by the Department of Social and Health Services (DSHS).

In order to be eligible for assistance under WTAP, a person must be an adult recipient of DSHS administered programs for the financially needy. Participants receive a 50 percent discount on connection fees, deposit waivers, and are charged a discounted flat rate for basic telephone service.

WTAP is funded by an excise tax on all switched access lines and by funds from the federal government or other sources. A statutory ceiling of 14 cents per month per line exists on the excise tax. The current rate, established by the Utilities and Transportation Commission, is 13 cents per line per month.

**Summary:** The Washington Telephone Assistance Program is extended until June 30, 2003.

#### **Votes on Final Passage:**

Senate	47	0
House	98	0

**Effective:** June 11, 1998

### ESSB 6408 C 215 L 98

Increasing penalties for alcohol violators who commit the offense with a person under the age of ten in the motor vehicle.

By Senate Committee on Law & Justice (originally sponsored by Senators McCaslin, Kline, Long, Fairley, Stevens, Hargrove, Zarelli, Johnson, Thibaudeau, Haugen, Schow, Roach and Oke).

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

**Background:** A conviction of driving under the influence (DUI) of alcohol results in jail time, a fine, and suspension or revocation of the convicted person's driver's license. There are no additional penalties in statute to apply in situations where a person is convicted of drunken driving and had passengers present in the vehicle at the time of the arrest.

At least four states have enacted laws which impose either stiffer penalties for drunken driving with a minor in the vehicle or have created a separate offense such as "endangering a child by driving under the influence of drugs or alcohol."

**Summary:** When determining the penalty for a DUI conviction, the court is directed to particularly consider whether the person was driving or in physical control of a vehicle with one or more passengers at the time of the offense.

**Votes on Final Passage:**

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

Conference Committee

House 96 0  
 Senate 46 0

Effective: June 11, 1998

**ESSB 6418**

C 160 L 98

Implementing amendments to the federal personal responsibility and work opportunity reconciliation act of 1996.

By Senate Committee on Health & Long-Term Care (originally sponsored by Senators Deccio, Wojahn, Fairley, Wood and Winsley; by request of Department of Social and Health Services).

Senate Committee on Health & Long-Term Care  
 House Committee on Law & Justice  
 House Committee on Appropriations

**Background:** The federal Personal Responsibility and Work Opportunity Reconciliation Act of 1996 ("welfare reform") made significant changes to the child support enforcement system within and between states. The intent of the changes was to increase collectibility of ordered support, by improved tracking of obligors, including increased use of Social Security numbers as identifiers, and by increasing the accurate and timely reporting of new hires, among other changes.

Compliance with the child support requirements of federal welfare reform is a condition for receipt of certain federal funding for poor children and families.

**Summary:** A seven-day time period for remittance of withheld earnings is specified. Parents provide certain information to the state child support case registry, and addresses of recipients are protected, under certain circumstances. Agricultural industry reporting is facilitated.

The location of a noncustodial parent is protected upon request. Penalties for false reporting or failure to report new hires are specified and increased. Federal employer identification numbers are used by employers in reporting, replacing various other identifiers.

The Department of Social and Health Services must seek a waiver from a federal requirement to place Social Security numbers on license applications. If a waiver is not granted, licensing authorities will collect Social Security numbers from applicants, but will not display them on the face of the license, and will not disclose them unless required by state or federal law.

**Votes on Final Passage:**

Senate 48 1  
 House 74 23 (House amended)  
 Senate 30 19 (Senate concurred)

Effective: June 11, 1998

October 1, 1998 (1, 5, & 8)

**SSB 6420**

C 161 L 98

Allowing an application for initial determination to be in writing or in another form determined by the commissioner of the employment security department.

By Senate Committee on Commerce & Labor (originally sponsored by Senators Schow, Heavey and Winsley; by request of Employment Security Department).

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

**Background:** Under Washington's current unemployment insurance (UI) law, an individual is required to make his or her initial application for UI benefits in writing. In order for an application to be made over the telephone, the information must be taken over the telephone, mailed to the individual for signature, and returned to the Employment Security office before any eligibility decision or payment can be made.

The Employment Security Department is requesting the authority to allow alternative means for claims application in order to streamline the current system, reduce administrative costs and transition the UI application process into call centers, where the majority of claims will be handled via telephone or other electronic media.

**Summary:** The current state requirement mandating that initial applications for unemployment insurance benefits be made in writing is modified. In addition, individuals are permitted to use other media as determined appropriate by the Commissioner of Employment Security to make their initial unemployment claims.

The Legislature directs the Employment Security Department to ensure that unemployment insurance claimants remain actively involved in reemployment activities and that the call center approach to unemployment insurance claim processing be evaluated.

Beginning July 1, 1999, the Employment Security Department must implement a job search monitoring program. Claimants who have received five or more weeks of benefits must provide evidence of seeking work. This includes contacts with at least three employers per week, or job search activity at the local reemployment center. The department is directed to consult with the unemployment advisory committee in developing the program's work search requirements.

The department must ensure that all claimants register for job search on the electronic labor exchange that sup-

## ESSB 6421

ports direct access for employers selecting job applicants. The Joint Legislative Audit and Review Committee is directed to undertake a performance study of the call center process.

### Votes on Final Passage:

Senate	47	0	
House	87	11	(House amended)
Senate	46	0	(Senate concurred)

Effective: June 11, 1998

## ESSB 6421

C 162 L 98

Revising unemployment compensation for persons with public employment contracts.

By Senate Committee on Commerce & Labor (originally sponsored by Senators Schow, Heavey and Winsley; by request of Employment Security Department).

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

**Background:** In order to receive unemployment insurance (UI) benefits in Washington, a person must be unemployed and available for work. In addition, there are specific criteria in the statute regarding any work-related remuneration that a claimant may receive for services rendered.

In certain instances employers provide financial settlements when employees are laid off. How these settlements or severance packages are structured can affect a laid-off worker's eligibility for UI benefits. Under the existing statute, a claimant in either the public or private sector is considered to have received remuneration and therefore denied unemployment insurance benefits if: (a) the individual is receiving previously accrued compensation during a nonwork period and that compensation is considered payment for that period; or (b) the payments make the person eligible for regular fringe benefits. As an example, these requirements would prevent an individual that is separated from an employer but using up his or her vacation pay from receiving UI benefits.

In private sector employment certain payments, such as negotiated settlements for termination of an employment contract, may not be considered remuneration for the purposes of unemployment insurance and, if so, the claimants are eligible to receive UI benefits. However, as a result of legislative action in 1995 (SHB 1821), employees in the public sector that receive similar severance pay arrangements are not considered eligible to receive UI benefits.

During 1997 the U.S. Department of Labor determined that this statute is potentially out of conformity with the federal unemployment law, because it treats public employees differently from those in the private sector. If Washington is found out of conformity with federal law,

Washington employers will lose an estimated \$872 million in tax credits. In addition, the state will not receive approximately \$80 million in administrative funding for the Employment Security Department.

Under state law, a corporation is required to provide unemployment insurance coverage for the members of its board of directors if: (a) the board member is engaged in work activities outside of the standard board responsibilities; and (b) the board member receives compensation for these specific work activities.

Unemployment insurance coverage for corporate officers is optional. However, the decision on whether to participate in the UI program is required to be uniform for all officers. A business that chooses not to provide UI coverage for its officers must inform them in writing of the decision.

**Summary:** The state's federal conformity issues regarding unemployment insurance are addressed. The unemployment insurance law is modified to provide equal treatment for public and private sector employees. As a result, public and private sector employees that have individual written employment contracts and receive severance pay are in general not eligible for unemployment insurance benefits.

### Votes on Final Passage:

Senate	48	0	
House	88	0	(House amended)
Senate	48	1	(Senate concurred)

Effective: March 29, 1998

## SSB 6425

C 125 L 98

Clarifying legal authority of an agency head.

By Senate Committee on Government Operations (originally sponsored by Senators McCaslin, Haugen and Fraser).

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

**Background:** The Administrative Procedure Act (APA) requires that a memorandum be prepared by the presiding official at a rule-making hearing. That memorandum must summarize the contents of the presentations made at the rule-making hearing. The summarizing memorandum is a public document and must be made available to any person in accordance with the Public Records Disclosure Act.

The exceptions to the requirement to prepare the summarizing memorandum are when the agency head either presides or is present at substantially all of the hearings. The APA defines the agency head as the individual or body of individuals in whom the ultimate legal authority of the agency is vested.

**Summary:** The requirement to prepare a summarizing memorandum is clarified to include the case where the agency head has delegated rule-making authority. In that case, as well as all others, where the agency head does not preside or appear at substantially all of the hearings, the presiding officer must prepare a summarizing memorandum.

**Votes on Final Passage:**

Senate	46	0
House	97	0

**Effective:** June 11, 1998

**SB 6429**

C 268 L 98

Allowing the children's trust fund to retain its proportionate share of earnings.

By Senators Long, Kline, Wojahn, Fairley, Winsley and Kohl; by request of Washington Council for Prevention of Child Abuse and Neglect.

Senate Committee on Human Services & Corrections  
House Committee on Appropriations

**Background:** The children's trust fund is a depository for contributions, grants, and gifts to the Washington Council for Prevention of Child Abuse and Neglect (WCPCAN). The Legislature established WCPCAN in 1982 to increase abuse prevention programs in order to help reduce the breakdown in families. A reduction in the breakdown in families was intended to reduce the need for state intervention in families and decrease state expense.

Until 1993, WCPCAN received the interest on the fund. The interest is used to support local activities geared to raising public awareness of child abuse and neglect. It is also used to support local community based prevention programs.

In 1993, legislation moved all trust fund interest to the general fund except for specified accounts. The interest from the children's trust fund was among those moved to the general fund. This has resulted in an annual loss of \$5,000 to the children's trust fund.

WCPCAN has requested that the Legislature place the children's trust fund on the list of accounts that receive a proportionate share of the interest on the fund in order to further support local public awareness activities and prevention programs.

**Summary:** The children's trust fund is placed on the list of accounts that receive a proportional share of the interest on the general fund.

**Votes on Final Passage:**

Senate	42	0
House	97	0

**Effective:** June 11, 1998

**SSB 6439**

C 195 L 98

Authorizing design-build demonstration projects.

By Senate Committee on Transportation (originally sponsored by Senators Wood, Haugen, Prince and Horn; by request of Department of Transportation).

Senate Committee on Transportation  
House Committee on Transportation Policy & Budget

**Background:** The Department of Transportation construction contracting procedure requires the department to award the contract for the design phase prior to contracting for the construction phase. The department does not currently have authority to use the design-build method of contracting. Design-build authority would allow the department to enter into a single contract with the design-build contractor. The contractual responsibility to the state for full performance of all phases of the contract would be vested in the design-build contractor. Proponents of the design-build method maintain that this procedure facilitates construction of capital projects in a manner that is more timely and efficient than awarding the design and construction contracts separately.

**Summary:** The department must develop a process for awarding competitively bid highway construction contracts using a design-build procedure. The process must include the scope of services required under the design-build procedure, contractor prequalification requirements, criteria for evaluating technical information and project costs, contractor selection criteria, and an issue resolution process. The department must also comply with the public notice and comment requirements of the alternative public works statutes.

The department selects two demonstration projects. The projects must be normally valued over \$10 million. The project also must involve highly specialized construction activities, provide an opportunity for greater innovation, or provide an opportunity for significant savings in time. The department must present progress reports to the Legislative Transportation Committee and Public Works Oversight Committee, as well as a final report within one year of completion of the projects. The report must outline the advantages and disadvantages of the design-build process and make recommendations for possible changes in the law.

Sureties are not responsible for any damages resulting from the design phase of the project.

This act expires on April 1, 2001.

**Votes on Final Passage:**

Senate	32	17	
House	88	0	(House amended)
Senate	29	14	(Senate concurred)

**Effective:** June 11, 1998



**SB 6441**

C 196 L 98

Clarifying procedures for environmental protection change orders in public projects.

By Senators Oke, Prince, Haugen and Winsley; by request of Department of Transportation.

Senate Committee on Transportation  
House Committee on Capital Budget

**Background:** Current law requires that all invitations for bid proposals for construction projects issued by the state or a political subdivision must include copies of all federal, state and local statutes, regulations and ordinances dealing with the prevention of pollution or preservation of natural resources as it relates to the particular project. According to the Department of Transportation, the increase in federal, state and local regulation that has occurred since the current statute was enacted in 1973 makes it impractical to comply with the current requirements of the law. Providing the required documentation would add thousands of pages to contract documents for bid invitations.

Because of the amount of documentation required, the department is not currently fully complying with the statutory requirements. The department does include the following documents with its invitations for bid proposals: copies of required permits; excerpts of some relevant laws; and citations to other relevant laws.

**Summary:** The requirement that all applicable environmental laws be included in contract documents is deleted. The other provisions of the existing law remain intact.

**Votes on Final Passage:**

Senate	47	0
House	88	0

**Effective:** June 11, 1998

**E2SSB 6445**

C 269 L 98

Modifying provisions relating to children placed in community facilities.

By Senate Committee on Ways & Means (originally sponsored by Senators Long, Hargrove, Haugen, Zarelli, McAuliffe, Franklin and Winsley).

Senate Committee on Human Services & Corrections  
Senate Committee on Ways & Means  
House Committee on Criminal Justice & Corrections  
House Committee on Appropriations

**Background:** In September of 1997, a 17-year-old resident in a Juvenile Rehabilitation Administration (JRA) community placement group home walked away from his job and raped and murdered a 12-year-old babysitter dur-

ing a burglary. The subsequent investigation revealed that JRA did not have vital school record information and information regarding the juvenile's previous law enforcement encounters.

The federal Family Education Rights and Privacy Act (FERPA) limits the transfer of education records to transfers with the prior notice and consent of both juveniles and their parents. FERPA provides two exceptions for transfers for law enforcement purposes: (1) Records may be transferred prior to trial in order to effectively serve the juvenile. These transfers generally require prior notification to the juvenile and his or her parents. (2) After conviction, records may be transferred without consent only by a subpoena containing a nondisclosure order.

Current Washington statutes do not reflect the most recent changes in FERPA and may provide conflicting direction to the schools. JRA reports that it has been difficult to obtain complete, timely, records necessary for conducting risk assessment for juveniles placed with the agency. These records are necessary to assist JRA to address individual needs, to serve the juvenile effectively, and to provide juveniles with the best placement to assist them to successfully make a smooth transition to nonoffender status.

In addition to risk assessment concerns, the investigation raised other concerns about placing juveniles in the community. These include: inadequate distinctions between group homes for children with and children without criminal convictions; inadequate employee screening; inadequate night staffing at some facilities; inconsistent communication with local law enforcement and JRA; inconsistent documentation of infractions and violations; inconsistent monitoring of juveniles in school and work placements; and inadequate community participation and information.

**Summary:** The Department of Social and Health Services (DSHS) must establish a process for community involvement in the siting of JRA group homes through mandated public hearings.

DSHS must work with local governments to develop a process that allows each community to establish community placement oversight committees. The committees will review and make recommendations regarding placement of juveniles in community facilities. The Legislature intends the committees, their members, and the agencies represented by the members to be immune from liability for their good faith actions in placement decisions.

DSHS must adopt a policy for the common use of group homes for JRA juveniles and non-JRA children. DSHS must not place juveniles who commit any class A felony with non-JRA children, unless the JRA juveniles are housed in separate living units, or are in a specialized treatment program and are neither sexually aggressive, nor sexually vulnerable if the program houses any sexually aggressive non-JRA youth.

DSHS must establish a violation policy that includes a definition of serious infractions and serious violations. All criminal offenses and all drug or alcohol violations are defined as serious violations. DSHS must return juveniles who commit serious infractions or serious violations of their placement conditions to an institution. Juveniles who have been returned to an institution following a violation may not subsequently be placed in a community facility until a new risk assessment is completed and the secretary determines that the juvenile can adhere to the conditions of the community facility placement. DSHS must maintain records of juveniles' infractions and violations.

Each service provider must report to DSHS every known violation or infraction a juvenile offender commits. Serious infractions and serious violations must be reported immediately upon discovery. All other infractions and violations must be reported within 24 hours of discovery. DSHS must document reported violations. Service providers that fail to report juveniles' known violations are subject to both monetary penalties and contract sanctions or termination. DSHS must give great weight to a service provider's record of infractions and violations in any execution, renewal, or renegotiation of the service provider's contract.

DSHS must publish and maintain a staffed 24-hour toll-free phone line for reporting a juvenile's violations of community placement conditions. The phone number must be distributed to the persons most likely to have contact or supervisory authority over any juvenile. It must also be included in all service provider contracts and monitoring agreements.

Any juvenile placed in a school, work, or volunteer situation must be subject to monitoring agreements. These agreements acknowledge the juvenile's status as an offender, provide for notification when they discover any condition is breached, and provide for accountability checks and performance reviews of the juvenile by the JRA group home. The agreements must be in writing and signed by the juvenile, the employer, supervisor, or school, JRA, and the contracting service provider. Both DSHS and the service providers must keep a copy of the executed agreements.

Juveniles are not eligible for placement in a community facility until they have spent at least 10 percent of their sentences, but not less than 30 days, in a secure institution.

Eligible juveniles may not be placed in a JRA group home unless:

- (1) The juvenile's school records have been received and reviewed in conjunction with other information to conduct a risk assessment and security classification and the risk assessment, including a determination of drug and alcohol abuse, is complete;
- (2) The completed risk assessment indicates that the juvenile will not pose more than a minimum risk to public safety;

- (3) The community placement oversight committee, if one exists, has reviewed and acted on the placement; and
- (4) Local law enforcement has been properly notified.

The department must request education records for first-time offenders after conviction by a subpoena. The prosecutor or local probation department must request records for all juveniles with one or more previous convictions prior to trial. The Legislature intends that education records will be used to perform a risk assessment that will assist JRA to address individual needs, to serve the juvenile effectively, and to provide juveniles with the best placement to assist them to successfully make a smooth transition to nonoffender status.

Employees and volunteers must pass background checks. Persons who have committed sex offenses or violent offenses are prospectively disqualified from positions in which they may have more than nominal access to JRA children. Failure to report a post-employment conviction constitutes misconduct.

The Washington State Institute for Public Policy must conduct a study that includes an evaluation of the: (a) security, staffing and operation; (b) offender intake and assessment procedures; (c) violation history and appeals process for violations and infractions committed by juveniles; (d) community involvement in placement decisions; (e) juvenile detention standards; and (f) recidivism rates for certain classes of juveniles receiving parole services compared with similar juveniles not receiving those services.

**Votes on Final Passage:**

Senate	49	0	
House	97	0	(House amended)
Senate	45	0	(Senate concurred)

**Effective:** September 1, 1998

**SB 6449**

C 331 L 98

Specifying a business and occupation tax rate for income in the nature of royalties for the use of intangible rights.

By Senators West, Anderson, Kohl, T. Sheldon, Jacobsen, Goings and Winsley; by request of Governor Locke.

Senate Committee on Ways & Means  
House Committee on Finance

**Background:** The business and occupation tax (B&O) is levied for the privilege of doing business in Washington. The tax is levied on the gross receipts of all business activities (except utility activities) conducted within the state.

Although there are several different rates, beginning July 1, 1998, the principal rates are as follows:

Manufacturing/wholesaling	0.484%
Retailing	0.471%
Services	1.5%

## SSB 6455

The B&O tax is imposed on the gross receipts of business activities conducted within the state without deductions for the costs of doing business.

Income received from royalties for the granting of such rights as copyrights, licenses, patents or franchise fees are currently taxed at the 1.5 percent services rate.

**Summary:** A new tax classification is created for businesses receiving income from royalties. Income received from royalties is taxed at 0.484 percent.

### Votes on Final Passage:

Senate	48	0
House	94	0

**Effective:** July 1, 1998

## SSB 6455

C 347 L 98

Adopting a supplemental capital budget.

By Senate Committee on Ways & Means (originally sponsored by Senators Strannigan, West, Anderson, Fraser and Spanel; by request of Governor Locke).

Senate Committee on Ways & Means  
House Committee on Capital Budget

**Background:** The programs and agencies of state government are funded on a two-year basis, with each fiscal biennium beginning on June 30 of even-numbered years. The capital budget generally includes appropriations for the acquisition, construction, and repair of capital assets such as land, buildings, and other infrastructure improvements. Funding for the capital budget is primarily from state general obligation bonds, with other funding derived from various dedicated taxes, fees, and state trust land timber revenues.

The 1997 Legislature appropriated \$1.88 billion for capital projects, of which \$906 million was from state bonds.

**Summary:** The 1998 supplemental capital budget is adopted. The budget authorizes \$62 million in new capital projects, of which \$17.7 million is from new state bonds.

The supplemental capital budget also authorizes state agencies to undertake various lease-purchase and lease-development projects.

For additional information, see "1998 Supplemental Operating & Capital Budget Summary" published by the Senate Ways & Means Committee.

### Votes on Final Passage:

Senate	41	8	
House	95	2	(House amended)
Senate			(Senate refused to concur)

### Conference Committee

House	98	0
Senate	41	2

**Effective:** April 3, 1998

## ESSB 6456

### PARTIAL VETO

C 348 L 98

Funding transportation.

By Senate Committee on Transportation (originally sponsored by Senators Prince, Haugen, Wood, Kline and Horn; by request of Governor Locke).

Senate Committee on Transportation  
House Committee on Transportation Policy & Budget

**Background:** The transportation budget provides appropriations to the major transportation agencies — the Department of Transportation (DOT), the Washington State Patrol (WSP), the Department of Licensing (DOL), the Transportation Improvement Board (TIB), and the County Road Administration Board (CRAB). It also provides appropriations to many smaller transportation agencies and appropriates transportation funds and accounts to general government agencies.

Two-thirds of the moneys appropriated in the transportation budget are for capital programs, and one-third is for operating programs.

The motor vehicle fund is the primary funding source of transportation programs, providing for 43 percent, or \$1.3 billion, of transportation appropriations in the 1997-99 transportation budget.

The 1995-97 transportation budget totaled \$3.3 billion. The 1997-99 transportation budget totals \$2.9 billion.

**Summary:** Supplemental appropriations are made to transportation agencies for the 1997-99 biennium. The total 1997-99 supplemental budget is \$194.9 million, which brings the revised biennial transportation appropriation to \$3.091 billion.

### DOT Current Law and New Revenue Recommendations

- \$91 million is provided for the following projects within current law revenue.
  - A \$27 million list of statewide freight mobility, economic development, and partnership projects (referred to as the \$50 million project list). The total six-year project cost is \$43 million. Funds vetoed by the Governor last session are used.
  - \$60 million of transportation dollars, federal dollars and general fund transfer is development projects, \$2 million for corridor studies, and \$45 million for preliminary engineering and right-of-way.
  - \$1 million for Ebey Slough Bridge.
  - \$2 million is transferred to the Advanced Environmental Mitigation Revolving Account to purchase and

develop sites to meet environmental requirements on future construction projects.

- \$0.5 million is provided for fish passage barrier removal.
- \$0.6 million is provided for Centralia area flood mitigation.
- \$14 million is provided for Special Category "C" projects (SR 18 construction and SR 395 preconstruction). If \$60 million bond bill is not enacted, \$4 million is provided (SR 18 construction only).
- \$12 million is appropriated for the Year 2000 conversion effort.
- 13 of the 19 items related to the marine operating program are funded. Combinations of three types of items are considered: (1) one-year funding pending audits; (2) items not approved in 1997 because of audits; and (3) new items. \$0.9 million in savings is taken from lower fuel costs and late delivery of the new Jumbo ferry.
- \$3.5 million is provided for ferry terminal preservation projects.
- \$3 million is provided for preconstruction activities related to construction of four passenger-only ferries and associated docking facilities.
- \$2.7 million is provided for the Commercial Vehicle Information Systems and Networks (CVISN) program transferred from WSP to DOT.
- \$2.5 million is provided for the commute trip reduction program from the high capacity transportation account.
- \$4 million is provided from the high capacity transportation account for facility improvements to match the federal commitment to improve passenger rail service between Seattle and Vancouver, B.C.
- Funding is reappropriated for highway, ferry and aviation programs.
- DOT is required to conduct a program evaluation of the Public/Private Initiatives (PPI) program (\$100,000) within current appropriation authority.
- \$1 million is provided for increased noxious weed control along state highways.
- \$0.5 million is provided for the rural mobility program.

#### DOT Items Contingent on the Passage of the Referendum (\$48.2 million)

- \$0.5 million for freight rail branch line rehabilitation;
- \$10 million for passenger rail infrastructure and facilities;
- \$0.4 million for SR 2 safety improvements;
- \$0.4 million for Port of Benton study;
- \$0.8 million for Spokane St. median barrier (Seattle);
- \$0.2 million for railroad crossing in Steilacoom;
- \$0.6 million is provided for SR 166, Ross Point slope repair;

- \$0.3 million is provided for SR 536, Memorial Highway Bridge; and
- \$35 million is placed in reserve for preconstruction activities.

- The total request is for \$197.0 million in transportation funds.

#### WSP Current Law Recommendations

- \$302,000 is provided for Medicare coverage for commissioned officers hired prior to 1986 if the majority of the officers vote for the coverage.
- \$1,580,000 is provided for transportation's share of the WSP data center shortfall and transition costs to the Department of Information Services (DIS) data center.
- \$289,000 is provided for vehicle license fraud enforcement.
- \$350,000 is provided for the Vancouver commercial vehicle enforcement inspection building.
- \$461,000 funds the WSP portion of the fuel tax enforcement program.
- \$26,000 is provided for fiscal year 1999 vehicle inspection number (VIN) lane costs.
- \$1 million in reversions and savings is realized.
- General fund activities transferred to the transportation fund in 1993-95 are returned to the general fund. The general fund is to assume a portion of the Technical Services and Communications Division of the WSP.
- The general fund is assuming \$12.4 million in general fund activities.
- The total supplement budget request is \$2 million in transportation funds, excluding the general fund transfer.

#### DOL Current Law Recommendation

- \$339,000 is provided for the Year 2000 conversion effort.
- \$2.8 million is provided to replace the Wang Imaging System instead of spending \$1.2 million to bring an obsolete system into Year 2000 compliance.
- \$2.6 million is provided to implement the recommendations of the Business and Technology Assessment Project (BTAP).
- \$331,000 and 2.2 full time equivalents (FTEs) are provided for additional staffing in Vancouver and Yakima.
- \$2.4 million is provided to implement proposed legislation, including \$1.5 million to implement proposed driving under the influence (DUI) legislation.
- \$4.4 million in reversions and savings is realized.
- The total supplemental budget is \$4.7 million in transportation funds.

#### General Government Agencies

- \$10,000 is provided for the Department of Agriculture to conduct laboratory analysis of diesel fuel samples to detect illegally-blended diesel fuel.

- The Office of Financial Management and the Department of Community, Trade, and Economic Development are transferred to the general fund.

Legislative Transportation Committee

- \$1 million is provided for the creation of a special panel to conduct an analysis of existing transportation funding mechanisms and to propose solutions for long-term financing of transportation.
- \$150,000 is provided for a performance and management audit of selected public transportation systems to determine their effectiveness and efficiency.
- The total supplemental budget is \$1.2 million in transportation funds.

**Votes on Final Passage:**

Senate	45	1	
House	81	15	(House amended)
Senate	26	23	(Senate concurred)

**Effective:** April 3, 1998

**Partial Veto Summary:** The following items are vetoed:

- The study for design build contracting;
- Blue Ribbon Panel directives;
- No salary increases for positions above Washington State Patrol captains;
- Removal of obsolete DOL Business and Technology Assessment Project language;
- DOL technical corrections;
- Appropriations for DOL bills not passed;
- The directive for DOT to develop prioritization of highway infrastructure projects;
- The prohibition for DOT to contract out for engineering services;
- Funding for the program evaluation and audit of the Public/Private Initiatives program;
- The Transportation Commission to develop a comprehensive policy on tolls;
- DOT to develop a plan for preservation work on the Hood Canal bridge;
- Funding for the King Street Station;
- The directive for the preparation of a plan to consolidate the TIB, CRAB and TransAid;
- The transportation study on rented buildings in Thurston County to propose facility alternatives instead of renting;
- The increase for bond sale expenses;
- Directing the Legislature to receive agency budget documents when the OFM receives the documents;
- The requirement that DOT use appropriations to fund projects identified in the TEIS capital system; and
- Repeal of a section that appropriated \$10 million into reserve status as a contingency if the Intermodal Surface Transportation Efficiency Act (ISTEA) is not enacted.

**VETO MESSAGE ON SB 6456-S**

April 3, 1998

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 202(6); 202(8), page 8, line 20 through page 9, line 6; 203(13); 207(2); 209, page 18, lines 1 through 2; 209(3); 209(4); 209(5); 211(12); 211(13); 212(3); 214(4); 214(5); 220(10); 221(7); 301(4); 402, page 42, lines 29 through 30; 403; 501; 502; 507 and 508, Engrossed Substitute Senate Bill No. 6456 entitled:

"AN ACT Relating to transportation funding and appropriations;"

Engrossed Substitute Senate Bill No. 6456 provides a supplemental budget for the 1997-99 transportation budget.

Section 202(6), page 7 (Legislative Transportation Committee)

Section 202(6) directs the Legislative Transportation Committee to study and report findings to the Legislature regarding the design-build method of contracting. I am vetoing this proviso because it is unnecessary in light of passage of Substitute Senate Bill 6439, which requires the Department of Transportation (DOT) to conduct a demonstration program using the design-build method of contracting and requires the DOT to present a report within one year of completion of the demonstration projects.

Section 202(8), page 8, line 20 through page 9, line 6 (Legislative Transportation Committee)

Section 202(8) provides a \$1 million appropriation for the purpose of convening a panel of citizens to conduct a comprehensive analysis of state-wide transportation needs, funding, and policies. The panel is to be appointed by the legislature and the Governor.

While there is no question about the commitment of all parties, including myself, to conduct a creditable and timely review of transportation issues, I have vetoed page 8, line 20 through page 9, line 6 in order to provide maximum flexibility to the panel to manage the review as effectively as possible within the available dollars. The review activities outlined in the vetoed provisos can serve as guidance, rather than limits, for the panel as they start their deliberations. The veto of these subsections does not preclude the panel from addressing the same issues, but it does allow the panel to adjust the scope and emphasis of the study activities as information is developed.

Section 203(13), page 11 (Washington State Patrol—Field Operations Bureau)

Section 203 (13) prohibits the Chief of the Washington State Patrol from using funding provided in Chapter 457, Laws of 1997 and in this act to increase salaries for positions above the rank of captain. I am vetoing this proviso because it unduly restricts the ability of the Chief to manage the State Patrol. It is also retroactive, and would reduce current salaries. Finally, it contravenes the existing statutory authority in RCW 43.43.020, which grants the Chief the authority to determine the compensation of her officers.

Section 207(2), pages 15-16 (Department of Licensing—Information Systems)

Section 207 (2) stipulates that if the driver's license fee increase contained in Engrossed Substitute House Bill 2730 is not enacted by June 30, 1998, the appropriations provided in this subsection lapse. Engrossed Substitute House Bill 2730 was not passed by the Legislature; therefore, I have vetoed this subsection to eliminate possible confusion about whether the Department of Licensing must work to implement the enumerated Business and Technology Assessment Project recommendations without the requisite funding.

Section 209, page 18, lines 1 through 2. (Department of Licensing—Driver Services)

This section reduces the state highway safety fund appropriation to the Department of Licensing. I am vetoing the supplemental appropriation in order to partially restore an inadvertent reduction that was subtracted twice. A recent court decision, regarding the limitations to the Governor's veto powers, dictates a budget level that is \$2,503,000 less than the original appropriation. When the supplemental budget adjustments were calculated, this reduction occurred twice. The effect of this veto is to reinstate \$868,000 in state highway safety funds to the department. A legislative adjustment of \$1,635,000 will be required in the 1999 legislative session in order to fully restore the intended funding level for the department. The complete restoration of these funds will ensure that the department continues to maintain existing service levels and implements recently enacted legislation. Since the double count appears to have been an inadvertent error, I am requesting that the department make plans for the intended funding level for the remainder of the biennium in anticipation of a legislative adjustment in the 1999 session.

Section 209(3), page 18 (Department of Licensing—Driver Services)

Section 209(3) stipulates that the \$117,000 highway safety account—state appropriation shall lapse if House Bill 3054 is not enacted by June 30, 1998. House Bill 3054 was not passed by the Legislature; therefore, I have vetoed this subsection to eliminate any possible confusion.

Section 209(4), page 18 (Department of Licensing—Driver Services)

Section 209(4) stipulates that the \$80,000 highway safety account—state appropriation shall lapse if House Bill 2730 is not enacted by June 30, 1998. House Bill 2730 was not passed by the Legislature; therefore, I have vetoed this subsection to eliminate any possible confusion.

Section 209(5), page 18 (Department of Licensing—Driver Services)

Section 209(5) stipulates that the \$124,000 highway safety account—state appropriation shall lapse if Senate Bill 6591 is not enacted by June 30, 1998. Senate Bill 6591 was not passed by the Legislature; therefore, I have vetoed this subsection to eliminate any possible confusion.

Section 211(12), page 21-22 (Department of Transportation—Improvements—Program I)

Section 211(12) requires the Department of Transportation (DOT) to develop criteria for programming and prioritization of highway infrastructure projects that will contribute to economic development as required by RCW 47.05.051 (2). Additionally, this subsection provides that the DOT shall report the criteria to the Legislative Transportation Committee by December 1, 1998. I am vetoing this proviso because it is unnecessary. The DOT already factors economic development in the prioritization of projects in its improvement program. If the Legislature wishes to modify the prioritization scheme, they may amend RCW 47.05.051.

Section 211(13), page 22 (Department of Transportation—Improvements—Program I)

Section 211(13) prohibits the Department of Transportation (DOT) from contracting any of the preliminary engineering services funded by this act without prior approval of the Legislative Transportation Committee. I am vetoing this proviso because it infringes on DOT's ability to manage its construction program. By hampering the DOT's ability to contract preliminary engineering, program delivery may be thwarted. Additionally, a legislative committee should not be placed in the role of approving customary functions of an executive branch agency.

Section 212(3), page 23 (Department of Transportation—Transportation Economic Partnerships—Program K)

Section 212(3) provides \$100,000 of the motor vehicle fund—state appropriation solely for the purpose of the program evaluation and audit of the Public Private Initiatives program

required under RCW 47.46.030(2). Further, the subsection provides that the Legislative Transportation Committee (LTC) shall act as project manager and be responsible for hiring the consultants to conduct the evaluation and audit. I am vetoing this subsection because it contravenes RCW 47.46.030 (2), which charges the Department of Transportation (DOT) with the duty to conduct a program and fiscal audit of the Public-Private Initiatives Program. However, the statute provides that DOT shall consult with and submit progress reports to the LTC. DOT has agreed to proceed accordingly.

Section 214(4), page 25 (Department of Transportation—Preservation—Program P)

Section 214(4) requires the Transportation Commission to develop a comprehensive policy on tolls and to submit a report to the Legislative Transportation Committee and the Office of Financial Management by March 1, 1999. While this is a worthwhile and important subject, I believe it is more properly addressed as an option in the larger context of long-term transportation funding.

Section 214(5), page 25 (Department of Transportation—Preservation—Program P)

Section 214(5) requires the Department of Transportation to recommend a plan for accomplishing the preservation work on the Hood Canal Bridge, and the remainder of the twenty-year bridge system plan, under the constraints of current law revenues. Reliance on current revenues to fund major projects, like the Hood Canal Bridge, will preclude a substantial number of other necessary bridge preservation and highway improvement projects. Any review of the bridge system plan must have the flexibility to consider the need for new revenues.

Section 220(10), page 35 (Department of Transportation—Public Transportation and Rail)

Section 220(10) provides an additional \$4 million Central Puget Sound Public Transportation Account - State appropriation for the Department of Transportation for activities related to the improvement of the King Street Station. The King Street Station redevelopment project was also submitted to the Transportation Improvement Board (TIB) for state funding from the same account. The project has subsequently been selected for state funding through the TIB prioritization process, making this appropriation unnecessary. Therefore, I am vetoing this subsection to eliminate any possible confusion.

Section 221(7), pages 37-38 (Department of Transportation—Local Programs—Program Z)

Section 221(7) provides for the preparation of a consolidation plan for the Transportation Improvement Board (TIB), County Road Administration Board (CRAB), and the Department of Transportation's TransAid Service Center. The 1998 Legislature did consider, but failed to enact, legislation that would have required this same consolidation plan. While I support efforts to streamline government, a more deliberative process that involves the key stakeholders and does not presuppose an outcome must be employed.

Section 301(4), pages 39-40 (Transportation Agencies Capital Facilities)

Section 301(4) requires the transportation agencies, the Department of General Administration, and the Office of Financial Management review, analyze, and report to the Legislative Transportation Committee (LTC) on the consolidation of Thurston County, state transportation agencies. I am vetoing this subsection because it mandates action by non-transportation agencies without providing the funding necessary to accomplish such a review. A more deliberative process that involves the key stakeholders, provides the necessary funding, and does not presuppose an outcome must be employed.

Section 402, lines 29 through 30, page 42 (State Treasurer—Bond Retirement and Interest, And Ongoing Bond Registration and Transfer Charges: For Bond Sale Expenses and Fiscal Agent Charges)

This item is an increase in the appropriation for the State Treasurer for bond sale expenses and fiscal agent charges. Be-

cause the supplemental expenditures in this budget are not supported by additional bond revenues, this increased appropriation is unnecessary.

Section 403, page 43

This section authorizes the State Treasurer to transfer any Transportation Improvement Board balances available in the Highway Bond Retirement Account into the Transportation Improvement Board Bond Retirement Account. To be operative, this section required passage of House Bill 2582. House Bill 2582 was not passed by the Legislature; therefore, I have vetoed this section to eliminate any possible confusion.

Section 501, page 45

This section directs agencies that spend transportation funds to submit their budget requests and supporting documents to the Office of Financial Management (OFM) and the Legislative Transportation Committee at the same time. All agency budget requests are public documents, and OFM routinely sends a copy of all budget requests to the Legislature for review soon after they are received, making this section unnecessary.

Section 502, page 45

Section 502 provides that in the 1999-01 biennium, the Department of Transportation's Public Transportation and Rail Program shall be divided into three separate programs—public transportation, rail-operating, and rail-capital. I am vetoing this section because it infringes on the ability of the department to organize and manage this program. The determination of this level of organizational structure should be left to the agency.

Section 507, page 48

Section 507 requires the Department of Transportation to use appropriations for Programs I and P in this act to fund projects identified in the Transportation Executive Management System (TEIS) and Legislative Budget Notes. I am vetoing this section because it circumvents the process established in RCW 47.05. Additionally, I do not support enacting TEIS or Legislative Budget Notes into law through reference.

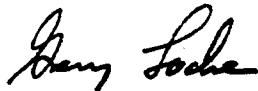
Section 508, page 48

Section 508 repeals a section from the 1997 Transportation Budget that appropriates \$10 million into reserve status for potential funding of the highway construction program should the federal transportation authorization act not be enacted by October 1, 1997. I am vetoing this section because I believe that this reserve is still appropriate as the successor to the Intermodal Surface Transportation Efficiency Act (ISTEA) has not yet been enacted, and Congress appears poised to act soon.

For these reasons, I have vetoed sections 202(6); 202(8), page 8, lines 20 through page 9, line 6; 203(13); 207(2); 209, page 18, lines 1 through 2; 209(3); 209(4); 209(5); 211(12); 211(13); 212(3); 214(4); 214(5); 220(10); 221(7); 301(4); 402, page 42, lines 29 through 30; 403; 501; 502; 507 and 508 of Engrossed Substitute Senate Bill No. 6456.

With the exception of sections 202(6); 202(8), page 8, lines 20 through page 9, line 6; 203(13); 207(2); 209, page 18, lines 1 through 2; 209(3); 209(4); 209(5); 211(12); 211(13); 212(3); 214(4); 214(5); 220(10); 221(7); 301(4); 402, page 42, lines 29 through 30; 403; 501; 502; 507 and 508, Engrossed Substitute Senate Bill No. 6456 is approved.

Respectfully submitted,



Gary Locke  
Governor

**ESSB 6470**  
**PARTIAL VETO**  
C 332 L 98

Specifying the tax treatment of canned and custom software.

By Senate Committee on Ways & Means (originally sponsored by Senators West, Anderson, Kohl, Snyder, Loveland, Fairley, T. Sheldon and Jacobsen; by request of Governor Locke).

Senate Committee on Ways & Means

**Background:** The sales tax is imposed on each retail sale of most articles of tangible personal property and certain services. Taxable services include construction, repair, telephone, lodging of less than 30 days, physical fitness, and some recreation and amusement services. The use tax is imposed on the use of articles of tangible personal property when the sale or acquisition has not been subject to the sales tax. The use tax commonly applies to purchases made from out-of-state firms.

The business and occupation tax (B&O) is levied for the privilege of doing business in Washington. The tax is levied on the gross receipts of all business activities conducted within the state. There are no deductions for the costs of doing business. Currently, the rate imposed on retail sales is 0.471 percent and on general services is 1.75 percent through June 30, 1998, and 1.5 percent thereafter.

Computer software designed for use by many people without modification is known as canned software. Canned software is considered tangible personal property and the sale is subject to sales tax. The retailer pays B&O tax under the retailing classification. Custom software is software designed for use by a single consumer. The creation of custom software is considered a service. It is not subject to retail sales tax and the seller pays B&O tax under the service classification. The customization of canned software is considered a retail sale. As such, the sale is subject to sales tax and the seller pays B&O tax under the retailing classification.

**Summary:** The customization of canned software is considered a service. Therefore, the sale is not subject to sales tax and the seller pays B&O tax under the service classification.

A B&O tax credit is authorized for persons engaged in the business of the creation, distribution, wholesaling, or warehousing of canned or custom software if the principal place of business of the person is located in a distressed county. The credit is 100 percent of the tax otherwise due for the first 36 months in which the person is engaged in business in the distressed county. After this, the credit is reduced to 90 percent for persons engaged in the business of the creation or distribution of canned or custom software and 70 percent for persons engaged in the business of the wholesaling or warehousing of canned or custom software. A distressed county is defined as any county in

which the average level of unemployment for the previous three years exceeds the average state unemployment for those years by 20 percent.

**Votes on Final Passage:**

Senate 49 0  
House 98 0

**Effective:** July 1, 1998

**Partial Veto Summary:** The B&O tax credit is vetoed.

**VETO MESSAGE ON SB 6470-S**

April 3, 1998

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, Engrossed Substitute Senate Bill No. 6470 entitled:

"AN ACT Relating to the tax treatment of canned and custom software;"

Sections 1 through 7 of ESSB 6470 specify that the sale of custom software is the provision of a service, as is the customization of canned software, and is taxable under the service classification of the business and occupation (B&O) tax.

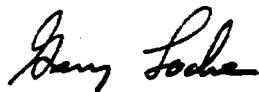
Section 8 of this bill would provide a B&O tax credit for software businesses that have their principal place of business in a distressed county. However, the bill as written, would allow a qualifying software company with headquarters in a distressed county to also exempt from the B&O tax all its operations located in a non-distressed county. This could lead to a business establishing only a small office with few employees in the distressed county, defeating the purpose of the legislation. While Section 8 was intended to provide an innovative approach to rural economic development, this language results in a significant tax loophole that will not benefit the citizens of rural distressed counties.

I proposed several economic development packages for distressed counties in the 1998 legislative session, and I strongly agree with the concept presented in section 8 of this bill. However, section 8 of this bill would have unintended consequences. I would support a more finely crafted bill.

For these reasons, I have vetoed section 8 of Engrossed Substitute Senate Bill No. 6470.

With the exception of section 8, Engrossed Substitute Senate Bill No. 6470 is approved.

Respectfully submitted,



Gary Locke  
Governor

**SSB 6474**

C 36 L 98

Adopting the fertilizer regulation act.

By Senate Committee on Agriculture & Environment (originally sponsored by Senators Jacobsen, Rasmussen, Kline, T. Sheldon, Patterson and Fairley; by request of Governor Locke).

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

**Background: Registration and Standards:** All fertilizers, including fertilizers made with industrial byproducts, must be registered or licensed annually by the Department of Agriculture. The product label must include the guaranteed analysis of nitrogen, phosphorous, and potassium. The label is not required to include information about components in the fertilizer other than plant nutrients.

The inert, nonnutritive ingredients in fertilizer are not subject to regulation under the state fertilizer laws. However, state law requires that no fertilizer product may be adulterated. Adulteration is defined as containing materials that would make the product injurious to beneficial plant life when applied according to the label. Adulteration is also defined as not meeting the guaranteed analysis of nutrients, or containing unwanted, viable, seed.

Canada does regulate nonnutritive metals in fertilizer through the Canadian Fertilizer Act and adopted regulations. The regulations were developed based on soil background levels.

**Registration Fees:** The application for fertilizer registration must be accompanied by a fee of \$25 for the first product, and \$10 for each additional product.

**Penalties:** Any person who fails to comply with the fertilizer laws may be subject to a civil penalty of not more than \$1,000 for each violation. Money collected is deposited in the agricultural local fund. Any person who aids in the violation may also be subject to the penalty.

**Soil Amendments:** Byproducts from the manufacturing of wood products may be distributed as a commercial fertilizer after review by the Department of Ecology. The Department of Ecology must provide written approval to the Department of Agriculture certifying that use of the product is consistent with the state biosolids standards, the Model Toxics Control Act, the Water Pollution Control Act, the Washington Clean Air Act, and the Hazardous Waste Management Act.

The use of industrial byproducts in fertilizer has raised concerns about impacts to human health and the environment. The extent of plant uptake of heavy metals from soils, and the potential for human health impacts are unclear. However, it has been suggested that greater state review of industrial byproducts in fertilizer is needed to minimize the potential for impacts to human health or the environment.

**Summary: Registration and Standards:** Waste-derived fertilizer is defined as a commercial fertilizer that is derived from an industrial byproduct or other material that would otherwise be disposed of. This may include solid or hazardous wastes, but does not include regulated biosolids or wastewater. Micronutrient fertilizer is defined as a commercial fertilizer that contains commercially valuable concentrations of micronutrients.



The Canadian standards for maximum acceptable cumulative metal additions to soil are adopted. The Department of Agriculture may revise the standards by rule if federal or other risk-based studies are adopted.

An application for registration of a waste-derived fertilizer or micronutrient fertilizer must identify all of the fertilizer components, and verify that all components are registered. If any components are not registered, then the application must include the concentration of each metal subject to the Canadian standards.

Beginning July 1, 1999, the Department of Agriculture must obtain written approval from the Department of Ecology before a waste-derived fertilizer is registered to certify that use of the fertilizer is consistent with the Solid Waste Management Act, the Hazardous Waste Management Act, and the federal Resource Conservation and Recovery Act. If standards in the state dangerous waste regulations are more stringent than the Canadian metals standards or the standards adopted by the Department of Agriculture by rule, the more stringent standards apply. The decision of the Department of Ecology may be appealed to the Pollution Control Hearings Board.

The label of any commercial fertilizer must include information required by the Department of Labor and Industries hazard communication rules, and a statement that the product has been registered with the Washington State Department of Agriculture and meets the Washington standards for heavy metals. Information regarding the components of all commercial fertilizers must be made available on the Internet by the Department of Agriculture. The product label must include the department's Internet address.

A commercial fertilizer is adulterated if a constituent in a sample exceeds the maximum concentration stated on the registration application or the label.

**Registration Fees:** The registration fee for fertilizers is \$25 per product.

**Penalties:** Any person who fails to comply with the fertilizer regulations may be subject to a fine of not more than \$7,500 for each violation. Money collected as fines must be deposited in the general fund.

**Soil Amendments:** Soil amendments are defined as substances intended to improve the physical characteristics of the soil, not including composted material or certain fertilizers. Waste-derived soil amendments are soil amendments derived from solid waste, but do not include biosolids or wastewater. Waste-derived soil amendments that meet the Canadian metals standards may apply for an exemption from solid waste permitting requirements to the Department of Ecology. The department must take comment from the local health department, and make a final decision on the application within 90 days. The department may revoke an exemption at any time if the quality or use of the waste-derived soil amendment changes or presents a threat to human health or the environment. The decision of the Department of Ecology may be appealed to the Pollution Control Hearings Board.

**Information and Study:** The Department of Agriculture must expand its fertilizer database to include additional information on waste-derived products. Information in the database must be made available to the public upon request. The Department of Agriculture, in consultation with the Departments of Ecology and Health, must prepare a biennial report to the Legislature on levels of nonnutritive substances in fertilizers. The first report is due December 1, 1999.

The Department of Agriculture, in cooperation with the Departments of Ecology and Health, must conduct a comprehensive study of plant uptake of metals. A report of the results of the study must be submitted to the Legislature by December 31, 2000.

The Department of Ecology, in cooperation with the Departments of Agriculture and Health, must undertake a study of whether dioxins occur in fertilizers, soil amendments, and soils, and if so, at what levels. The department must report its findings to the Legislature in November 1998.

**Votes on Final Passage:**

Senate	38	11	
House	73	24	(House amended)
Senate	35	11	(Senate concurred)

**Effective:** June 11, 1998

**SB 6483**

C 18 L 98

Authorizing the transfer of enforcement of cigarette and tobacco taxes to the liquor control board.

By Senator West.

Senate Committee on Ways & Means  
House Committee on Commerce & Labor

**Background:** ESHB 2272 (Chapter 420, Laws of 1997) transferred the enforcement authority for cigarette and tobacco taxes to the Liquor Control Board. The Governor vetoed the authority to negotiate compacts with Indian tribes and a required schedule of collections. In vetoing the schedule, the Governor was required to veto the entire section. That section also required the board to enforce the cigarette and tobacco tax laws and expanded the duties of liquor enforcement officers to include the enforcement of the cigarette and tobacco tax laws.

**Summary:** The Liquor Control Board must enforce the cigarette and tobacco tax laws, and the duties of liquor enforcement officers are expanded to include the enforcement of the cigarette and tobacco tax laws.

**Votes on Final Passage:**

Senate	47	0
House	93	2

**Effective:** June 11, 1998

**SSB 6489**

C 19 L 98

Specifying that there will be no primary for a district court position when there are no more than two candidates filed for the position.

By Senate Committee on Government Operations (originally sponsored by Senators McCaslin, Long, Hargrove, Fairley, Goings, Hale, Kline, Thibaudeau, Prince, Patterson, Winsley, Kohl, Oke and Haugen).

Senate Committee on Government Operations  
House Committee on Government Administration

**Background:** No primary is held for any position in any city, town or special purpose district if there are no more than two candidates for the position. No primary is held for the office of commissioner of a park and recreation district or for the office of cemetery district commissioner.

Even if only one candidate files for a position, a primary is held for offices of Superintendent of Public Instruction, judge of the Supreme Court, judge of the Court of Appeals, judge of the superior court (in a county with a population under 100,000) and judge of the district court.

**Summary:** No primary is held for the office of judge of the district court if there are no more than two candidates filed for the position.

**Votes on Final Passage:**

Senate	43	0
House	95	0

**Effective:** June 11, 1998

**ESSB 6492**

C 270 L 98

Creating two new superior court positions for Yakima county.

By Senate Committee on Law & Justice (originally sponsored by Senators Newhouse, Deccio, Johnson, Loveland and McCaslin; by request of Board for Judicial Administration).

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

**Background:** Current law authorizes six superior court judge positions in Yakima County. The weighted caseload analysis performed by the Office of the Administrator for the Courts revealed Yakima County's judicial caseload supports 13.8 judicial positions. The Board of Yakima County Commissioners has requested that the statute be amended to authorize eight superior court judges in Yakima County.

**Summary:** The number of judges in Yakima County is increased from six to eight. The number of judges in Clark County is increased from seven to eight. The number of judges in Lewis County is increased from two to three. In each case, the new positions take effect immediately, but upon request of the superior court, the county commissioners may set the actual starting date for the positions.

The five judicial positions (three of which are currently filled) that are authorized in the Chelan County and Douglas County joint superior court are reallocated. Four positions are authorized in Chelan County and one position is authorized in Douglas County. The three currently filled positions are allocated to Chelan County effective upon the appointment of a judge in Douglas County to one of the unfilled positions. The remaining unfilled position is allocated to Chelan County. The two authorized, but currently unfilled, positions become effective only if each of the counties through its legislative authority documents its approval of the new position and agrees to pay the expenses of the position as provided for by state law.

**Votes on Final Passage:**

Senate	47	0	
House	97	0	
House	96	0	(House reconsidered)

**Effective:** April 1, 1998

**ESSB 6497****FULL VETO**

Taking private property.

By Senate Committee on Government Operations (originally sponsored by Senators McCaslin, T. Sheldon, Anderson and Oke).

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

**Background:** The Supreme Courts of the United States and Washington have established standards for determining unconstitutional takings of private property. Under the Growth Management Act, the state Attorney General must provide state agencies and local governments with a process for assuring that their regulatory or administrative actions do not result in unconstitutional takings.

**Summary:** For any regulatory action concerning private real property which requires a public hearing, government must address the Attorney General's guidelines in the hearing and prepare written findings and conclusions about unconstitutional takings.

# SSB 6507

## Votes on Final Passage:

Senate	32	17	
House	64	31	(House amended)
Senate	29	14	(Senate concurred)

## VETO MESSAGE ON SB 6497-S

April 2, 1998

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. 6497 entitled:

"AN ACT Relating to the taking of private property;"

Under current law the Attorney General has adopted guidelines for use by state agencies and local governments in evaluating whether proposed actions constitute an unconstitutional taking of private property, when they are planning under the Growth Management Act (GMA). ESSB 6497 would require state agencies and local governments to address the Attorney General's guidelines and make written findings and conclusions as to whether a proposed action may result in an unconstitutional taking.

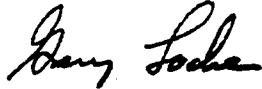
State and local governments are already required to comply with the state and federal constitutions and are subject to judicial correction if their actions result in unconstitutional takings.

Though well intended, ESSB 6497 would impose unreasonable administrative obligations on local and state governments and imply significant additional legal costs. In return it would make no improvement in the protection of private property rights.

Addressing the fundamental importance of property rights under the GMA remains very important to me. I remain committed, however, to supporting efficient and effective administration of land use law by local and state governments. ESSB 6497 does not create better decision-making or more sophisticated constitutional analysis.

For these reasons, I have vetoed Engrossed Substitute Senate Bill No. 6497 in its entirety.

Respectfully submitted,



Gary Locke  
Governor

## SSB 6507

C 20 L 98

Eliminating the expiration of the state cosmetology, barbering, esthetics, and manicuring advisory board.

By Senate Committee on Government Operations (originally sponsored by Senators Wood, Haugen, Oke, Heavey, Swecker, Prentice, Schow, Wojahn, Long, Loveland, Hale, Kline, West, Patterson, Snyder, Goings, Jacobsen, Spanel, Fairley, Fraser, McAuliffe, Brown and Kohl).

Senate Committee on Government Operations  
House Committee on Government Administration

**Background:** Prior to 1995, the state Cosmetology Board consisted of seven members appointed by the Director of

the Department of Licensing. One member is a consumer while the rest are connected with the professions of manicuring, esthetics, barbering and cosmetology. In 1995, the board received two more members and was scheduled to cease to exist on June 30, 1998. The enlarged board was to conduct a thorough review of all aspects of the professions and report to the Governor, the Director of the Department of Licensing and the House and Senate.

**Summary:** The nine-member board is retained. The board's expiration date is removed.

## Votes on Final Passage:

Senate	45	0
House	94	0

Effective: June 11, 1998

## E2SSB 6509 PARTIAL VETO

C 271 L 98

Requiring training for reading instruction.

By Senate Committee on Ways & Means (originally sponsored by Senators Hochstatter, Benton, Zarelli, Rossi, Swecker, Deccio, Johnson, Oke, McCaslin, Stevens, Morton, Roach and Schow).

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

**Background:** Since 1995, the Legislature has proposed and passed legislation to improve student learning by focusing on reading skills. Some research has shown that providing teachers with sufficient information on the skills of their students and providing training for teachers in effective instructional methods can improve students' skills. In 1997, the Legislature required the Superintendent of Public Instruction to identify a collection of tests to measure second grade reading accuracy and fluency. Pilot projects were authorized to use the tests and grants were provided to enhance reading instruction.

**Summary:** The Successful Readers Act is created. Schools may apply to the Superintendent of Public Instruction (SPI) for funds to provide the following: (1) training and materials in beginning reading instructional strategies; and (2) volunteer tutoring and mentoring reading programs. Teachers participating receive a stipend.

To the extent funds are appropriated, elementary schools may apply for funds to provide training and materials for teachers who teach kindergarten through second grade. Funds may also be used to provide training and materials for school principals and K-2 classroom volunteers. The application for funds must verify that the training and materials have a primary emphasis on specified beginning reading instructional strategies, that the

funds will not be used for intervention or remediation programs, and that a public or private contractor will provide the training.

To the extent funds are appropriated, elementary schools may apply for funds to provide volunteer tutoring and mentoring reading programs in kindergarten through sixth grade. The programs must provide training for teachers and volunteer tutors and mentors in effective reading strategies, training for teachers in the effective use of classroom volunteers, a goal for a minimum number of hours of individual student instruction during normal school hours or vacation periods, and a plan to assess student reading performance before and after participating in the program. The student assessment results must be reported to SPI. SPI must make an initial report to the Legislature on the effectiveness of the programs by March 1, 1999, and a final report by December 1999.

By April 15, 1998, SPI must notify all school districts that the funds for both programs are available. By June 1, 1998, SPI must make initial awards to applicants. Applications received before June 1, 1998, from schools that have the greatest number of students not meeting the state-wide standard on the fourth grade assessment in reading, or scoring lowest on the reading component of the state-wide standardized test, receive priority for funding. After June 1, 1998, funds are awarded on a first-come, first-served basis. Schools receiving funds must certify and document that the funds were spent in accordance with the funding requirements. Schools that received funds under the 1997 second grade test collection pilot and grant program are not eligible to receive the funds provided under this act.

#### Votes on Final Passage:

Senate	25	24	
House	60	38	(House amended)
Senate	29	20	(Senate concurred)

**Effective:** April 1, 1998

**Partial Veto Summary:** The title of the act, "The Successful Readers Act," and the null and void clause are vetoed.

#### VETO MESSAGE ON SB 6509-S2

April 1, 1998

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, Engrossed Second Substitute Senate Bill No. 6509 entitled:

"AN ACT Relating to training in reading instruction;"

E2SSB 6509 creates two separate reading improvement grant programs for the remainder of this biennium. First, the Washington Reading Corps will receive grants for volunteer tutoring and mentoring programs in elementary school reading; and second, grants will provide optional training and materials in reading strategies for kindergarten through second grade teachers.

I am very pleased that the Legislature chose to enact the Washington Reading Corps, which I proposed prior to the 1998

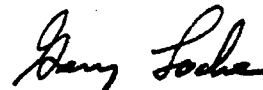
legislative session. I would have preferred a more expansive program, but this is a good start. Each legislator sought to improve our students' reading abilities and I am thankful that the mandates for certain reading strategies are no longer included in this measure. I am, however, disappointed that the Reading Resource Centers championed by Superintendent of Public Instruction Terry Bergeson are not a part of this legislation.

This act is temporary in nature, and section 3 would give it a title. Names should not be given to acts that are designed to last only a single biennium. Section 4 contains a "null and void clause" which is moot.

For these reasons, I have vetoed sections 3 and 4 of Engrossed Second Substitute Senate Bill No. 6509.

With the exception of sections 3 and 4, Engrossed Second Substitute Senate Bill No. 6509 is approved.

Respectfully submitted,



Gary Locke  
Governor

#### SSB 6518

C 242 L 98

Increasing the degree of rape when the perpetrator incapacitates the victim.

By Senate Committee on Law & Justice (originally sponsored by Senators Roach, Benton, Long, Oke, Zarelli, Rossi, Sellar, Snyder, Johnson, Horn, McDonald, Hale, Strannigan, McCaslin, Prentice, Schow, Fraser, Deccio, Swecker, Morton, Goings, Bauer, Rasmussen and Haugen).

Senate Committee on Law & Justice

House Committee on Criminal Justice & Corrections

**Background:** Rape in the first degree is committed by a person who engages in sexual intercourse by forcible compulsion where the rapist or an accessory uses a deadly weapon or what appears to be a deadly weapon, kidnaps the victim, inflicts serious physical injury, or feloniously enters a building or vehicle where the victim is located. Rape in the first degree is a class A felony and "strike" under the persistent offender provisions. Rape in the first degree is sentenced at level XII (93 to 123 months for a first offense). Offenders are not eligible for the Special Sex Offender Sentencing Alternative.

It has been proposed that when a perpetrator renders the victim incapable of consent through some action, it would be more appropriate to consider the offense rape in the first degree.

**Summary:** Rendering a person unconscious through physical injury is included as a serious physical injury for the purposes of rape in the first degree.

# ESSB 6533

## Votes on Final Passage:

Senate	48	0	
House	98	0	(House amended)
Senate	49	0	(Senate concurred)

Effective: June 11, 1998

## ESSB 6533 PARTIAL VETO

C 333 L 98

Providing property tax exemptions and deferrals for senior citizens and persons retired for reasons of physical disability.

By Senate Committee on Ways & Means (originally sponsored by Senators Strannigan, Anderson, Long, Schow, Wood, Finkbeiner, Benton, Roach, West, Stevens, Winsley, Hale, Oke, Patterson and Heavey).

Senate Committee on Ways & Means  
House Committee on Finance

**Background:** Senior citizens and persons who are retired from regular employment because of physical disability are eligible for property tax relief on their personal residences.

If the person is at least 60 years old or is retired from regular employment because of physical disability, and the person's disposable household income is \$34,000 or less, the person is entitled to defer any property taxes and special benefit assessments imposed on the property. The deferral program generally applies to the residence and one acre of land but is increased to up to five acres of land if zoning requires this larger parcel size.

If the person is at least 62 years old or is retired from regular employment because of physical disability, and the person's disposable household income is \$28,000 or less, the person is also entitled to a limit on the value of the residence and a partial property tax exemption. Application can be made in the year the person reaches the age of 61. The valuation limit and exemption apply to the residence and up to one acre of land on which it is situated.

The valuation of the residence is frozen at the assessed 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.

Partial exemptions for senior citizens and persons retired due to disability are provided as follows:

- If the income level is \$18,001 to \$28,000, all excess levies are exempted.
- If the income level is \$15,001 to \$18,000, all excess levies are exempted and regular levies on the greater of \$30,000 or 30 percent of assessed valuation (\$50,000 maximum) are exempted.
- If the income level is \$15,000 or less, all excess levies are exempted and regular levies on the greater of

\$34,000 or 50 percent of assessed valuation are exempted.

Qualification for the program is based on disposable household income. Disposable household income is the disposable income of the person claiming the exemption, the person's spouse, and any other person residing in the residence who has an ownership interest in the residence. Disposable income includes federal adjusted gross income plus the following if not already included: capital gains, deductions for loss, depreciation, pensions and annuities, military pay and benefits, veterans benefits, Social Security benefits, dividends, and interest income.

Excluded from disposable household income are payments for the treatment or care of either spouse in the home or in a nursing home and expenditures for prescription drugs. Also excluded from disposable household income are capital gains from the sale of a principal residence if the gains are not subject to federal income tax under the \$250,000 exclusion for the sale of a principal residence, but only to the extent the money is reinvested in a new principal residence.

**Summary:** A deduction is authorized from disposable household income for health care insurance for either person and for veterans' benefits for disabilities related to military duty. The parcel size limit for the exemption program is increased from one acre up to five acres if zoning requires the larger size. In addition, the income levels for eligibility for the exemption program and the exemption amounts are increased as follows:

- If the income level is \$24,001 to \$30,000, all excess levies are exempted.
- If the income level is \$18,001 to \$24,000, all excess levies are exempted and regular levies on the greater of \$40,000 or 35 percent of assessed valuation (\$60,000 maximum) are exempted.
- If the income level is \$18,000 or less, all excess levies are exempted and regular levies on the greater of \$50,000 or 60 percent of assessed valuation are exempted.

The act applies to taxes payable in 1999 and thereafter.

## Votes on Final Passage:

Senate	48	0	
House	94	0	(House amended)
Senate	46	0	(Senate concurred)

Effective: June 11, 1998

**Partial Veto Summary:** The deductions for health care insurance and veterans' disability payments and the parcel size increase are vetoed.

## VETO MESSAGE ON SB 6533-S

April 3, 1998

To the Honorable President and Members,  
The Senate of the State of Washington

Ladies and Gentlemen:

I am returning herewith, without my approval as to sections 2 and 3 of Engrossed Substitute Senate Bill No. 6533 entitled:

"AN ACT Relating to property tax exemptions and deferrals for senior citizens and persons retired for reasons of physical disability;"

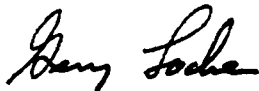
*In order to make property tax exemptions available to more of our senior citizens, ESSB 6533 raises the income levels below which a senior's income must be to qualify for the exemption. Under the bill, if a senior's annual income is \$18,000 or less, the senior is exempted from all excess levies and regular levies on the greater of \$50,000 or 60% of assessed valuation. For seniors with annual income of \$18,001 to \$24,000, the exemption is from all excess levies and regular levies on the greater of \$40,000 or 35% of assessed valuation. All seniors with annual income below \$30,000 are exempted from all excess levies. The income limit to qualify for the property assessment freeze is raised from \$28,000 to \$30,000.*

*I strongly support these increases to help our senior citizens cope with rising property values. However, section 2 of the bill would allow health care insurance and veterans' military disability benefits to be deducted from the calculation of disposable income. This disability provision would create a special and preferred source of income since other disabled seniors would not qualify. It would also represent a precedent that others would likely seek in the future. Section 2 also would change the definition of residence to include land up to five acres, if local land use regulations require. Section 3 of the bill contained a technical change in the definition of residence required by the amendment in section 2.*

*For these reasons, I have vetoed sections 2 and 3 of Engrossed Substitute Senate Bill No. 6533.*

*With the exception of sections 2 and 3, Engrossed Substitute Senate Bill No. 6533 is approved.*

*Respectfully submitted,*



Gary Locke  
Governor

## SSB 6535

C 197 L 98

Providing for electronic transfer of criminal justice information.

By Senate Committee on Law & Justice (originally sponsored by Senators Horn, Patterson, Haugen, Hale and Oke; by request of Washington State Patrol).

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

**Background:** The Justice Information Act was adopted in 1984 to provide timely and accurate criminal histories, to identify and track felons, and to provide data for state-wide planning and forecasting. The goal of the project is to transition all 39 counties from the current manual process to an electronic system.

Currently, only county prosecutors report felony-level disposition information to the State Patrol, providing a link between an arrest and disposition. The transmittal of information is done manually and must be keyed in at the State Patrol. The lag time is several weeks.

**Summary:** The statutory authority necessary to allow county prosecutors and courts to submit arrest dispositions information electronically to the State Patrol's Identification and Criminal History Section is provided. Additionally, the superior court is allowed to share the reporting responsibility in counties where electronic submission procedures have been implemented.

### Votes on Final Passage:

Senate	47	0
House	88	0

**Effective:** June 11, 1998

## SB 6536

C 334 L 98

Prescribing employer obligations to furnish wearing apparel.

By Senators Horn, Heavey, Schow, Snyder, Goings, McDonald, Benton, Winsley, Oke and Haugen.

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

**Background:** The Department of Labor and Industries is authorized by statute to adopt rules establishing employment standards for the protection of the safety, health, and welfare of employees and ensuring that wages satisfy the minimum wage prescribed by state law.

In early 1997, the department issued rules stating that employers who require employees to furnish uniforms or clothing with an employer designated logo, style or color (with no other color options allowed) must reimburse employees for such apparel when the cost of the clothing reduces the employee's wage rate below the state minimum wage in any payroll week. In addition, employers must pay the costs to maintain (professionally clean or repair) uniforms when such costs would reduce the employee's wage below the state minimum wage. This provision does not apply to uniforms that are "wash and wear."

**Summary:** If an employer requires an employee to wear a uniform, the employer must furnish or compensate the employee for such apparel.

A uniform is defined as: apparel of a distinctive style and quality that when worn outside the workplace clearly identifies the person as an employee of a specific employer; apparel that is marked with an employer's logo; unique apparel representing a historical time period or ethnic tradition; or formal apparel.

An employer is not required to furnish or compensate an employee for wearing apparel of a common color that conforms to a general dress code or style. "Common colors" are defined. An employer is permitted to require an employee to obtain two sets of wearing apparel to reflect

## SB 6539

the seasonal changes in weather that necessitate a change in wearing apparel.

If an employer changes the color or colors of the apparel required to be worn by any of his or her employees during a two-year period of time, the employer must furnish or compensate the affected employee or employees for the wearing apparel.

The department is authorized to utilize negotiated rule-making to develop and adopt rules that define apparel that conforms to a general dress code or style. This rule-making authority expires January 1, 2000.

Personal protective equipment required for employee protection under the Washington Industrial Safety and Health Act (WISHA) is not defined as employee wearing apparel.

The provisions of the act do not alter the terms, conditions, or practices contained in an existing collective bargaining agreement in effect at the time this bill becomes law until such agreement expires.

### Votes on Final Passage:

Senate	48	0
House	97	0

Effective: June 11, 1998

## SB 6539

C 126 L 98

Making technical changes regarding designations for liquor licenses.

By Senators Schow and Heavey; by request of Liquor Control Board.

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

**Background:** In 1997, legislation was adopted establishing a new system for defining the various types of liquor licenses issued by the state. This legislation takes effect on July 1, 1998. Two new liquor licenses called the "full service restaurant" license and "limited service restaurant" license were established as part of last year's legislation. The full service license allows the sale of beer, wine and spiritous liquor. The limited service license allows the sale of beer and wine. Concerns have been raised regarding the less than specific nature of these licensing designations and the confusion that might arise from such designations.

**Summary:** Modifications are made to the designations for liquor licenses issued to restaurants. A "full service restaurant" license is changed to a "spirits, beer and wine restaurant" license. The "limited service restaurant" license is changed to a "beer and wine restaurant" license.

Changes are made to the license designation for wholesalers and brewers.

### Votes on Final Passage:

Senate	48	0	
House	97	0	(House amended)
Senate			(Senate refused to concur)
House	98	0	(House receded)

Effective: July 1, 1998

## SB 6541

C 299 L 98

Funding tourism development.

By Senators Sellar, Snyder, Schow, Hale, Haugen and Kohl; by request of Department of Community, Trade, and Economic Development.

Senate Committee on Commerce & Labor  
House Committee on Appropriations

**Background:** During 1997, the Department of Community, Trade, and Economic Development produced a report highlighting the following information:

- Travel-related spending in Washington totaled approximately \$9.1 billion and generated \$1.9 billion in payroll and directly supported 124,400 jobs in 1997.
- Since 1991 travel spending has grown an estimated 4.9 percent annually.
- The largest proportions of travel-related expenditures were made by visitors staying in commercial accommodations such as hotels, motels and bed and breakfast establishments.
- Travel spending generated approximately \$161 million in local tax revenue and \$464 million in state revenue.

In addition, other recent reports on tourism in Washington have outlined the need for: (1) the establishment of a tourism advisory committee; and (2) the development of a consistent mechanism to determine the appropriate level of state funding for tourism development activities.

**Summary:** A tourism development advisory committee is created within the Department of Community, Trade, and Economic Development. The committee is comprised of members of the House of Representatives and the Senate, along with representatives of the travel industry from throughout the state. The committee is directed to review and comment on the department's tourism development plan and the performance of its other tourism development activities.

The department is directed to establish a tourism budget development process that includes the following administrative steps prior to being submitted and acted upon by the Office of Financial Management (OFM), the Governor or the Legislature. This internal agency process includes the following:

1. Identify the sales tax receipts for certain tourism-related industries. These industries include lodging, eating,

and drinking establishments, recreation and auto rental businesses.

2. Calculate the increase in the amount of the specified sales tax receipts in these areas between the period four years prior to the biennium and the period two years prior to the biennium. If no increase is identified, then no additional funding request is submitted to OFM or the Legislature;
3. If the biennial growth exceeds 6 percent, one-half of the tax receipts of the growth above 6 percent becomes the additional level of funding requested by the department;
4. The proposed increases in funding due to the growth driven formula is limited to \$2 million per year.

The tourism budget development process terminates on June 30, 2008.

The department must report to the Legislature on an annual basis regarding the agency's impact on tourism in Washington.

**Votes on Final Passage:**

Senate	43	0	
House	97	0	(House amended)
Senate			(Senate refused to concur)
House			(House refused to recede)
Senate			(Senate concurred in part)
House	98	0	(House receded in part)
Senate	47	0	

**Effective:** July 1, 1998

**2SSB 6544**  
**PARTIAL VETO**  
**C 272 L 98**

Providing for adult family home and boarding home training.

By Senate Committee on Ways & Means (originally sponsored by Senators Deccio, Franklin, Wood, Wojahn and Winsley).

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

**Background:** There are over 27,000 elderly and disabled residents living in boarding homes and adult family homes in Washington State. These facilities provide room and board and an array of services ranging from personal care to limited nursing care. Residents have a range of health care needs, including conditions which leave them frail, confused, and otherwise vulnerable.

Currently, care givers in adult family homes and some boarding homes are required to have a minimum of 22 hours of training in infection control, first aid, and residents' rights. Care givers in homes where there are

residents with dementia, developmental disabilities or mental illness are not required to have any specific training related to caring for these special populations.

**Summary:** The Department of Health (DOH), the Department of Social and Health Services (DSHS), the Nursing Care Quality Assurance Commission and representatives of other long-term care services must meet with boarding home and adult family home providers and resident groups to develop recommendations on training standards for care givers and administrators in adult family homes and boarding homes, and in-home care providers. Their report is due to the Legislature by December 1, 1998.

The proposal must include recommended training standards for both administrators and staff serving residents with a diagnosis of dementia, mental illness or developmental disability. Training recommendations must take into account the following factors: availability and affordability of training; potential costs to DSHS and private providers; what types of training could transfer; competency testing; and practical and clinical coursework.

Disclosure language requires all facilities receive a full assessment of the health condition of each resident before admission. Specific required information is defined. These assessments are required before admission except in cases of emergency placements.

Facilities must also fully disclose to potential residents what items and activities they are capable of arranging. Facilities must also inform each resident in advance of changes in services, charges for services, or changes in the facility's rules. Facilities with six or fewer residents may make changes with a 14-day notice.

The Division of Developmental Disabilities (DDD) must also conduct a study of current administrator and resident care givers' training for specified programs and make recommendations to coordinate all training. The DDD study must consider training standards for everyone, not just licensees. Training standards for all facilities must be considered, not just those with special populations. DSHS is given lead responsibility for coordinating the study.

An adult family home advisory committee is authorized. The committee is made up of six members, two resident advocates, three adult family home providers, and one public member. They are appointed by the Secretary of Health.

Nurses who delegate specific tasks in long-term care settings need only get one written consent. Nurses are given discretion in how they evaluate the competency of nursing assistants. DSHS may levy fines for violations of nurse delegation procedures, but the agency is not required to. The Joint Select Committee on Nurse Delegation is extended for one more year.

All regulatory powers and duties of boarding homes are transferred to the Department of Social and Health Services from the Department of Health. DOH transfers



all appropriations and fees to carry this out. No collective bargaining contracts are altered by this transfer.

A joint legislative and executive task force on long-term care is established. The Governor appoints seven members, including representatives of DOH, DSHS, the state Long-Term Care Ombudsman, two members of the Senate and two members from the House. The task force may hold public hearings. Its duties include: conducting a review of all long-term care quality and safety standards; a review of the need for reorganization and reform of long-term care services; recommending ways to establish a single point of entry for all long-term care clients; and other evaluation of long-term care standards. The task force must report its findings to the Governor in January and December 1999. The sum of \$50,000 is appropriated to fund this task force.

All residents of boarding homes and adult family homes who are bed bound continuously for longer than 10 days must see a licensed practitioner who will assess the resident's medical condition. Should the resident continue to be bed bound for longer than 10 days, contact with a licensed practitioner is required every 30 days. These requirements do not apply for residents who are receiving hospice service. A licensed practitioner is defined as a physician, physician assistant, registered nurse, advanced registered nurse practitioner, or osteopathic physician.

**Votes on Final Passage:**

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

**Conference Committee**

House	96	2	
House	95	3	(House reconsidered)
Senate	43	3	

**Effective:** April 1, 1998  
June 11, 1998 (Section 5)

**Partial Veto Summary:** Provision of the bill are vetoed which specify when residents of boarding and adult family homes who become bed bound must be seen by a licensed practitioner, and which define those practitioners and their duties.

**VETO MESSAGE ON SB 6544-S2**

*April 1, 1998*

*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 18, 19, 20 and 21, Second Substitute Senate Bill No. 6544 entitled:*

*"AN ACT Relating to improving long-term care;"*

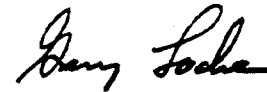
*2SSB 6544 takes care of many issues dealing with adult family homes, boarding homes and long-term care, and, most importantly, transfers the oversight of boarding homes from the Department of Health to the Department of Social and Health Services. This is well-conceived and ambitious legislation, and will go far toward ensuring the safety and quality of care for residents of our adult family and boarding homes.*

*Sections 18, 19, 20, and 21 would specify when residents of boarding and adult family homes who become bedbound as the result of illness must be seen by a licensed practitioner, and define those practitioners and their duties. While I agree with the intentions of those sections, they would conflict with current patients' rights to refuse treatment and to maintain their preferred residences. Also, those sections are unclear as to provider and resident responsibilities when disagreements arise from such conflicts. Additionally, the impact on people's abilities to pay for additional service has not been analyzed. Before implementing changes in care requirements, additional comment needs to be sought from residents, families and all interested parties, as well as the joint task force created by this bill.*

*For these reasons, I have vetoed sections 18, 19, 20 and 21 of Second Substitute Senate Bill No. 6544.*

*With the exception of sections 18, 19, 20 and 21, Second Substitute Senate Bill No. 6544 is approved.*

*Respectfully submitted,*



*Gary Locke  
Governor*

**SSB 6545  
FULL VETO**

Providing full funding for the impaired physician program.

By Senate Committee on Health & Long-Term Care (originally sponsored by Senators Wood, Wojahn, Rasmussen, Benton, Fairley, Strannigan and Hale).

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

**Background:** The Department of Health collects up to \$25 from a physician's annual licensing fee to fund an impaired physician program. The impaired physician program helps physicians and physician assistants with substance abuse and mental illness. The funds are deposited into a health professions account, which is subject to legislative appropriation. The present statute requires that the surcharge must be used solely for the implementation of the impaired physician program.

**Summary:** An annual surcharge on licensing fees for physicians and physician assistants must be deposited into a new nonappropriated account designated the impaired physician account. As a special nonappropriated account, all of the funds in the account may be spent without appropriation from the Legislature. The surcharge amount is \$25. Other health care providers may contract with the impaired physician program.

The impaired physician program has statutory immunity for its activities.

The physician licensing commission is authorized to contract for up to six years with an entity to provide impaired physician programs.

The term "impaired" is redefined to require that a condition cause an inability to practice medicine with reasonable skill and safety to patients.

The scope of the impaired physician program is broadened to include treatment and assessment of reports of suspected impairment.

Impaired practitioner programs and voluntary substance abuse monitoring programs must report suspected or verified impairment to the physician licensing commission, as well as accept complaints of suspected or verified impairment.

The impaired physician program is given authority to select treatment programs for its patients.

There is a provision encouraging courts to sanction persons alleging impairment in bad faith and without reasonable grounds.

#### Votes on Final Passage:

Senate	46	0
House	94	3

#### VETO MESSAGE ON SB 6545-S

March 25, 1998

To the Honorable President and Members,  
The Senate of the State of Washington

Ladies and Gentlemen:

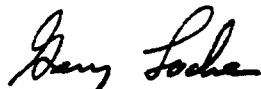
I am returning herewith, without my approval, Substitute Senate Bill No. 6545 entitled:

"AN ACT Relating to treatment programs for impaired physicians;"

Substitute Senate Bill No. 6545 is identical to Second Substitute House Bill No. 1618, which I signed today.

For this reason, I have vetoed Substitute Senate Bill No. 6545 in its entirety.

Respectfully submitted,



Gary Locke  
Governor

#### SSB 6550

C 243 L 98

Certifying chemical dependency professionals.

By Senate Committee on Health & Long-Term Care (originally sponsored by Senators Deccio, Wojahn, Wood and Fairley).

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

**Background:** Under current law, chemical dependency counselors can be registered as counselors in Washington State. They are therefore subject to the state's disciplinary process for health care practitioners under the Uniform Disciplinary Act. If they work in treatment programs cer-

tified by the Department of Social and Health Services, they are also required to meet the state's chemical dependency program requirements.

Private certification is available through two private chemical dependency counselor certification boards in the state.

Chemical dependency counselors cannot be registered, certified or licensed as chemical dependency counselors. They seek certification to consolidate regulation at the state level and obtain recognition in their area of expertise. This matter was referred to the Sunrise program with the Department of Health rendering recommendations in 1995. The recommendation was "certification should not be enacted."

**Summary:** Persons practicing chemical dependency counseling can identify themselves as certified chemical dependency professionals if they meet certain certification requirements. Certified chemical dependency professionals can only use their title in conjunction with their work in department recognized programs. Chemical dependency counseling means employing the core competencies of chemical dependency counseling to assist or attempt to assist an alcohol or drug addicted person to develop and maintain abstinence from alcohol and other mood altering drugs.

Certification can be obtained if an applicant pays a fee, passes an examination, and meets education and experience requirements established by a Chemical Dependency Certification Advisory Committee.

The Chemical Dependency Certification Advisory Committee is comprised of seven persons. Four committee persons must be certified chemical dependency professionals; one must be a registered chemical dependency treatment program director; one must be a licensed physician certified in addiction medicine or a certified mental health practitioner; and one must be a member of the public who has received chemical dependency counseling.

Applicants who have higher levels of relevant education may be certified with fewer hours of experience. Advanced registered nurse practitioners and licensed counselors may not be required to have more than 1,500 hours of experience in chemical dependency counseling, and for a two-year period from the time the act takes effect, they may not have to take the examination.

#### Votes on Final Passage:

Senate	46	1	
House	97	0	(House amended)
Senate	44	4	(Senate concurred)

**Effective:** July 1, 1998

July 1, 1999 (Sections 3, 9, 13 & 14)

**SB 6552**

C 335 L 98

Concerning the ad valorem taxation of vessels or ferries.

By Senators Strannigan and Bauer; by request of Department of Revenue.

Senate Committee on Ways & Means  
House Committee on Finance

**Background:** All real and personal property in this state is subject to the property tax each year based on its value unless a specific exemption is provided by law.

Real property lying wholly within individual county boundaries is assessed based on its value by the county assessor. Intercounty, interstate, and foreign utility and transportation companies are assessed based on their value by the Department of Revenue. Property assessed by the Department of Revenue is referred to as state-assessed or centrally assessed property.

Property taxes are imposed on the assessed value of property. Current law requires the assessment to equal 100 percent of the fair market value of the property on July 31 of the assessment year for new construction and on January 1 of the assessment year for all other property.

For property tax purposes, the valuation of steamship companies is different from all other commercial vessels. Steamships are valued under the public utility statutes. All other commercial vessel companies are treated under separate statutes. Unlike most property owners, steamship companies and other commercial vessels pay only the state property tax. They pay no local property tax.

**Summary:** The separate valuation of steamships is eliminated. Steamships are treated like all other commercial vessels for property tax purposes.

**Votes on Final Passage:**

Senate	47	0
House	94	0

**Effective:** January 1, 1999

**ESSB 6560**

**PARTIAL VETO**

C 300 L 98

Protecting the rights of consumers of electric power.

By Senate Committee on Energy & Utilities (originally sponsored by Senators Brown, Jacobsen, T. Sheldon, Kohl, Hargrove, Fairley, B. Sheldon, Prentice, Wojahn, Loveland, Thibaudeau, McAuliffe, Heavey, Spanel, Snyder, Rasmussen, Haugen, Patterson and Franklin).

Senate Committee on Energy & Utilities  
House Committee on Energy & Utilities  
House Committee on Appropriations

**Background:** Currently, consumer protection requirements and remedies for retail electric customers differ depending on whether the utility providing service is a consumer-owned utility or an investor-owned utility.

Investor-owned utilities must comply with statutory consumer protection requirements and additional consumer protection policies established in rule by the Washington Utilities and Transportation Commission (WUTC). Current law and regulations address a number of consumer protection issues, including permissible methods for establishing customer credit histories, deposit requirements, payment plan options and disconnection policies, and metering practices.

Consumer-owned utilities are not subject to statutory consumer protection requirements, but instead may establish policies through their governing boards or commissions.

WUTC has jurisdiction to receive and resolve customer complaints only about investor-owned utilities.

Power marketers do not currently market electricity in Washington directly to residential or commercial retail electric customers because such customers do not have the ability to choose to receive their electricity from anyone other than their local utility.

Under some potential scenarios for deregulating or restructuring the retail electric industry, local utilities and power marketers would be able to market and sell their electricity directly to any retail customers located anywhere in the state. Concerns have been raised about the need for consumers to understand their rights regarding electricity supply and service and to be protected from potentially unfair and deceptive practices if the state restructures or deregulates the retail electricity industry.

Additional concerns have been raised about the potential impacts of deregulation or restructuring on cost-shifting by utilities between and among different customer classes, on the reliability of the state's electricity distribution systems, and on the quality of service provided to retail customers.

**Summary:** Retail electric customers have the right to receive specified disclosures from their electricity distribution utilities. Required disclosures include consumer protection policies and procedures and the utility's annual report containing specified information.

The consumer protection policies and procedures must include the following: (1) credit and deposit requirements; (2) rates and charges; (3) metering and measurement policies; (4) bill payment policies; (5) payment arrangement options; (6) disconnection notice requirements; (7) confidentiality policies for customer records; and (8) customer inquiry and complaint procedures.

A utility's annual report must include at least the following information: (1) number of customers by class and amount of electricity consumed by each class; (2) summary of average rates by class; (3) amount invested in

public purposes; and (4) taxes paid by the utility and its customers.

Notice that required disclosures are available upon request and without charge must be provided at the time service is established and at least once a year thereafter. Notice may be given by the utility as a prominent part of each customer's bill or in a separate mailing.

Utilities must identify on all customer billing statements, or by a separate written notice mailed quarterly, the various components of electricity service that customers are charged for as part of their bills, including electricity, distribution, metering, overhead, utility investments in conservation and non-hydro renewables, and federal, state, and local taxes.

The Washington Utilities and Transportation Commission (WUTC) and Department of Community, Trade, and Economic Development (CTED) are directed jointly to study the following issues: (1) retail electricity rates and costs in Washington; (2) demographics of retail electric customers; (3) cost-shifting; (4) consumer protection policies and procedures; (5) service territory agreements; (6) service quality and reliability; and (7) investments in public purposes. WUTC and CTED are directed to consult with the chairs and ranking minority members of the Senate and House Energy and Utilities Committees and other stakeholders during preparation of the study and report, and utilities are directed to cooperate in the preparation of the report. The report is due to the Legislature by December 31, 1998. The study provision is null and void if not specifically funded in the budget.

Small utilities are exempt from the requirements of the act but are encouraged to voluntarily comply.

Consumer-owned utilities are authorized to charge reduced rates to all low-income citizens served by the utility, rather than only those low-income citizens who are senior citizens or disabled.

#### Votes on Final Passage:

Senate	47	0	
House	98	0	(House amended)
Senate	48	0	(Senate concurred)

Effective: June 11, 1998

**Partial Veto Summary:** The Governor vetoed the null and void clause in section 9 and the emergency clause in section 12.

### VETO MESSAGE ON SB 6560-S

April 2, 1998

To the Honorable President and Members,  
The Senate of the State of Washington

Ladies and Gentlemen:

I am returning herewith, without my approval as to sections 9 and 12, Engrossed Substitute Senate Bill No. 6560 entitled:

"AN ACT Relating to retail electrical customers;"

ESSB 6560 establishes certain protections for consumers of electricity. It also, in section 5, directs the Washington Utilities and Transportation Commission and the Department of Community, Trade and Economic Development to jointly study sev-

eral important features of our current electric system and potential changes to our electric system.

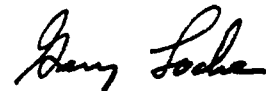
Section 9 of the bill is technically flawed. That section would nullify the study required by section 5, unless the Legislature funds the study in the budget and specifically references section 5 by section number. The legislature did in fact fund the study in the budget, but referenced only the bill number, not the section number. I believe the Legislature intended to fund the study, and my veto of section 9 will achieve that goal.

Section 12 contains an emergency clause that would have given immediate effect to the bill. Certain provisions of the bill obligate utilities to provide new customers with a list of policies and procedures. The utilities need some time to prepare that information. Without section 12, the bill will take effect on June 11, 1998, which allows adequate preparation time.

For these reasons I have vetoed sections 9 and 12 of Engrossed Substitute Senate Bill No. 6560.

With the exception of sections 9 and 12, Engrossed Substitute Senate Bill No. 6560 is approved.

Respectfully submitted,



Gary Locke  
Governor

### E2SSB 6562

#### PARTIAL VETO

C 345 L 98

Providing relief for the equine industry.

By Senate Committee on Ways & Means (originally sponsored by Senators Schow, Heavey, Rasmussen and Anderson).

Senate Committee on Commerce & Labor  
Senate Committee on Ways & Means

**Background:** Operators of horse racing events are licensed by the Horse Racing Commission. The parimutuel tax is a set percentage of the gross receipts or "handle" of all parimutuel (betting) machines at each horse racing event in the state. The parimutuel tax is levied in lieu of other business taxes and is deducted from the licensee's "take out" or gross profits from wagering.

**Parimutuel Tax:** For nonprofit licensees who run race meets of ten days or less and have a daily handle of \$120,000 or less, the parimutuel tax is one-half percent of the daily gross receipts of its parimutuel machines. The licensee retains 14.5 percent as gross profits from wagering and an additional 5 percent from exotic wagering.

For licensees who are for-profit and run race meets of more than ten days, the parimutuel tax is as follows:

1. On a daily handle of up to \$250,000, the parimutuel tax rate is 1.0 percent of the daily gross receipts of its parimutuel machines. The licensee retains 14.0 percent as gross profits from wagering and an additional 5 percent from exotic wagering; or
2. On a daily handle of more than \$250,000, the parimutuel tax rate is 2.5 percent of the daily gross receipts of

its parimutuel machines. The licensee retains 12.5 percent as gross profits from wagering and an additional 5 percent from exotic wagering.

**Distribution of Revenues:** Revenues from both the parimutuel tax and license fees are used to fund the operation of the Horse Racing Commission. In addition, these moneys are the major funding source for the state trade fair fund and the agricultural fair fund.

The state trade fair fund provides support for the participation of small and medium sized businesses in domestic and international trade fairs. Moneys are allocated by the nonprofit Trade Fair Board for costs associated with the participation of businesses in such fairs.

The state agricultural fair fund provides revenues to agricultural fairs sponsored by governmental entities or nonprofit organizations in this state. These fairs include youth shows (4-H and FFA), county fairs, community fairs, and area fairs. Moneys are distributed by the Director of the Department of Agriculture based on the recommendation of a seven-member fair commission.

Currently, the revenues from the parimutuel tax and license fees are distributed in the following manner:

Horse Racing Commission	50%
State General Fund	1%
Trade Fair Fund	3%
Fair Fund (agricultural)	46%

**Summary:** Modifications are made to provisions in the horse racing statutes relating to the parimutuel tax rates, the "take-out rates," the distribution of revenues generated from the parimutuel tax and license fees, and Horse Racing Commission membership.

**The Parimutuel Tax:** Nonprofit licensees who run race meets of ten days or less are exempt from payment of the parimutuel tax. Licensees retain 15 percent as "take-out" or gross profits from wagering and an additional 5 percent from exotic wagering.

For licensees who are for-profit and run race meets of more than ten days, the parimutuel tax is as follows:

1. If the gross receipts of parimutuel machines are more than \$50 million in the previous calendar year, the parimutuel tax rate is 1.3 percent of the daily gross receipts of the licensee's parimutuel machines. The licensee retains 13.7 percent as gross profits from wagering and an additional 5 percent from exotic wagering; or
2. If the gross receipts of parimutuel machines are \$50 million or less in the previous calendar year, the parimutuel tax rate is .52 of 1 percent. The licensee retains 14.48 percent as gross profits from wagering and an additional 5 percent from exotic wagering.

**Distribution of Revenues:** The distribution formula for the revenues generated from the parimutuel tax and license fees is modified. The Horse Racing Commission is the sole recipient of the parimutuel tax and license fees collected from the horse racing industry from the effective

date of the act. The fair fund and the trade fair fund no longer receive any funding from the parimutuel tax or license fees but are funded by the general fund.

Additional funding is provided to nonprofit tracks (Elma, Walla Walla, Waitsburg, Dayton, Kennewick) and specifically ear-marked for racing purses. This allows the total level of purses for nonprofit tracks from the parimutuel taxes to be \$300,000 per year.

Emerald Downs is required to pay an additional tax of .6 percent on its daily handle when its daily handle from on-track betting reaches an average of \$886,000. These additional funds, estimated at approximately \$500,000 per year, are specifically ear-marked for the state fair fund.

A sunset date of June 30, 2001 is established.

The state trade fair fund and state fair fund are formally established in the state treasury.

The Horse Racing Commission increases from three to five commissioners.

**Votes on Final Passage:**

Senate	44	5	
House	91	7	(House amended)
Senate	45	3	(Senate concurred)

**Effective:** April 3, 1998 (Sections 1-9)  
 June 11, 1998  
 July 1, 2001 (Sections 10-12)

**Partial Veto Summary:** The section that nullifies provisions of the bill absent budgetary funding is vetoed.

**VETO MESSAGE ON SB 6562-S2**

April 3, 1998

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 16, Engrossed Second Substitute Senate Bill No. 6562 entitled:

"AN ACT Relating to relief of the equine industry by amending the parimutuel tax on horse racing to provide additional support for licensed racing associations, the state fair account, the state trade fair account and the Washington horse racing commission;"

The changes to the parimutuel tax contained in E2SSB 6562 were intended to provide a temporary solution to economic problems of the horse racing industry. Unfortunately the provisions of this legislation leave funding for state, county and trade fairs at risk. By reducing the parimutuel tax rate and redistributing tax revenues, E2SSB 6562 eliminates funding for the fairs in Fiscal Year 1999, and the 1999-01 Biennium.

In an effort to temporarily replace lost revenues to the fair funds, sections 906 and 907 of ESSB 6108 (the Omnibus Appropriations Act), direct the Washington State Lottery to conduct two to four lottery games with agricultural themes per year in the 1997-99 Biennium and divert lottery proceeds to the State Fair Fund. I have vetoed sections 906 and 907 of ESSB 6108 because they place unrealistic requirements on the Washington State Lottery to develop new lottery games in a very short time period, and would divert lottery proceeds from the General Fund to replace parimutuel taxes. This would result in lowering the expenditure limit established by Initiative 601.

It is my intent that the funding for state, county and trade fairs be maintained. My actions related to E2SSB 6562 and ESSB 6108 will not jeopardize funding for fairs in 1998, since annual distributions to support fairs are made in March of each year.

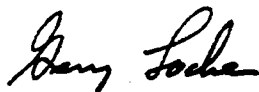
Current fund balances in the state fair funds are sufficient to support all fairs through 1998. It is my intention to propose to the 1999 Legislature a special funding package which will permit the state to fulfill its obligations for ongoing fair funding by March of 1999.

Section 16 of E2SSB 6562 is the "null and void" clause which stipulates that if specific funding for the purposes of this act is not provided by June 30, 1998 in the omnibus appropriations act, E2SSB 6562 is null and void. I am vetoing this section in order to develop an adequate funding proposal to support the fairs for Fiscal Year 1999 and the 1999-01 Biennium. The funding proposal that is developed should seek to maintain the current level of support for fairs without affecting the Initiative 601 expenditure limit. State, county and trade fairs are important to hundreds of thousands of our citizens and I am committed to ensuring that adequate funding is available to support them.

For these reasons, I have vetoed section 16 of Engrossed Second Substitute Senate Bill 6562.

With the exception of section 16, Engrossed Second Substitute Senate Bill No. 6562 is approved.

Respectfully submitted,



Gary Locke  
Governor

**SSB 6565**  
C 301 L 98

Regulating insurance payments of insureds who are victims of domestic abuse.

By Senate Committee on Financial Institutions, Insurance & Housing (originally sponsored by Senators Hale, Prentice, Winsley, Franklin, Long, Roach, Haugen, Stevens, Spanel, Wood, Rasmussen, T. Sheldon, Loveland, Benton, Johnson, Thibaudeau, McDonald, B. Sheldon, Snyder, Anderson, Oke and Goings).

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

**Background:** Generally, insurers cannot discriminate against an insured or applicant on the basis of gender, marital status, or the presence of a sensory, mental, or physical handicap.

Insurers should be prevented from discriminating against an insured or an applicant because of his or her status as a subject of domestic violence, sexual assault, or child abuse.

Most property and casualty insurance contracts provide an exclusion from coverage if the loss is caused by the intentional act of an insured. Insurers have used this provision to deny payment to innocent co-insureds whose spouses have intentionally caused the damage.

**Summary:** Insurers are prohibited from refusing an application for insurance, refusing to renew, canceling, restricting or otherwise terminating a policy of insurance, or from charging a different rate for the same coverage

based on the applicant or insured's status or potential status of being a victim of domestic abuse.

"Domestic abuse" is defined as physical harm, assault, infliction of fear of harm or assault between household or family members. It also includes sexual assault of one family or household member by another, and stalking as defined in the criminal code of one family or household member by another family or household member, or intentionally or recklessly damaging property so as to intimidate or attempt to control the behavior of another.

An exclusion of coverage in an insurance contract for losses caused by intentional or fraudulent acts may not be applied to claims where the loss is caused by an act of domestic abuse by another insured under the policy, provided the loss is otherwise covered, the insured claiming property loss files a police report and cooperates with any law enforcement investigation, and the claimant did not cooperate in creating the loss.

Payment is limited to the person's insurable interest minus payments to a mortgagee or other party with a legal secured interest in the property. An insurer making payment in this situation has rights of subrogation to recover against the person causing the loss.

**Votes on Final Passage:**

Senate	47	1	
House	97	0	(House amended)
Senate	46	0	(Senate concurred)

**Effective:** June 11, 1998

**SSB 6574**  
FULL VETO

Authorizing learning materials to be loaned to private school students.

By Senate Committee on Education (originally sponsored by Senators Johnson, Stevens, Wood, Winsley, Deccio, Schow, Oke, McCaslin, Rossi, Hochstatter, Swecker, Sellar, Morton, McDonald and Roach).

Senate Committee on Education  
House Committee on Education

**Background:** School districts may set policies for the selection, granting, and loaning of instructional materials to public school students. School districts may also enter into joint purchasing agreements with private schools.

**Summary:** The Legislature finds that: (1) the state's constitutional duty of educating "all children" includes the students of private schools; and (2) a significant number of private school students frequently move between private and public schools, resulting in the parents of these children paying for private and public school materials.

The laws governing private schools are expanded so that students attending state-approved private schools may receive learning materials loaned by the local school dis-

tract. To receive such loans, private schools must submit an annual request to the local school district. The local school district may then enter into a loan agreement with the private school subject to certain guidelines, such as:

- Local school districts must make a good faith effort to accommodate loan requests.
- Loans are not limited because of a student's economic status.
- Learning materials cannot promote nor deter sectarian or religious activities of the private school, nor may a private school request materials designed for religious instruction.
- "Learning materials" means textbooks and workbooks.
- Private schools may not request loaned textbooks beyond the local school district's official adoption list.
- Learning materials are always the property of the local school district.

The Superintendent of Public Instruction (SPI) must adopt guidelines for the loan program. No laws or rules adopted after January 1, 1998 may affect the autonomy of private schools because of learning materials support. To assist the state in implementing the loan program, SPI may identify currently existing, nonsectarian, statewide private school organizations to act as liaisons for state-approved private schools interested in receiving learning materials.

**Votes on Final Passage:**

Senate	32	16
House	58	40

**VETO MESSAGE ON SB 6574-S**

March 31, 1998

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. 6574 entitled:

"AN ACT Relating to the learning materials loan program;"

SSB 6574 would require local school districts to make a "good faith effort" to accommodate annual loan requests from any state-approved private religious or nonsectarian school for current textbooks and workbooks on the district's adoption list. This bill, which does not define "good faith effort" and for which there is no appropriation, would likely place a financial hardship on school districts — especially those with disproportionate numbers of private schools.

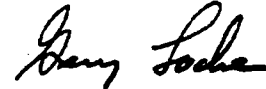
Last year, I signed HB 1367, enabling public schools to loan surplus educational materials to private nonreligious, nonsectarian schools where previously they were available solely for purchase, rent, or lease. Accordingly, these private schools already have access to public school materials in a way that does not unduly jeopardize the adequacy of education programs for public school children. Washington state funds K-12 public education based on public school enrollment, not private school enrollment. This bill would have a financial impact on public education, yet is not accompanied by any commensurate change in the state school finance system.

This bill also conflicts with our state constitution by directing state funds to private religious schools. The Washington Constitution clearly states that "the entire revenue derived from the common school fund and the state tax for common schools shall

be exclusively applied to the support of the common schools" and that "no public money or property shall be appropriated for, or applied to any religious worship, exercise or instruction, or the support of any religious establishment." SSB 6574 would divert resources away from the state's common schools.

For these reasons, I have vetoed Substitute Senate Bill No. 6574 in its entirety.

Respectfully submitted,



Gary Locke  
Governor

**SSB 6575**

C 21 L 98

Extending the powers of the joint administrative rules review committee.

By Senate Committee on Government Operations (originally sponsored by Senators Hale, T. Sheldon, McCaslin, Snyder, Horn, McDonald, Sellar, Newhouse, Schow, Strannigan, Benton, Zarelli, Stevens, Roach, Heavey and Oke).

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

**Background:** The Joint Administrative Rules Review Committee (JARRC) has statutory authority to review selectively all agency policy and interpretive statements. This has been interpreted as applying only to those agency issuances that are entitled "policy statement" or "interpretive statement" and not applying to any other guideline or document of general applicability issued by an agency.

**Summary:** JARRC is permitted to review selectively proposed or existing guidelines and documents of general applicability or their equivalents in addition to policy and interpretive statements, to determine whether the agency is using them in such a manner that the document constitutes a rule not adopted in accordance with all applicable provisions of law. JARRC may advise the Governor if an agency refuses to replace the document with a rule.

**Votes on Final Passage:**

Senate	47	0
House	94	0

**Effective:** June 11, 1998

**SB 6581**

C 163 L 98

Revising standards for determining child support obligations.

By Senators Roach and Fairley.

Senate Committee on Law & Justice

House Committee on Law & Justice

**Background:** The Washington child support schedule establishes an absolute minimum support amount of \$25 per child per month for parents with a combined monthly net income of \$600 or less. The Western District of the U.S. District Court has held that the Washington statute conflicts with federal law which requires a rebuttable presumption that the award is the correct amount of support. The Washington Court of Appeals recently ruled that the Washington statute is preempted by the federal statutes.

**Summary:** When the combined monthly net income of the parents is \$600 or less, a support order of not less than \$25 per child per month must be entered unless the obligor establishes that it would be unjust or inappropriate. The court takes into consideration the best interests of the child and the circumstances of each parent.

**Votes on Final Passage:**

Senate	44	0
House	96	0

**Effective:** June 11, 1998

**SB 6588****FULL VETO**

Exempting movie theater snack counters from the stadium tax imposed on restaurants.

By Senators Winsley, Snyder, Kohl, B. Sheldon and Oke.

Senate Committee on Ways & Means

House Committee on Finance

**Background:** In 1995, the Legislature passed HB 2115 which provided state and local financing for a baseball stadium. The state contribution was a .017 percent sales tax credit, new lottery games, and new stadium license plates.

The baseball team contribution is in the amount of \$45 million which may be used for pre-construction costs as well as bond retirement.

King County imposed a special 0.5 percent sales and use tax on food and beverage sales in restaurants, taverns, and bars and a special 2 percent sales and use tax on car rentals. The county may impose admissions taxes on events in the baseball stadium.

The special sales tax on restaurants, taverns and bars does not include prepared food purchased at grocery stores, minimarkets or convenience stores.

**Summary:** Food purchased at movie theater, theater or performing arts center snack counters is added to the list of locations that are exempt from the special restaurant tax.

**Votes on Final Passage:**

Senate	47	1	
House	85	9	(House amended)
Senate	38	1	(Senate concurred)

**VETO MESSAGE ON SB 6588**

April 3, 1998

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. 6588 entitled:

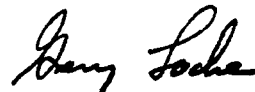
"AN ACT Relating to exempting movie theater snack counters from the special stadium sales and use tax imposed on restaurants;"

Senate Bill 6588 would exempt snack bars in movie theaters, other theaters, and centers for the performing arts in King County from the special one-half percent sales tax imposed on restaurants, taverns and bars. The revenue generated by this special sales tax is pledged to repay the bonds that were sold to finance the construction of the new baseball stadium.

Reducing a revenue stream that has been pledged for bond repayment is poor financial management and poor tax policy. If these revenues are lost, bond holders could have cause to bring suit. Any litigation could, in turn, result in reduced bond ratings. In addition, other types of eating and drinking establishments that must pay the tax will want a similar exemption, seriously threatening funding of the new baseball stadium.

For these reasons, I have vetoed Senate Bill No. 6588 in its entirety.

Respectfully submitted,



Gary Locke  
Governor

**SB 6599**

C 336 L 98

Exempting fund-raising activities by nonprofit organizations from sales and use taxation.

By Senators Benton, Spanel, Kohl and Oke; by request of Department of Revenue.

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



## ESSB 6600

taxes. Most nonprofit organizations pay B&O tax at the services rate of 1.75 percent (1.5 percent July 1, 1998). However, because of the \$420 per year B&O tax credit, nonprofit organizations with gross incomes below \$22,963 per year (\$28,000 beginning July 1, 1998) owe no B&O tax.

In addition, nonprofit organizations are exempt from the B&O tax and are not required to collect sales tax on the following fund-raising activities:

**Bazaars And Rummage Sales.** The first \$20,000 raised in any year from bazaars and rummage sales conducted by nonprofit organizations is exempt from B&O tax and sales tax if the sales are conducted no more than twice each year and each sale lasts no more than two days.

**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 and the auction lasts no more than two days.

In addition, bona fide initiation fees, dues, contributions, donations, and tuition fees may be deducted from income in computing tax liability unless the dues are in exchange for any significant amount of goods or services or the dues are graduated upon the amount of goods or services rendered.

**Summary:** Amounts received by nonprofit organizations for fund-raising activities are exempt from B&O tax and sales tax.

Fund-raising activities are activities involving the direct solicitation of money or property or the anticipated exchange of goods or services for money between the organization and the person solicited for the purpose of furthering the goals of the organization. Fund-raising activities do not include the operation of a regular place of business in which sales are made during regular hours.

Nonprofit organization includes organizations exempt from tax under section 501(c) (3), (4), or (10) of the federal Internal Revenue Code or that would be exempt except that it is not organized as a nonprofit corporation.

Section 501(c)(3) includes 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. Section 501(c)(4) includes civic leagues. Section 501(c)(10) includes fraternal societies operating under the lodge system.

In addition, nonprofit organization includes organizations that meet all of the following criteria:

(1) The members, stockholders, officers, directors, or trustees of the organization do not receive any part of the organization's gross income, except as payment for services rendered;

(2) The compensation received by any person for services rendered to the organization does not exceed an amount reasonable under the circumstances; and

(3) The activities of the organization do not include a substantial amount of political activity, including influencing legislation and participating in any campaign on behalf of any candidate for political office.

### Votes on Final Passage:

Senate	49	0
House	94	0

**Effective:** June 11, 1998

## ESSB 6600

C 244 L 98

Establishing an education program for juveniles incarcerated in adult correctional facilities.

By Senate Committee on Education (originally sponsored by Senators T. Sheldon, Hochstatter, Long, Kohl, Oke and Winsley; by request of Superintendent of Public Instruction).

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

**Background:** An increasing number of juveniles are being incarcerated in adult prisons. These facilities are primarily equipped to educate adults and many lack the resources to teach juveniles. With the enactment of ESHB 3900 in 1997, the Department of Corrections (DOC) must assist juvenile inmates in obtaining high school diplomas or General Equivalency Diplomas. However, current law is silent regarding the Superintendent of Public Instruction's (SPI) duties in providing services for juveniles incarcerated in adult facilities. In November 1997, a class action comprised of juvenile inmates in adult facilities was filed against SPI and DOC seeking (1) full basic education for youth under 21 years old, (2) special education programming for youth under 22 years old, and (3) compensatory educational services for youth beyond 21 years old.

**Summary:** The Legislature intends that school districts and education service districts (ESDs) should be the primary educators of juvenile inmates in adult correctional facilities. These districts may provide services outside their legal boundaries. If a school district or ESD does not provide education programs to juvenile inmates, other entities, such as community and technical colleges, four-year institutions of higher learning, and private contractors have the opportunity to do so. However, only school districts and ESDs may award diplomas.

**Findings.** The Legislature finds that this act will satisfy any constitutional duty to provide education programs to juveniles in adult correctional facilities.

**Selection of Education Provider.** SPI must select an education provider by notifying and soliciting proposals from all interested and capable entities. The school district where there is a juvenile education site in an adult correctional facility has first priority. If the school district does not exercise its priority, it must notify SPI within 30 calendar days of the solicitation. The ESD where there is a juvenile education site in an adult correctional facility has second priority. If the ESD elects not to exercise its priority, it must notify SPI within 45 days of the solicitation. If neither the local school district nor local ESD chooses to operate an education program, SPI may contract with an entity within 60 days of the day of solicitation. If SPI does not contract with an entity, then the local ESD must begin operating an education program within 90 days of the day of solicitation.

**Duties of Education Provider.** The selected education provider and DOC must execute written contracts specifying the duties of each party and setting forth a dispute resolution procedure. Except as provided by contract, the selected education provider must be limited to the following duties: (1) employing and supervising administrators, teachers, and other persons conducting the program, subject to security clearances by DOC; (2) providing education materials and supplies; (3) conducting a program for inmates under the age of 18 subject to applicable state and federal law; and (4) with the permission of DOC, conducting an education program for 18-year olds who are continuing their participation in an education program. An education program under this act may include basic education as well as other training such as conflict resolution counseling.

**Duties of Department of Corrections.** DOC and heads of correctional facilities have the following duties: (1) provide "access to" an education program for inmates under the age of 18; (2) provide space and equipment; (3) provide heat, lights, and other building support; (4) provide custodial and security services; (5) provide clinical and medical services; (6) provide other reasonable support services; (7) establish behavior standards for students participating in education programs, subject to federal and state law; and (8) notify SPI and the education provider of any foreseeable reduction in inmate levels by April 15 of each year. If DOC does not make the notifications, it is responsible for the provider's resulting staff costs.

**Duties of Superintendent of Public Instruction.** SPI has the following duties: (1) allocate funds appropriated by the Legislature for this act; and (2) adopt rules to implement this act.

**Fiscal Provisions.** School districts and ESDs may only spend appropriated funds to educate juvenile inmates. No levy expenditures are permitted.

**Collective Bargaining.** Classified and certificated employees that are employed to provide services in an adult

correctional facility are represented by separate bargaining units.

**Compulsory Attendance Exemption.** Juveniles in adult correctional facilities are excused from compulsory school attendance.

**Study of Juveniles in DOC and County Facilities.** DOC and SPI must study the issues surrounding the education of inmates under the age of 21 in jails and prisons. DOC and SPI must consult with a variety of organizations and people who may assist the study. By May 1, 1998, DOC and SPI must provide to several legislative committees a profile of all offenders under the age of 21 incarcerated in a DOC facility. By September 1, 1998, DOC and SPI must provide to the legislative committees a profile of inmates under the age of 21 in county jails between the effective date of this act and August 1, 1998.

By September 1, 1998, DOC and SPI must also make a preliminary report to the legislative committees identifying: (1) the educational needs of inmates under the age of 21 in adult correctional facilities; (2) the impact on security and penological needs of providing these educational services; (3) the ability of local school districts, community and technical colleges, private vendors, juvenile detention centers, and the correctional institutions to provide educational services; (4) the various capital and operating costs of providing basic educational services or basic skills education to inmates under 21 and to inmates with disabilities, under 18 or between 18 and 21, where the disability was identified or provided for prior to incarceration in the adult facility; and (5) the educational organizations that are able and willing to provide the educational services. The final report is due November 1, 1998.

**Votes on Final Passage:**

Senate	49	0	
House	98	0	(House amended)
Senate	45	0	(Senate concurred)

**Effective:** March 30, 1998 (Sections 1-9, 11-15)

June 11, 1998

September 1, 1998 (Section 10)

**SSB 6602**  
**FULL VETO**

Crediting carbonated beverage taxes against business and occupation taxes.

By Senate Committee on Ways & Means (originally sponsored by Senators Anderson, Loveland, Bauer, Long, Goings, B. Sheldon, Strannigan, Benton, Rossi, Swecker, West, Schow and Oke).

Senate Committee on Ways & Means

House Committee on Finance

**Background:** The business and occupation tax (B&O) is levied for the privilege of doing business in Washington.

The tax is levied on the gross receipts of all business activities (except utility activities) conducted within the state.

Although there are several different rates, beginning July 1, 1998 the principal rates are as follows:

Manufacturing/wholesaling	0.484%
Retailing	0.471%
Services	1.5%

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.

In 1994, the Legislature enacted the Youth Violence Prevention Act. This act made extensive changes in laws relating to youth violence prevention, drug education, and drug enforcement programs. The violence reduction and drug enforcement account was created to replace the existing account. The tax portions of the measure were passed as Referendum 43 on the general election ballot in November 1994. Referendum 43 eliminated the expiration date for all of the taxes imposed in the 1989 Omnibus Alcohol and Controlled Substances Act, except the tax on carbonated beverages. In addition, the referendum increased the rates of the cigarette tax and the tax on beverage syrups.

The tax on carbonated beverage syrup ("syrup tax") is currently \$1 per gallon.

**Summary:** A taxpayer may claim a credit for one half of the amount of "syrup" taxes paid against his or her B&O tax liability.

**Votes on Final Passage:**

Senate	35	11
House	76	18

**VETO MESSAGE ON SB 6602-S**

April 3, 1998

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. 6602 entitled:

"AN ACT Relating to carbonated beverage taxes;"

In 1994, the voters approved Referendum 43, the first tax increase after Initiative 601. This referendum, among other things, increased the tax on carbonated beverage syrup to provide the funds we need to prevent youth violence and provide drug education and drug enforcement programs. The current tax on carbonated beverage syrup is \$1.00 per gallon.

Substitute Senate Bill No. 6602 authorizes a business to claim a credit for one-half of the amount of syrup taxes paid, against its business and occupations tax liability. Allowing one state tax to be credited against another essentially transfers part of the costs for youth violence and drug programs to the state general fund. This is not what the voters agreed to do when they passed Referendum 43.

For these reasons, I have vetoed Substitute Senate Bill No. 6602 in its entirety.

Respectfully submitted,

Gary Locke  
Governor

**SSB 6603**

C 198 L 98

Excepting certain vessels from registration.

By Senate Committee on Transportation (originally sponsored by Senators Horn, Spanel, Oke and Wood).

Senate Committee on Transportation  
House Committee on Transportation Policy & Budget

**Background:** Vessels owned by nonresidents, used for personal use and enjoyment, and validly registered in another state or country are allowed to remain in Washington for no more than six months before being required to be registered with the state of Washington. Vessels used in nontransitory business are excluded from this exemption.

**Summary:** To receive the current six-month exemption from registration, vessels must have been issued a valid registration number under federal law or by an approved issuing authority of the state of principal operation. The requirement that vessels be registered in another country is eliminated. International vessels must pay a one-time \$25 permit fee.

**Votes on Final Passage:**

Senate	46	0
House	97	0 (House amended)
Senate	47	0 (Senate concurred)

**Effective:** March 27, 1998

**SB 6604**

C 98 L 98

Allowing the department of labor and industries to exempt specified work on premanufactured electric power generation equipment from licensing requirements.

By Senators Schow, Heavey and Horn.

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

**Background:** Electrical work must be performed by a licensed electrician unless an exemption applies.

**Summary:** The Department of Labor and Industries can exempt by rule testing, repair, modification, maintenance, or component installation work on premanufactured elec-

tric power generation equipment assemblies and control gear.

**Votes on Final Passage:**

Senate	46	0
House	88	0

**Effective:** June 11, 1998

**SSB 6605**

C 99 L 98

Creating lien rights for owners of sires providing semen for artificial insemination.

By Senate Committee on Agriculture & Environment (originally sponsored by Senators Morton and Rasmussen).

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

**Background:** Current law provides that owners of sires having a fee-for-breeding service may have a lien upon the female or get of the sire for such service provided that the owner file the necessary documentation with the county auditor. The documentation consists of a sworn affidavit stating the name, age, description and pedigree of the sire, as well as the terms and conditions upon which the sire is advertised for breeding service. The auditor then issues a certificate to the sire owners whereupon such owner obtains and has a lien upon the female served for one year from the date of service, or upon the get of the sire for one year from the date of birth.

**Summary:** The duration of the lien obtained by owners of sires who provide breeding services is increased to 18 months from the date of service or from the date of birth of the offspring as the case may be. Additionally, when the owner of a sire provides, for insemination of a female, reproductively viable semen delivered by artificial insemination procedures, the owner obtains a lien upon the female to which semen was delivered or upon the resultant offspring of that female without satisfying the requirement of a sworn affidavit recorded with the county auditor and without the need for issuance of a certificate from the auditor. The lien upon the female survives for 18 months from the date of the insemination procedure. The lien upon the resultant offspring survives for one year from the date of birth.

A class of lien holder is added to those able to acquire a lien for the service of providing semen for artificial insemination. The owner of semen who does not own the sire of that semen, yet provides the semen for artificial insemination, acquires a lien on the female inseminated or the offspring thereof.

**Votes on Final Passage:**

Senate	47	0
House	96	0

**Effective:** July 1, 1998

**ESSB 6622**

C 337 L 98

Implementing the federal telecommunications act of 1996.

By Senate Committee on Energy & Utilities (originally sponsored by Senator Finkbeiner; by request of Utilities & Transportation Commission).

Senate Committee on Energy & Utilities  
House Committee on Energy & Utilities  
House Committee on Appropriations

**Background:** The Federal Telecommunications Act of 1996 was passed by Congress to encourage competition in the local telephone market. The act supports the goal of universal service, and recognizes the need for changes in the methods used to achieve it. The act calls for states to support universal service programs in a competitively and technologically neutral manner.

The goal of universal service is to provide all citizens with access to the public telephone network at affordable prices. The Legislature enacted a policy to preserve affordable universal telecommunications service in 1985, but universal telecommunications service has been the policy of Washington State for more than 60 years.

Universal service depends on subsidies to maintain affordability. Average pricing has been used to support service to high-cost customer locations. Monopoly providers have been permitted to charge above-cost prices in urban areas in order to provide sufficient revenue to permit charging only an average, or affordable, price to remote rural customer locations. Monopoly providers have also been permitted to charge other companies above-cost prices for routing telephone traffic over their lines. These charges, known as access charges, provide substantial revenue to small telephone companies that service many high-cost customers. This revenue makes it possible to keep the basic monthly rate at an affordable level.

It has been suggested that these methods are an impediment to new companies trying to enter the local telecommunications market and that the means to achieving fair competition is to replace the system of hidden subsidies with one of explicit, predictable supports through the use of a universal service fund managed by the Washington Utilities and Transportation Commission.

Under current statutory and decisional law, the commission does not have authority to assess telephone companies for contributions to a universal service fund to subsidized companies serving high-cost customer locations. The commission is requesting this legislation to

give it the necessary authority to create and administer a universal service program.

**Summary:** The commission is directed to plan and prepare a program for the advancement of universal telecommunication services that shall not take effect until the Legislature approves the program.

The commission is directed to estimate alternatively the costs of supporting all lines and the cost of supporting one line located in a high-cost area, determine the assessments required and the manner of collection, designate those eligible to receive funds for the benefit of their customers, provide a schedule of all fees and payments proposed, and make all necessary rules for administration of the program.

Once the program is approved, the commission is authorized to delegate the authority to resolve disputes or make other decisions necessary to administer the program, including the authority to contract with independent administrators, authorize expenses of program administration, and require carriers to contribute the costs necessary to administer the fund.

The commission must establish standards for review or testing of compliance to ensure the support received is used only for purposes of the program and that carriers are making proper contributions, coordinate administration of the program with federal authorities, and report to the Legislature on the details and recommendations of the program by November 1, 1998.

The commission is authorized to take actions, not related to the universal service program, as permitted or contemplated under the Federal Telecommunications Act of 1996 and establish fees to offset in whole or part the commission's expenses in implementing the act not otherwise recovered through fees. Fees for the universal service program shall not take effect until the Legislature approves the program.

Telecommunications carriers must provide information that the commission may reasonably require to fulfill its responsibilities to plan and prepare a program for the advancement of universal telecommunications service.

All transfers of money necessary for the program are directed to be outside the state treasury and not subject to appropriation.

The review process for a noncontroversial competitive classification petition is shortened. A petition may include an effective date, not less than 30 days from filing, on which the classification takes effect unless suspended by the commission and set for a hearing or formal investigation and fact-finding. The commission must issue a final order within six months.

"Basic telecommunications services" is defined.

**Votes on Final Passage:**

Senate	49	0	
House	69	29	(House amended)
Senate	34	15	(Senate concurred)

**Effective:** June 11, 1998

**ESB 6628**  
**PARTIAL VETO**  
C 199 L 98

Clarifying transportation planning.

By Senators Benton, Finkbeiner, Anderson, Zarelli and Schow.

Senate Committee on Transportation  
House Committee on Transportation Policy & Budget

**Background:** In 1993, the Washington State Department of Transportation, in conformance with federal requirements, was required to develop a statewide multimodal transportation plan that would ensure the continued mobility of people and goods in a safe, cost-effective manner. This multimodal plan, commonly known as *Washington's Transportation Plan*, identifies transportation needs for all modes, provides financial targets for the Transportation Commission, and identifies responsibilities for its implementation. *Washington's Transportation Plan* addresses transportation modes in two broad categories: a state-owned component and a state-interest component.

The state-owned component guides state investment in state highways, including bicycles and pedestrian facilities, and state ferries. Both the state highways element and the state ferries element are structured to have maintenance, preservation, and improvement programs. These elements are required to first assess strategies to enhance the operational efficiency of the existing system before recommending system expansion.

The state-interest component defines the state's interest in aviation, marine ports and navigation, freight rail, intercity passenger rail, bicycle transportation and pedestrian walkways, and public transportation. The state-interest component is developed in conjunction with the appropriate public and private transportation providers to ensure the state's interest in these modes is being met. The state-interest component has different program structures, depending upon the needs and functions of each transportation mode.

*Washington's Transportation Plan* (WTP) includes long-range transportation plans and investment needs for each mode; it does not compare combinations of modal investments within a state transportation corridor. Comparison between transportation modes is difficult because of different service objectives, program structures, and funding mechanisms between the state-owned transportation component and the state-interest transportation component.

In addition, the development of the different transportation components within WTP places a primary emphasis on the improvement and integration of all transportation modes to create a seamless intermodal transportation system for people and goods. There is a concern that WTP does not specifically prioritize congestion relief, the preservation of existing investments, traveler safety, and the

efficient movement of freight and goods. In addition, there is concern that the state-owned component of WTP does not emphasize congestion relief within its capacity and operational improvement element.

As part of addressing congestion relief, the Central Puget Sound Regional Transit Authority (RTA) is proceeding with a ten-year, high capacity transit plan approved by voters in portions of King, Pierce and Snohomish counties in November 1996. That plan calls for improvements in regional express bus service, direct access facilities to the high occupancy vehicle lane system, a commuter rail element, and a light rail transit system.

The RTA-planned system is estimated to cost \$3.9 billion in 1995 dollars. This expenditure plan assumes \$727 million in federal funds. This total expenditure includes \$1.8 billion for light rail and \$670 million for commuter rail. Train sets and other rolling stock for these rail services total \$160-\$200 million for light rail and \$120 million for commuter rail.

Federal Transit Administration regulations preclude geographic preferences for grantees' purchases, except where federal statutes expressly mandate or encourage those preferences. At present, such preferences could jeopardize federal participation in the RTA project.

Currently, two Talgo train sets are being constructed in Seattle for the state of Washington. These train sets were funded with state funds, and a condition of any contract let for such acquisition by the state was that "the manufacturer of the trains has the obligation of establishing a corporate office in Washington State. The manufacturer is also obligated to spend a minimum of 25 percent of the total purchase price of the train sets on the assembly and manufacture of parts of the train sets in Washington State."

**Summary:** The statewide multimodal transportation plan is directed to place a primary emphasis on congestion relief, the preservation of existing investments, the improvement of traveler safety, and the efficient movement of freight and goods.

The state-owned facilities component of the statewide multimodal transportation plan (*Washington's Transportation Plan*) is required to identify the most cost-effective combination of highway, ferry, passenger rail, and high-capacity transportation improvements that maximizes the efficient movement of people, freight, and goods within state transportation corridors.

The state-owned component, capacity and operational improvement element is directed to place a primary emphasis on congestion relief.

The intercity passenger rail plan, which is a state-interest component of the statewide multimodal plan, is required to include a service preservation element, and a service improvement element. The service preservation element must outline trackage, depots, and train investments needed to maintain and establish service levels. The service improvement element must establish service

improvement objectives that outlines the trackage, depot, and train investments needed to meet improvement service objectives.

The RTA is required to consult with the Department of Community, Trade, and Economic Development to explore the potential for developing contracting methods that encourage development of a manufacturing base in Washington for commuter and light rail train sets and components. The RTA must report its findings to the Legislative Transportation Committee by January 1, 1999.

**Votes on Final Passage:**

Senate	49	0	
House	88	0	(House amended)
Senate			(Senate refused to concur)
House			(House refused to recede)
House	77	21	(House amended)
Senate	48	1	(Senate concurred)

**Effective:** June 11, 1998

**Partial Veto Summary:** The requirement for the state-owned facilities component of the statewide multimodal transportation plan to identify the most cost-effective combination of highway, ferry, passenger rail, and high capacity transportation improvements that maximize the efficient movement of people, freight, and goods within transportation corridors is removed.

The requirement for the state-owned component, capacity and operational improvement element to place a primary emphasis on congestion relief is removed.

The requirement for the intercity passenger rail plan to include a service preservation element, and a service improvement element is removed.

**VETO MESSAGE ON SB 6628**

March 27, 1998

To the Honorable President and Members,  
The Senate of the State of Washington

Ladies and Gentlemen:

I am returning herewith, without my approval as to sections 2 and 3, Engrossed Senate Bill No. 6628 entitled:

"AN ACT Relating to the state-owned facilities component of the state-wide transportation plan and intercity passenger rail;"

Section 2 of ESB 6628 would require an in-depth modal trade-off analysis. Such an analysis is the type of research that we should ultimately seek in our state transportation plan. However, section 2 calls for a cutting-edge type of analysis. There is not sufficient research available to support that type of analysis at this time, and it is unrealistic to expect the Department of Transportation to accomplish such extensive work without any funding.

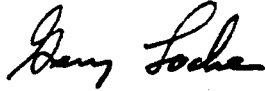
Section 3 of ESB 6628 would add additional requirements to the intercity passenger rail plan. While it would certainly be worthwhile for decision makers to have such information, the examination should be more modally comprehensive. That is, similar data should be gleaned for all modes to allow a more fair comparison. And again, without funding from the Legislature, the Department of Transportation cannot conduct such major work without being forced to neglect existing statutory requirements.

For these reasons, I have vetoed sections 2 and 3 of Engrossed Senate Bill No. 6628.

## SB 6631

*With the exception of sections 2 and 3, Engrossed Senate Bill No. 6628 is approved.*

*Respectfully submitted,*



*Gary Locke*  
Governor

### SB 6631 C 22 L 98

Specifying declaration of candidacy requirements for school director candidates in joint districts.

By Senators McCaslin, Haugen and Deccio.

Senate Committee on Government Operations  
House Committee on Government Administration

**Background:** A declaration for candidacy for the office of school director, where voters from a district comprising more than one county vote upon the candidate, is filed with the county auditor of the county in which a majority of the registered voters of the district reside.

**Summary:** For school directors in joint school districts, the declaration of candidacy is filed with the county auditor of the county to which the joint school district is considered as belonging as designated by the State Board of Education.

**Votes on Final Passage:**

Senate	46	0
House	94	0

**Effective:** June 11, 1998

### ESSB 6648 C 127 L 98

Permitting licensing retail alcoholic beverages in which no manufacturers, importers, or wholesalers have an interest.

By Senate Committee on Commerce & Labor (originally sponsored by Senators Schow, Newhouse, Horn and Heavey).

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

**Background:** Under Washington's "tied house" law, alcohol wholesalers, manufacturers and importers are prohibited from engaging in the retail liquor business. Similarly, this prohibition extends to financial interests by these sectors in the retail activities of the liquor industry. The intent of these restrictions is to prevent inappropriate or coercive business practices among the various sectors of the liquor industry.

However, since these prohibitions were established in 1935, numerous exceptions have been provided under

specific circumstances. These include: (1) state or federally chartered banks with financial interests; (2) on-site brewery and winery sales; (3) individuals selling a wholesale liquor business under contract; (4) firms operating an exploration cruise line; (5) individuals operating a brewpub; and (6) individuals operating an amphitheater with live entertainment.

**Summary:** An additional exemption to the "tied house" statute is provided to include a corporate entity with financial interests in retailing and wholesaling, manufacturing and importing liquor products, provided the corporate entity does not influence its related business activities or offers for sale any liquor products that are produced or distributed by a subsidiary. A corporation may use various methods of financing in connection with the construction or operation of its facilities.

**Votes on Final Passage:**

Senate	45	3
House	97	0

**Effective:** July 1, 1998

### SSB 6655 PARTIAL VETO C 344 L 98

Changing the Spokane intercollegiate research and technology institute.

By Senate Committee on Higher Education (originally sponsored by Senators West and Brown).

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

**Background:** In 1988, the Legislature appropriated \$800,000 for the purchase of a site in Spokane for an intercollegiate institute for research and technology. In 1989, the Legislature created the Spokane Intercollegiate Research and Technology Institute (SIRTI) designed as a cooperative venture of Eastern Washington University (EWU), Gonzaga University, Whitworth College, the community colleges of Spokane, and Washington State University (WSU). Through SIRTI, the member institutions collaborate in the offering of education and training, applied and developmental research, and business resource and support that is specifically aimed at the economic development of the Spokane area. A \$15 million, five-year grant through the federal Advanced Research Project Agency allowed SIRTI to launch and operate programs in manufacturing, health care/biomedical, and environmental technologies.

The education and economic development needs of Spokane are again under discussion in the Legislature, with the viability of SIRTI as an important component of that discussion.

**Summary:** Washington State University, through the operation of its Spokane branch campus, is made responsible for ensuring the expansion of upper-division and graduate higher education programs in Spokane. Eastern Washington University is no longer collocated in Cheney and Spokane. The president of a public four-year institution is provided housing or a housing allowance only when residing in the location where the institution is designated in statute. The Higher Education Coordinating Board (HECB) is directed to adopt program review rules that avoid duplication and encourage collaboration between WSU and EWU in the delivery of upper-division and graduate level programs in Spokane. Several assessments and plans will be delivered to the HECB and to the appropriate legislative committees.

The Joint Center for Higher Education (JCHE) is eliminated. The authority to approve program offerings rests with the HECB.

All of the assets at the Riverpoint Higher Education Park, with the exception of the real property designated as belonging to the Spokane Intercollegiate Research and Technology Institute, are transferred to WSU. Parking fees at Riverpoint are made the responsibility of the regents of WSU.

SIRTI is separated from the administration and oversight of JCHE. The SIRTI building and other assets are transferred from JCHE to SIRTI. The Department of Community, Trade, and Economic Development (DCTED) is made responsible for contracting with SIRTI for the expenditure of state-appropriated funds for the operation of the institute. The mission of SIRTI continues to be the performance and commercialization of research that benefits the economic vitality of eastern Washington and the Spokane area.

SIRTI continues to be operated as a multi-institutional education and research center. WSU is made the senior research partner. Research staff are provided from among the cooperating institutions through cooperative agreements. Non-state support for research activities is emphasized including the receipt of federal funds and private gifts or grants. Staff for SIRTI are employees of SIRTI. The HECB must approve the establishment of education programs and any facility acquisition.

SIRTI administration is by a board of directors including nine members representing the general public, at least six of whom have broad business experience and an understanding of high technology, the Executive Director of the Washington Technology Institute, the Provost of Washington State University, the Provost of Eastern Washington University, the Provost of Central Washington University, the Provost of the University of Washington, an academic representative of the Spokane community colleges, and one member each representing Gonzaga University and Whitworth College.

Duties of the board of directors are defined:

- Developing operating policies;

- Appointing an executive director;
- Approving the annual operating budget of SIRTI;
- Establishing research priorities and guaranteeing the greatest potential return on the investment;
- Approving and allocating funding;
- Developing, in cooperation with DCTED, a biennial work plan and five-year strategic plan consistent with statewide technology development and commercialization goals;
- Coordinating the work of all collaborating institutions;
- Assisting DCTED in the development of state policies regarding science and technology;
- Reviewing annual reports on funded research projects;
- Providing an annual report to the Governor and the Legislature; and
- Submitting an annual report to DCTED.

#### Votes on Final Passage:

Senate	47	0	
House	64	30	(House amended)
Senate	27	21	(Senate concurred)

Effective: April 3, 1998 (Section 2)

June 11, 1998

**Partial Veto Summary:** EWU will remain collocated in Spokane and Cheney.

#### VETO MESSAGE ON SB 6655-S

April 3, 1998

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 and 19, Substitute Senate Bill No. 6655 entitled:

"AN ACT Relating to institutions of higher education;"

Substitute Senate Bill No. 6655 makes several important changes to statutes regarding higher education in the Spokane area. Many of its provisions enact recommendations developed by the Higher Education Coordinating (HEC) Board at my request. I commend the HEC Board for its comprehensive assessment performed on short notice, and I commend the Legislature for its enactment of many of the HEC Board's recommendations.

SSB 6655 dissolves the Spokane Joint Center for Higher Education (the "Joint Center") and transfers the majority of its duties and real estate and other assets to Washington State University (WSU). WSU is required to develop a plan for the management of the Joint Center's Riverpoint Park facility, and a new mission statement and operations plan for its Spokane branch campus.

Under SSB 6655, the Spokane Intercollegiate Research and Technology Institute (SIRTI) will no longer be under the authority of the Joint Center. It will be separately established with its own board of directors and more clearly affiliated with the economic development efforts of the Department of Community, Trade and Economic Development.

The bill also requires the HEC Board to manage an assessment of current and future higher education capital and programmatic needs in Spokane, and also an economic assessment of the Spokane area addressing job expansion, technology-based high wage job development, and basic and applied research needs.

SSB 6655 requires Eastern Washington University (EWU) to develop a new mission statement and operations plan for com-



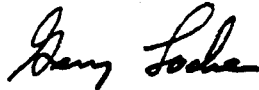
prehensive higher education based in Cheney. In addition, the value and role of EWU in Spokane is recognized along with the overriding values of collaboration and coordination among the various public and private higher education institutions in the Spokane area.

Section 6 of SSB 6655 would replicate ambiguous language in other sections of law regarding service delivery control and responsibility for branch campuses. It would not recognize the unique situation in Spokane where two public universities each have a major presence. Section 6 would confuse the roles, opportunity and value offered by EWU and other institutions in the Spokane area. It would leave open an interpretation that these institutions would be excluded from participating in higher education offered at Spokane, which was not the intent of the HEC Board's recommendations. Section 19 establishes an effective date for section 6, and is unnecessary after my veto of section 6.

For these reasons, I have vetoed sections 6 and 19 of Substitute Senate Bill No. 6655.

With the exception of sections 6 and 19, Substitute Senate Bill No. 6655 is approved.

Respectfully submitted,



Gary Locke  
Governor

**SB 6662**  
C 338 L 98

Eliminating the business and occupation tax on property managers' compensation.

By Senators Strannigan, T. Sheldon and Schow.

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.

There are several different B&O tax rates. As of July 1, 1998, the three principal rates are:

Manufacturing and wholesaling	0.484%
Retailing	0.471%
Service	1.5%

The B&O tax is imposed on the gross receipts of business activities conducted within the state, without any deduction for the costs of doing business. For example, retailers are not allowed to deduct amounts paid to wholesalers, and contractors are not allowed to deduct amounts paid to subcontractors. An exception exists for real estate brokers who may deduct commissions paid to another brokerage. Another exception exists for money received from a client as an advance or reimbursement for payments made on behalf of the client where only the client is liable for the payment.

When a business employs workers on behalf of a client, advances and reimbursement for payments to the workers are subject to B&O tax if the workers are consid-

ered employees of the business. The workers are considered employees of the person who has control over them. This is determined by who decides on the hiring and firing the worker; the duration of employment; the rate, amount, and other aspects of compensation; the worker's job assignments and instructions; and other factors.

Property owners often hire property management companies to manage their real property. Frequently, the property management companies also manage the personnel who perform the necessary services at the property location. The property owners may pay the on-site personnel through the property management company. Property managers have been assessed B&O tax on these payments for on-site workers.

**Summary:** B&O tax does not apply to amounts received by a property management company for the payment of gross wages or benefits to on-site personnel from property management trust accounts that are required to be maintained by law. Workers are on-site personnel when they work at the owner's property; have duties that include leasing property units, maintaining the property, collecting rents, or similar activities; and are compensated by the property owner under a written property management agreement.

The agreement must provide that the compensation is the ultimate obligation of the property owner, the property manager is liable for payment only as agent of the owner, and the property manager is the agent of the owner with respect to the on-site personnel and that all actions, including hiring, firing, compensation, and conditions of employment, taken by the property manager with respect to the on-site personnel are subject to the approval of the property owner.

**Votes on Final Passage:**

Senate	47	0
House	88	6

**Effective:** July 1, 1998

**SSB 6667**  
C 59 L 98

Establishing the Washington gift of life medal.

By Senate Committee on Government Operations (originally sponsored by Senators B. Sheldon, Winsley, Snyder, T. Sheldon, Fairley, McAuliffe, Brown, Kohl, Rasmussen, Prentice, Patterson, Haugen, Loveland, Hargrove, Kline, Franklin, Wojahn, Jacobsen and Bauer).

Senate Committee on Government Operations  
House Committee on Government Administration

**Background:** Medical technology enables persons who receive donated human organs to see, to live longer, and to improve their quality of life. Yet many who are in need of

donated organs die on waiting lists due to a shortage of willing donors.

It is thought that increased public awareness of donors and their gifts of life and sight will encourage others to donate. It is also believed that those who donate deserve to be remembered in a special way.

**Summary:** A Washington Gift of Life Medal is established, consisting of an inscribed bronze medal awarded by the Governor at the request of the donor's family and friends.

Organ donor is defined as an individual who makes a donation of all or part of a human body to take effect upon or after death.

An organ procurement organization is defined as any accredited or certified organ or eye bank.

An application procedure for the Washington Gift of Life Medal is specified. Family members of the organ donor may apply or an accredited or a federally certified organ procurement organization may apply on behalf of the family member or person who consented to the organ donation as allowed in the statutes regarding human remains. The application is made to the Governor's office. Eligibility is determined and the medal presented by the primary organ procurement organization.

Each eligible family of an organ donor is entitled to receive one organ donor medal unless more than one member of the family is an organ donor. In that case, an eligible family is entitled to receive one medal for each family member who was an organ donor. Duplicate medals may be purchased by eligible family members. Anyone else wishing to purchase a medal may request the permission of the eligible family to do so.

**Votes on Final Passage:**

Senate	44	3
House	87	1

**Effective:** June 11, 1998

**SB 6668**

C 339 L 98

Extending tax deferrals for new thoroughbred race tracks.

By Senators Heavey, Schow, Anderson, West, T. Sheldon, Rasmussen, Strannigan and Johnson.

Senate Committee on Commerce & Labor

Senate Committee on Ways & Means

House Committee on Finance

**Background:** In 1995, the Legislature provided a sales and use tax deferral for the materials, equipment and labor used to construct or equip the new thoroughbred horse racing facility, Emerald Downs. The taxes are deferred, interest free, for a five-year period of time. The taxes are required to be repaid over a ten-year period. Repayment of the tax is scheduled to begin on December 31, 2001.

**Summary:** The date on which the repayment of the deferred sales and use taxes for the construction of the new thoroughbred horse racing facility begins is extended by five years to December 31, 2006.

**Votes on Final Passage:**

Senate	39	8
House	94	0

**Effective:** June 11, 1998

**SSB 6669**

C 100 L 98

Allowing a holder of perpetual timber rights to sign a statement of intent not to convert the land to other uses for a period of time.

By Senate Committee on Natural Resources & Parks (originally sponsored by Senators Rossi and T. Sheldon).

Senate Committee on Natural Resources & Parks

House Committee on Natural Resources

**Background:** The Legislature passed statutes changing the procedures for conversion of forest lands to other uses. In that statute, it was provided that a landowner had to commit to the intent that the lands would be kept in forest status or would be converted to another use. In the state of Washington, there are timber cutting rights which have been severed from land ownership rights. While these property rights are not common, one company, Boise Cascade, has extensive timber cutting rights. This means that the company has rights to cut the timber but does not own the underlying land. By limiting the land use agreement in the existing statute to a landowner, the owner with timber rights is not protected.

**Summary:** For the purposes of the state Forest Practices Act, and in the case of an application of forest lands where timber rights have been transferred by a deed to a perpetual owner who is different from the landowner, the owner of the perpetual timber right may sign the statement of intent not to convert to a use other than commercial forest product operations for a set period of time.

**Votes on Final Passage:**

Senate	47	1
House	97	0

**Effective:** June 11, 1998

**SB 6698**  
C 164 L 98

Revising timelines for the salary commission.

By Senator McCaslin.

Senate Committee on Government Operations  
House Committee on Government Administration

**Background:** The 16-member state Salary Commission sets salaries for legislators, judges, and statewide elected officials. A new set of members to the commission is appointed every four years. Nine of the members are drawn by lot by the Secretary of State from voter lists in each of the nine congressional districts. The other seven members are selected by the leadership of the Legislature and forwarded by February 15 to the Governor for appointment to the commission. The terms of the current commission members expire in 1999, when a new set of members will be selected and appointed.

The commission members must organize themselves, hold hearings, determine the appropriate salaries, and file a salary schedule with the Secretary of State by the first Monday in June of the year the members are appointed, and by the first Monday in June two years later.

The statute which directs the commission to hold public hearings on the salaries is not clear. The commission, since its beginning, has held hearings and then set the salaries. In 1997, a superior court judge interpreted the statute governing the commission as requiring the commission to hold at least four public hearings on the schedule that is ultimately filed with the Secretary of State. The judge did not rule on whether public hearings on a proposed schedule, which is later modified, would meet this requirement.

**Summary:** Procedures governing the state Salary Commission are modified to require the commission to hold at least four public hearings on its proposed salary schedule. At the last public hearing on its proposed schedule, it must adopt the salary schedule that is filed with the Secretary of State.

**Votes on Final Passage:**

Senate	48	0	
House	94	0	(House amended)
Senate	42	0	(Senate concurred)

**Effective:** June 11, 1998

**SB 6699**  
FULL VETO

Limiting the liability of a current or former employer who provides information about a current or former employee's work record to a prospective employer.

By Senators Schow, Anderson, Newhouse, Zarelli, Horn, Winsley, Stevens, Benton, Rossi, Long, Sellar and Oke.

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

**Background:** There is concern that employers are reluctant to disclose job reference information.

**Summary:** An employer is presumed to be acting in good faith and is immune from liability to an employee for disclosing information to a prospective employer, as long as the information relates to ability to do the job; diligence, skill, or reliability; and illegal or wrongful acts. To rebut the presumption requires clear and convincing evidence that the disclosure was knowingly false or deliberately misleading.

**Votes on Final Passage:**

Senate	31	18	
House	55	42	(House amended)
Senate	32	17	(Senate concurred)

**VETO MESSAGE ON SB 6699**

April 1, 1998

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. 6699 entitled:

"AN ACT Relating to information provided by former or current employers to a prospective employer;"

I strongly agree with the intent of this legislation. As an employer, I have personally experienced the frustrations that result from current law.

It is clear that the laws applying to employee references need to be reformed. In recent years, employers have been reluctant to provide job reference information regarding former employees, for fear of liability. The consequence is that employers often cannot get adequate information to make good hiring decisions. This can be a big problem in the case of workplace violence or employee theft. Employers who have fired employees because of violence or theft have not divulged that information to prospective employers. Later, such employees have repeated that behavior endangering the life and property of others. Conversely, good employees are disadvantaged because many employers have strict policies against providing more than minimal information, such as confirming dates of employment only.

However, SB 6699 is not crafted finely enough to properly solve these problems. When I met with proponents of this bill, there was disagreement even among them whether reports of an employee's activities outside of work could be discussed in a job reference. Among other concerns, SB 6699 conflicts with the state's anti-blacklisting statute (RCW 49.44.010) and would effectively take away any civil remedy an employee could seek if blacklisted. Blacklisting occurs when employers band together to exclude from employment, employees who are trying to or-

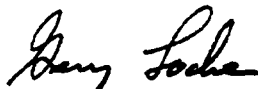
ganize a union, or participate in "undesirable" religious or political organizations.

*I strongly agree with the intent of SB 6699, but it needs further refinement. During the interim I will convene a group of knowledgeable lawyers and stakeholders representing all sides of this issue to develop legislation that will address these concerns. And, I will make my staff available to assist the group.*

*I urge the various interest groups to work together to develop a compromise that satisfies employers' need for freer flow of information, while maintaining meaningful protection for employees. Efforts that were made by Representatives Lantz and Hickel to provide for statements made by an employer with malice or a reckless disregard of truthfulness come much closer to a balanced law that would work for both employers and employees.*

*For these reasons, I have vetoed Senate Bill No. 6699 in its entirety.*

Respectfully submitted,



Gary Locke  
Governor

## SSB 6727

C 302 L 98

Modifying the savings incentive and education savings accounts.

By Senate Committee on Ways & Means (originally sponsored by Senators West, Wood, Hale, Kohl, Winsley, Prince, B. Sheldon, McDonald, Brown, Bauer, Rasmussen and Oke).

Senate Committee on Ways & Means  
House Committee on Appropriations

**Background:** In 1997, the Legislature established the Savings Incentive Account to receive a portion of the "incentive savings" that remain unexpended by state agencies at the end of each fiscal year. "Incentive savings" are defined to include all unspent General Fund appropriations except for appropriations for state debt service, higher education enrollments, caseloads in entitlement programs, retirement contributions, and budget provisos where the agency failed to achieve the purpose of the proviso. Moneys in the Savings Incentive Account are credited to the agency that contributed the moneys, and the moneys may be spent by that agency, without a legislative appropriation, for one-time purposes to improve the quality, efficiency, and effectiveness of services to customers of the state (such as employee training and incentives, technology improvements, new work processes, or performance measurements). Moneys in the Savings Incentive Account cannot be used for new programs or services or to incur on-going costs requiring future expenditures.

The 1997 Legislature also established the Education Savings Account to receive all General Fund reversions (unspent appropriations) that are not deposited in the Sav-

ings Incentive Account. This nonappropriated account may be expended by the Board of Education for common school construction projects or K-12 technology improvements.

Fiscal Year 1997 reversions deposited in the Education Savings Account were \$54.1 million, of which \$19.7 million was appropriated by the Legislature for technology grants to school districts, leaving a fund balance of \$34.4 million.

**Summary:** The definition of incentive savings is clarified to allow administrative savings in entitlement programs to be deposited in the Savings Incentive Account, and the definition of entitlement programs is clarified to include specific appropriations intended for pass-through to third parties.

The Education Savings Account is made subject to legislative appropriation. Ten percent of the existing balance in the account and 10 percent of future appropriations are to be divided among three existing state trust funds established for specific higher education purposes: 50 percent for distinguished professorships, 17 percent for graduate fellowships, and 33 percent for community and technical college exceptional faculty awards.

### Votes on Final Passage:

Senate	47	0	
House	98	0	(House amended)
Senate			(Senate refused to concur)
House	98	0	(House receded)

**Effective:** June 11, 1998

## SB 6728

C 200 L 98

Providing tax exemptions for activities conducted for hop commodity commissions or boards.

By Senators Newhouse, Loveland, Morton, Rasmussen, Deccio and Schow.

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

**Background:** The business and occupation tax (B&O) is levied for the privilege of doing business in Washington. The tax is levied on the gross receipts of all business activities (except utility activities) conducted within the state.

Although there are several different rates, beginning July 1, 1998 the principal rates are as follows:

Manufacturing/wholesaling	0.484%
Retailing	0.471%
Services	1.5%

The B&O tax is imposed on the gross receipts of business activities conducted within the state, without any

## SB 6729

deduction for the costs of doing business. Thus, the tax pyramids at each level of activity.

**Summary:** The B&O tax does not apply to a nonprofit organization with respect to amounts received from a hop commodity board or commission.

### Votes on Final Passage:

Senate	47	0	
House	88	10	
House	93	5	(House reconsidered)

**Effective:** June 11, 1998

## SB 6729

C 128 L 98

Financing senior housing.

By Senators Prentice, Winsley, Finkbeiner, Fairley, Rasmussen and Kline.

Senate Committee on Financial Institutions, Insurance & Housing

House Committee on Trade & Economic Development

**Background:** In 1997, the Legislature established a task force to develop and recommend new housing finance methods for low-income seniors and persons with disability. Under that legislation, the task force goes out of existence in February 1998.

Some of the recommendations developed by the task force need further work and translation into proposed legislation. The cost of operation of the task force in 1997 was absorbed by the agencies without a designated budget item.

**Summary:** The Task Force on Financing Senior Housing and Housing for Persons With Disabilities is recreated. The membership of the task force is changed slightly with the addition of the Secretary of the Department of Social and Health Services, or designee, and the deletion of the Director of the State Investment Board.

The Department of Community, Trade, and Economic Development, the Washington State Investment Board, and the Washington State Housing Finance Commission are directed to supply information and administrative assistance to the task force.

A progress report must be submitted to the Legislature by December 15, 1998.

The act expires February 1, 1999.

### Votes on Final Passage:

Senate	48	0	
House	97	0	(House amended)
Senate	47	0	(Senate concurred)

**Effective:** March 23, 1998

## SSB 6731

C 201 L 98

Removing a property tax exemption for larger airports belonging to out-of-state municipal corporations.

By Senate Committee on Ways & Means (originally sponsored by Senators Newhouse and Deccio).

Senate Committee on Ways & Means  
House Committee on Finance

**Background:** All property in this state is subject to the property tax each year based on the property's value unless a specific exemption is provided by law. The only class of property which is exempt by the state Constitution is that owned by the United States, the state, its counties, school districts, and other municipal corporations, but the state Constitution allows the Legislature to exempt other property from taxation.

Real and personal property belonging to municipal corporations in adjoining states which is used primarily for airport purposes is exempt from property tax.

**Summary:** The property tax exemption for real and personal property belonging to municipal corporations in adjoining states which is used primarily for airport purposes is limited to airports of 500 acres or less.

### Votes on Final Passage:

Senate	45	0	
House	97	0	

**Effective:** June 11, 1998

## SSB 6737

C 202 L 98

Regulating property taxation of residential housing occupied by low-income developmentally disabled persons.

By Senate Committee on Ways & Means (originally sponsored by Senators Deccio, Wojahn, Wood, Patterson, West, Fraser, Thibaudeau, Morton, Schow, Winsley, Oke, Prentice, B. Sheldon and Rasmussen).

Senate Committee on Ways & Means  
House Committee on Finance

**Background:** All property in this state is subject to the property tax each year based on the property's value unless a specific exemption is provided by law. The only class of property which is exempt by the state Constitution is that owned by the United States, the state, its counties, school districts, and other municipal corporations, but the state Constitution allows the Legislature to exempt other property from taxation.

Major property tax exemptions for nonprofit organizations include churches, hospitals, nursing homes, homes for the aging, blood banks, the Red Cross, private schools

and colleges, sheltered workshops, day care centers, assembly halls and meeting places, libraries, and youth organizations.

**Summary:** All real and personal property owned or leased by a nonprofit organization qualified for exemption under section 501(c)(3) of the federal Internal Revenue Code to provide housing for eligible persons with developmental disabilities is exempt from property taxation.

The housing must be occupied by developmentally disabled persons whose adjusted gross incomes are 80 percent or less of the median income for the county, adjusted for family size.

For property that is leased, the benefit of the exemption must inure to the nonprofit organization.

**Votes on Final Passage:**

Senate	48	0
House	97	0

**Effective:** June 11, 1998

**SSB 6746**

C 303 L 98

Regulating purchasing of insurance services.

By Senate Committee on Financial Institutions, Insurance & Housing (originally sponsored by Senator Winsley).

Senate Committee on Financial Institutions, Insurance & Housing

House Committee on Financial Institutions & Insurance

**Background:** Within the state of Washington, a number of automobile clubs offer services including emergency road service, towing service, theft or reward service, and travel and touring service. In some instances, these clubs are affiliated with automobile manufacturers, insurance companies, retailers, or other companies. Others are independently owned and operated.

Aside from general statutes and regulations governing the establishment, operation, and taxation of business and industry in Washington State, automobile clubs have been operating without statutes and regulations specific to automobile clubs. Automobile clubs have also been operating in this state outside statutes and regulations which apply to insurance providers. Some automobile clubs belong to associations and organizations which maintain operational and financial standards and requirements.

In July of 1995, the Office of the Insurance Commissioner (OIC) obtained a solicitation letter which was being sent by an automobile club to residents of Washington. Upon review, the OIC advised the company that general laws relating to insurance apply to most aspects of the company's operation. Further, the OIC advised the company that its program was in violation of Washington insurance law and it should terminate marketing efforts immediately.

**Summary:** Any person or business enterprise promising, in exchange for payment, to furnish members or subscribers with assistance in matters relating to trip cancellation, bail bond service, or any accident, sickness, or death insurance benefit program must have a certificate of authority from the Insurance Commissioner authorizing the company to sell insurance in this state, or must purchase the service or insurance from a company that holds a certificate of authority. If coverage cannot be secured from a company holding a certificate of authority, purchase of "surplus lines" insurance is authorized by statute.

Other travel or automobile related products such as community traffic safety, travel and touring service, theft or reward service, map service, roadside assistance, lock-out service, reimbursement of emergency expenses related to an accident, or legal fee reimbursement service in the defense of traffic offenses are excluded from regulatory provisions applicable to insurance products under the Office of the Insurance Commissioner.

Existing enforcement, hearing, and appeal provisions of the Insurance Commissioner's Office are applicable.

**Votes on Final Passage:**

Senate	49	0	
House	98	0	(House amended)
Senate	46	0	(Senate concurred)

**Effective:** June 11, 1998

**SSB 6751**

C 216 L 98

Ensuring a choice of service and residential options for citizens with developmental disabilities.

By Senate Committee on Health & Long-Term Care (originally sponsored by Senators Deccio, Wojahn, Wood, Franklin, Benton, Thibaudeau, Oke and Winsley).

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

**Background:** Under current law, the Department of Social and Health Services (DSHS) contracts for community residential programs for persons with developmental disabilities, as well as employment and day programs, Medicaid personal care, and family support or respite care, and other services.

Five residential habilitation centers (RHC) provide services to persons with developmental disabilities. Currently, there are approximately 1,230 residents in RHCs.

For many years, a conflict has existed between advocates for community-based services and advocates for state-operated residential centers. In 1997, representatives from DSHS and a group of 19 stakeholders met throughout the year to try and reach an agreement over the direction the department should take in providing services to people with developmental disabilities. An agreement

in principle was reached at the end of the year, which stated that people with developmental disabilities and their families should have a full spectrum of choices in deciding what services they should receive.

**Summary:** The Legislature affirms the commitment to secure for all persons with developmental disabilities (DD) the opportunity to choose where they live. This choice should include both community services and residential habilitation centers. The choice must be supported by state policy and allow, as much as possible, for people to stay in their own homes or communities.

Persons with developmental disabilities are offered entrance into a residential habilitation center or a community support service, should a vacancy occur. If a person assessed by the department is determined to have assessed needs which require the funded level of resources provided by a residential habilitation center, that person is offered admittance.

All applicants for developmental disabilities services must be given notice of the existence and availability of residential habilitation centers and community support services. Available options must be clearly explained, with services customized to fit the unique needs and circumstances of the DD clients and their families.

Until June 30, 2003, the capacity of community residential support services and residential habilitation center services must not be reduced below the budgeted capacity in each of these services in the 1997-99 appropriations act, except as reductions are necessary to adhere to an agreement with the federal Department of Justice regarding Fircrest School, and subject to budget direction from the Governor. If direction from the Governor requires reductions in the developmental disabilities budget, both RHCs and community support services will be considered.

If this capacity is not needed for current clients of the department, any vacancies that may occur in community support services or residential habilitation center services are used to expand services to eligible developmentally disabled persons not now receiving services. If there is a vacancy in a residential habilitation center, it must be made available to any eligible person who is seeking and desires the services of an RHC. That applicant must also be offered community service. If RHC capacity is not needed for permanent residents, vacancies are used for respite care or other services for eligible DD clients. The unused capacity may only be used if community support service funds are available.

The Department of Social and Health Services must develop an outreach program to ensure that anyone who is eligible for developmental disabilities services at home, in the community or in residential habilitation centers, is made aware of these services.

The department, with the participation of the developmental disabilities stakeholders work group (established in 1997), must conduct an assessment of all persons with developmental disabilities who are eligible for services. The

analysis includes a broad look at all services, and results in a long-term strategic plan for the department.

The plan provides phased-in data collection and analysis on programs, services and funding for the developmentally disabled. The plan also includes budget and statutory recommendations intended to secure choice for all persons with developmental disabilities.

The department is directed to offer community support services to individuals with developmental disabilities if those individuals are offered admission to a residential habitation center.

All provisions of this act specifically do not create an entitlement to any services.

**Votes on Final Passage:**

Senate	49	0	
House	98	0	(House amended)
Senate			(Senate refused to concur)

Conference Committee

House	98	0
Senate	48	0

**Effective:** March 30, 1998

**SB 6758**

C 273 L 98

Repealing the expiration date for the work ethic camp program.

By Senators Long, Hargrove and West.

Senate Committee on Human Services & Corrections

**Background:** Current law includes a termination provision for the Department of Corrections work ethic camp. The same statutory section includes specific requirements relating to starting the camp. These requirements have been completed.

**Summary:** The statutory section that sets an expiration date, requires certain studies, and requires the department to seek federal funding for implementation is repealed.

The bill is necessary to implement the budget.

**Votes on Final Passage:**

Senate	48	0
House	98	0

**Effective:** June 11, 1998

## SJM 8019

Requesting federal funds for housing finance.

By Senators Winsley and Prentice.

Senate Committee on Financial Institutions, Insurance & Housing

House Committee on Trade & Economic Development

**Background:** In the Tax Reform Act of 1986, Congress set limits on tax-exempt private activity bonds available for each state, effective January 1, 1988. The limit is based on each state's population, not to exceed \$50 per capita per calendar year. While the limit increases with the growth in each state's population, there is no inflationary adjustment. As a result, the purchasing power allowed under the cap has decreased each year since 1988. The cumulative loss in purchasing power in Washington State has been approximately 46 percent over the ten-year period. The cap for 1996 was slightly more than \$267 million.

The Department of Community, Trade, and Economic Development (CTED) is responsible for administering the bond allocation for Washington State. Allowable bond uses include industrial revenue bonds, public utility districts, housing, and local government projects such as mass commuting, utilities, and waste treatment and disposal that include a level of private activity which makes them subject to the cap. According to CTED, the supply of tax-exempt private activity bond volume is inadequate to meet the demands of the state. The demand for any one bond use category, such as housing or local government projects, often exceeds the total capacity available for all allowable categories in a given year.

Similarly, the Tax Reform Act of 1986 restricted low-income housing tax credits to \$1.25 per capita per calendar year. Again, no inflationary adjustment has been allowed since 1988, resulting in a 46 percent loss in purchasing power. The Housing Finance Commission administers the low-income housing tax credit program which provides housing (multi-family only in Washington State) for residents with incomes at or below 60 percent of the median. The 1996 limit for tax credits was approximately \$6.6 million. The number of applications for low-income housing tax credits received by the commission is generally about three times the allowable limit.

Currently, legislation is before Congress to increase both the private activity bond cap and low-income tax credits by amounts approximately equal to the loss in purchasing power over the past ten years. Proposed legislation would also provide for future inflationary adjustments. Approximately eight states have so far enacted memorials requesting that Congress restore the purchasing power of the private activity bond cap and the low-income housing tax credits, and index future increases to inflation.

**Summary:** The United States Congress is requested to increase immediately the tax-exempt private activity bond

volume cap and the allocation of low-income housing tax credits available to each state, including Washington, to levels that would fully restore purchasing power to January 1, 1988 levels. It is further requested that the bond volume cap and the tax credit limits both be indexed to increases in inflation for future years.

**Votes on Final Passage:**

Senate	48	0
House	97	0

## SCR 8429

Renaming the Institutions Building the Irving R. Newhouse Building.

By Senators McDonald and Snyder.

**Background:** The Honorable Irving R. Newhouse serves with honor and integrity as President Pro Tempore of the Washington State Senate. Governors of both parties have desired and respected his perspective on potential legislation. He will long be remembered for his impressive and inspiring contributions to the Washington State Legislature by members, staff, lobbyists, the media, and friends and neighbors in the 15th Legislative District and has demonstrated tremendous dedication to his district and to the state of Washington with more than 34 years of service since his election to the House of Representatives in 1964.

**Summary:** The Director of the Department of General Administration is directed to rename the building currently referred to as the Institutions Building as the Irving R. Newhouse Building.

**Votes on Final Passage:**

Senate	Adopted
House	Adopted



## Sunset Legislation

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### Sunset Legislation

**Background:** The Washington State Sunset Act (Chapter 43.131 RCW) was adopted in 1977 as a means to improve legislative oversight of state agencies and programs. The sunset process provides an automatic termination of selected state agencies, programs and statutes. One year prior to termination, program and fiscal reviews are conducted by the Joint Legislative Audit and Review Committee and the Office of Financial Management. The program reviews are intended to assist the Legislature in determining whether agencies and programs should be allowed to terminate automatically or be reauthorized by legislative action in either their current or modified form prior to the termination date.

**Session Summary:** The Joint Legislative Audit and Review Committee submitted one sunset report to the Legislature in 1998. The report covering the Workforce Employment and Training Program recommended continuation. The Legislature did not take action on this program which is scheduled to terminate June 30, 1998 but did provide funding through the biennium.

A sunset date is established for parimutuel tax rates and revenue distributions. The Center for International Trade in Forest Products is removed from the sunset review process. The sunset dates for the Office of Public Defense and the Underground Storage Tank Program are extended. The termination date of the Washington Telephone Assistance Program is extended. The Agency Council on Coordinated Transportation is established and a termination date is provided.

Legislation was enacted changing the commitment procedures for mentally ill persons and an expiration date of June 30, 2001 was established (2SSB 6214). However, the Governor vetoed the section which provided the expiration date.

#### New Program Placed On Sunset Schedule

**Parimutuel tax rates and revenue distributions** E2SSB 6562 (C 345 L 98 PV)

#### Program Removed From Sunset Review

**Center for International Trade in Forest Products (CINTRAFOR)** HB 2436 (C 108 L 98)

#### Programs With Sunset Date Extended

**Office of Public Defense**  
Extended to June 30, 2008 HB 2436 (C 108 L 98)

**Underground Storage Tank Program**  
Extended to July 1, 2009 SSB 6130 (C 155 L 98)

#### Program Extended Without Sunset Provisions

**Washington Telephone Assistance Program**  
Extended to June 30, 2003 SB 6400 (C 159 L 98)

**Program to Terminate Without Sunset Provisions**  
**Agency Council on Coordinated Transportation**  
Terminates on June 30, 2003 SHB 2166 (C 173 L 98)

Photo provided by the Northshore School District



Photo provided by the Marysville School District

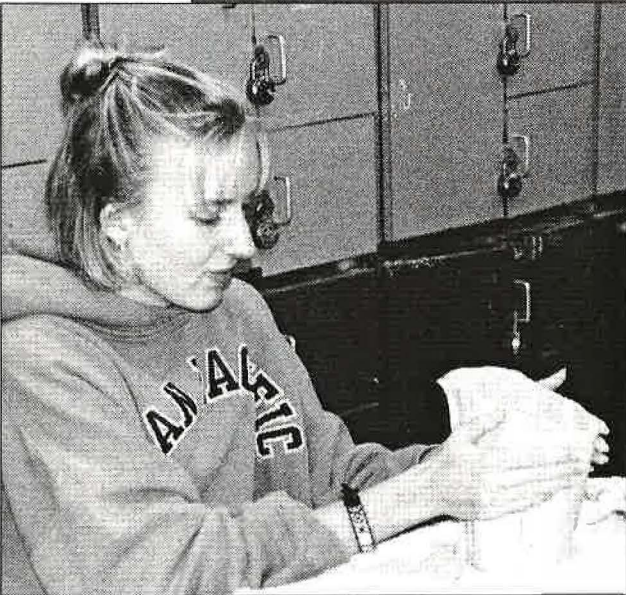


Photo provided by the Bainbridge Island School District

## SECTION II Budget Information

Operating Budget

Transportation Budget

**Top:** Northshore School District music students.

**Middle:** At Cascade Elementary School in the Marysville School District senior citizens volunteer to lead, tutor and encourage first grade students in Mrs. Deanna Long's reading class. Long carefully prepares easy-to-use lesson plans to direct volunteers as they work one-on-one and in small groups with students. **Bottom:** Bainbridge High School art student works on a slab-built pitcher in a ceramics class.

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### 1998 Supplemental Operating Budget Overview

The 1998 supplemental operating budgets enacted by Chapters 346, Laws of 1998 (ESSB 6108–Omnibus Operating Budget) and Chapter 348, Laws of 1998 (ESSB 6456–Transportation Operating Budget) total \$35.7 billion. Of that amount, \$19.1 billion is from the state general fund and \$16.6 billion is from other funding sources.

Under Chapter 43.135 RCW (Initiative 601), spending from the state general fund is limited to about \$19.2 billion – \$9.3 billion for fiscal year 1998 and \$9.8 billion for fiscal year 1999. The state general fund budget is \$74 million below the current 601 spending limit.

The 1998 supplemental operating budget as adopted by the Legislature and revised to reflect Governor vetoes reduced 1997-99 state general fund dollars by \$891,000 and increased total funds by \$337 million, or a 1 percent increase.

Significant savings in the state general fund budget came primarily from three areas: (1) savings were realized in the state's general assistance program when Congress restored SSI eligibility for legal immigrants (\$49.3 million); (2) enrollment in the state public schools was 7,005 full time equivalent students less in the 1997-98 school year than originally budgeted and is projected to be 8,625 less in the 1998-99 school year than originally budgeted (\$46.6 million); and (3) additional revenue from the federal disproportionate share program offset expenditures from the state general fund (\$39.5 million).

Significant increases for current services in the state general fund budget occurred in two Department of Social and Health Services programs. They are an additional \$20.6 million for the Division of Developmental Disabilities and \$18.9 million for additional community services in the Aging and Adult Services Administration.

Significant funding for new policy enhancements was made in three areas: \$25.3 million of the state general fund was used to support the transportation budget; \$17.0 million of the state general fund was appropriated to support reading improvement in the public schools; and \$10.5 million of the state general fund was appropriated for salmon recovery efforts.

## **1998 Supplemental Operating Budget (ESSB 6108)**

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### **Transportation Financing Package**

Chapter 321, Laws of 1998, Partial Veto (EHB 2894) was passed by the 1998 Legislature and will be submitted to the voters in November as Referendum 49. It provides the majority of a \$2.4 billion transportation financing package through a transfer of motor vehicle excise tax (MVET) revenues from the general fund to the motor vehicle fund, a \$30 per vehicle tax cut, and increased revenues for local governments.

The referendum would amend and re-enact Initiative 601 to permit the transfers to occur without requiring a downward adjustment in the spending limit. Reimbursements to local governments would be permitted by transfers of state revenues in addition to current law, which allows reimbursement only by direct appropriation. The referendum also provides for voter approval of up to \$1.9 billion in bonds for transportation purposes.

Finally, there are two sections of the bill that are not part of the referendum. The bill establishes a joint committee to study the long-term needs and financing of state and local transportation needs. Also, the bill provides for a \$25 million loan from the general fund to the motor vehicle fund for engineering, design, and right-of-way acquisition related to road construction projects. These two sections were vetoed by the Governor.

The primary fiscal components are as follows:

- Permanently transfers revenue to the motor vehicle fund beginning January 1, 1999. The transfer would total \$36 million in fiscal year 1999 and \$156 million in the 1999-2001 biennium.
- Provides a \$30 reduction in the MVET for personal use vehicles and a reduction in the MVET depreciation schedule to end the practice of valuing vehicles for tax purposes at 100 percent of manufacturers' suggested retail price for each of the first two years. This will amount to a \$257 million tax reduction in the 1999-2001 biennium.
- Increases both county and city criminal justice assistance by 11 percent and then further increases assistance by removing the inflationary cap. In total, criminal justice assistance will increase by \$27 million in the 1999-2001 biennium.
- Provides \$21 million in the 1999-2001 biennium to distressed counties for criminal justice and other purposes.
- Provides \$8 million in the 1999-2001 biennium to cities with small retail tax bases through the municipal sales tax equalization program.
- Provides the Community Economic Revitalization Board (CERB) with an additional \$8 million in the 1999-2001 biennium. Half of this amount is for current CERB programs, and the other half is for extraordinary costs associated with major business facilities in distressed counties.
- Permits the transit districts in Everett and Yakima to use the local sales tax as matching revenues for local MVET taxes. This will be phased in over a four-year period.

### Revenues

The February 1998 general fund revenue forecast by the Economic and Revenue Forecast Council projected \$19.45 billion in revenues for the 1997-99 biennium. Combined with the \$513 million fund balance, there was \$19.96 billion in total resources and an Initiative 601 spending limit of approximately \$19.2 billion. This allowed the Legislature to reduce revenues while still meeting spending obligations.

By far the most significant revenue bill is EHB 2894 (Chapter 321, Laws of 1998) which reduces and redistributes the motor vehicle excise tax (MVET). The financial provisions of EHB 2894 will be on the November 1998 ballot as Referendum 49. If adopted by the voters, the state general fund will be reduced by \$36 million in 1997-99, \$467 million in 1999-01, and \$516 million in 2001-03. Please refer to the Transportation Financing Package section on page 266 for more information.

Other revenue reduction legislation includes the consolidation of the ten different B&O tax rates down to six, the elimination of the "internal distributions" tax, a reduction in the tax rate on royalty income, a tax exemption for the State Route 16 corridor (Narrows Bridge), and the creation of tax credits for businesses in community empowerment zones.

In addition, a major expansion of the senior citizen and disabled person property tax exemption program was passed. Chapter 333, Laws of 1998, Partial Veto (ESSB 6533) expands the program to include persons with annual incomes up to \$30,000 and increases the amount of relief for all participants in the program.

# 1998 Supplemental Operating Budget (ESSB 6108)

## 1997-99 Estimated Revenues and Expenditures

### 1998 Supplemental Budget

#### General Fund-State

(Dollars in Millions)

RESOURCES	
Unrestricted Beginning Balance	512.9
March Revenue Forecast	19,445.8
Revenue Legislation	(24.8)
Transportation Finance Package (EHB 2894)	(35.7)
Total Reductions	(60.5)
<b>Total Resources</b>	<b>19,898.2</b>
EXPENDITURES	
1997-99 Original Appropriations <sup>(1)</sup>	19,076.9
1998 Supplemental Budget <sup>(2)</sup>	(0.9)
Other Appropriations <sup>(3)</sup>	7.7
<b>Total Expenditures</b>	<b>19,083.7</b>
I-601 Spending Limit	19,158.0
BALANCE AND RESERVES	
Loans (Fish and Wildlife)	(3.5)
Emergency Reserve (After Transfer)	291.1
Unrestricted Ending Balance	520.0
<b>Total Reserves</b>	<b>811.1</b>

<sup>(1)</sup> The 1997-99 Original Appropriations include both Omnibus Budget bills (Chapter 149, Laws of 1997, Partial Veto and Chapter 454, Laws of 1997, Partial Veto), the Transportation Budget (Chapter 457, Laws of 1997), and Chapter 425, Laws of 1997.

<sup>(2)</sup> The 1998 Supplemental Budget includes the Omnibus Supplemental Budget (Chapter 346, Laws of 1998, Partial Veto), the Transportation Supplemental (Chapter 348, Laws of 1998, Partial Veto), Chapter 272, Laws of 1998, Partial Veto, and Chapter 314, Laws of 1998, Partial Veto. See Page 5.

<sup>(3)</sup> The Other Appropriations line includes Chapter 306, Laws of 1997, which transferred money from the general fund to the violence reduction and drug enforcement account.

**1998 Revenue Legislation**

**Major Tax Reduction Legislation**

**MVET Reduction and Redistribution - \$35.7 Million General Fund-State Revenue Decrease**

Chapter 321, Laws of 1998, Partial Veto (EHB 2894) provides funding for state and local transportation improvements using portions of the motor vehicle excise tax (MVET) that were previously deposited into the state general fund, including authorization for \$1.9 billion in bonding authority for the location, design, right of way, and construction of state and local highway improvements. The MVET is reduced through a \$30 tax credit and a change in the valuation of vehicles subject to the tax. Funding for local governments is increased, including local criminal justice assistance. These transfers are exempt from Initiative 601, and the initiative is reaffirmed. The Legislature may fund mandates they impose on local governments for local programs by new state revenue distributions in addition to specific appropriations. The foregoing is referred to the people as Referendum 49. (The Governor vetoed a section creating a joint committee to study the long-term transportation funding needs in the state and a section making a \$25 million loan to the motor vehicle fund from the general fund. Please refer to the Transportation Financing Package section on page 266 for more information.)

**Other Tax Reduction Legislation**

**Dental Appliances, Devices, Restorations, and Substitutes - \$1.1 Million General Fund-State Revenue Decrease**

Chapter 168, Laws of 1998 (EHB 1042) defines dental laboratory activities as manufacturing rather than as service activities for purposes of business and occupation (B&O) taxation. This results in the B&O tax rate on the sale of a dental laboratory's manufactured products decreasing from the 1.5 percent service rate to the 0.471 percent retailing rate for products sold at retail and to the 0.484 percent wholesaling rate for products sold at wholesale.

**911 Emergency Communications Funding - No General Fund-State Revenue Impact**

Chapter 304, Laws of 1998 (SHB 1126) makes 20 cents per switched access line a permanent maximum tax rate for the state enhanced 911 excise tax, transfers responsibility for tax collection from the Military Department to the Department of Revenue, allows temporary state salary assistance for 911 staffing costs for counties with populations under 75,000 residents, allows state assistance to a multi-county region when two or more counties jointly operate a multi-county enhanced 911 system, and allows ongoing state salary assistance for 911 staffing costs to a multi-county region if the counties have fewer than 75,000 residents.

**Coin-Operated Laundromats in Apartments and Mobile Home Communities - \$2.3 General Fund-State Revenue Decrease**

Chapter 275, Laws of 1998 (SHB 1184) exempts coin-operated laundries located in apartment complexes, rooming houses, or mobile home parks from sales and use taxes.



## **1998 Supplemental Operating Budget (ESSB 6108)**

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### **B&O Taxation of the Handling of Hay, Alfalfa, and Seed – \$444,000 General Fund-State Revenue Decrease**

Chapter 170, Laws of 1998 (E2SHB 1328) exempts from B&O tax wholesale sales to farmers of seed conditioned for use in planting and not packaged for retail sale or conditioning seed owned by others for use in planting.

### **Property Tax Assessment Reduction in Response to Government Restrictions – No General Fund-State Revenue Impact**

Chapter 306, Laws of 1998 (HB 1549) allows a property owner to request that the county assessor reconsider the value of real property if a government entity adopts a restriction on the property that limits the use of the property.

### **Hazardous Waste Site Cleanups – \$2.2 Million General Fund-State Revenue Decrease**

Chapter 308, Laws of 1998 (SHB 2051) exempts hazardous waste site cleanups from sales tax and reduces the B&O tax rate from the 1.5 percent service rate to the 0.471 percent retailing rate until July 1, 2003.

### **Electric Generating Facilities Powered by Landfill Gas – \$299,000 General Fund-State Revenue Decrease**

Chapter 309, Laws of 1998 (HB 2278) extends the machinery and equipment sales and use tax exemption for wind and sun energy facilities to facilities using landfill gas.

### **Notification of Denial of Property Tax Exemption – No General Fund-State Revenue Impact**

Chapter 310, Laws of 1998 (HB 2309) allows property tax exemption denial notices to be sent by regular mail rather than certified mail.

### **Technical Corrections to Excise and Property Tax Statutes – No General Fund-State Revenue Impact**

Chapter 311, Laws of 1998 (SHB 2315) clarifies that only mortgage brokers are exempt from paying B&O taxes on money received from borrowers and held in trust for payment of third-party costs. It subjects all nonprofit organizations eligible for property tax exemptions to the same definition of "nonprofit." Other technical corrections are made to excise and property tax statutes.

### **Consolidation of B&O Tax Rates into Fewer Categories – \$5.8 Million General Fund-State Revenue Decrease**

Chapter 312, Laws of 1998 (HB 2335) reduces the number of B&O tax rates from ten to six by consolidating and eliminating tax rates. It reduces the tax rate for childcare providers from 1.5 percent to 0.484 percent.

### **Tax Exemptions for Businesses in Community Empowerment Zones That Provide Selected International Services – \$1.4 Million General Fund-State Revenue Decrease**

Chapter 313, Laws of 1998 (E2SHB 2342) provides B&O and insurance premium tax credits for creating jobs providing international services if the jobs are created inside community empowerment zones or designated areas in cities or contiguous cities larger than 80,000 that meet the unemployment and poverty criteria of empowerment zones.

### **Sales Tax Exemption for Parts Used for and Repairs to Farm Machinery and Implements Used Outside the State – \$3,000 General Fund-State Revenue Decrease**

Chapter 167, Laws of 1998 (HB 2476) exempts nonresidents from sales tax on parts and repair services for farm machinery and implements.

## **1998 Supplemental Operating Budget (ESSB 6108)**

### **Sales of Laundry Service - \$92,000 General Fund-State Revenue Decrease**

Chapter 315, Laws of 1998 (HB 2566) removes the sale of laundry services to nonprofit health care facilities from the definition of a retail sale. This results in a sales tax exemption for these services, and the B&O tax rate for providers of these services increases from the 0.471 percent retailing rate to the 1.5 percent service rate.

### **Property Tax Exemptions for Nonprofit Organizations - No General Fund-State Revenue Impact**

Chapter 174, Laws of 1998 (HB 2598) makes permanent the property tax exemption granted for property leased by a nonprofit organization and used as transitional or emergency housing for low-income persons or victims of domestic violence.

### **Resolution of Conflicts in Lodging Tax Statutes Enacted in 1997 - No General Fund-State Revenue Impact**

Chapter 35, Laws of 1998 (HB 2698) amends hotel-motel tax statutes to resolve the conflict between the 1997 hotel-motel legislation and the 1997 football stadium legislation.

### **Small Irrigation Districts - \$51,000 General Fund-State Revenue Decrease**

Chapter 316, Laws of 1998 (SHB 2711) exempts an irrigation district from paying public utility and B&O taxes on its gross receipts generated from sales of drinking water if the irrigation district serves fewer than 1,500 drinking water connections and charges a residential water rate exceeding 125 percent of the average statewide residential water rate. The exemption expires July 1, 2004. The expiration of similar tax exemptions, scheduled to expire in 2003, for water-sewer districts and small water systems are extended to July 1, 2004.

### **Classification of Land as Agricultural Land with Long-Term Commercial Significance for Tax Purposes - No General Fund-State Revenue Impact**

Chapter 320, Laws of 1998, Partial Veto (ESHB 2871) removes land designated as agricultural lands of long-term commercial significance under the Growth Management Act (GMA) and land zoned as agricultural land under GMA that is not within an urban growth area from land eligible for current use taxation under the farm and agricultural land classification. (The Governor vetoed provisions creating a new current use property tax program for land designated as agricultural land of long-term commercial significance by counties and cities planning under the GMA if the land is devoted primarily to agricultural uses and is not used for residential, industrial, or other commercial purposes and the city or county has adopted development regulations required under the GMA to conserve the agricultural land.)

### **Fuel Tax Registration and Payment - \$37,000 General Fund-State Revenue Decrease**

Chapter 115, Laws of 1998 (SHB 2917) makes the tax refund reporting procedure for gasoline the same as for diesel fuel by allowing a copy of the invoice, rather than the original, to accompany the refund claim form. The Department of Licensing may refuse to issue a special fuel dealer or user license to an applicant with an outstanding state aircraft fuel tax debt. Leaded racing fuel is exempt from the motor vehicle fuel tax. Revenues from the sales and use taxes on leaded racing fuel are deposited in a fund to mitigate adverse environmental impacts from transportation projects.

### **Business Warehousing and Selling of Pharmaceutical Drugs - No General Fund-State Revenue Impact**

Chapter 343, Laws of 1998 (ESHB 2933) reduces the tax rate for wholesalers of prescription drugs from 0.484 percent of gross income to 0.138 percent of gross income beginning July 1, 2001.

## **1998 Supplemental Operating Budget (ESSB 6108)**

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### **Gun Safes – \$41,000 General Fund-State Revenue Decrease**

Chapter 178, Laws of 1998 (HB 2969) exempts gun safes from sales and use taxes. Gun safes are enclosures specifically designed or modified for the purpose of storing firearms and equipped with locks or similar devices that prevent the unauthorized use of the firearms.

### **Tax Exemptions for the State Route 16 Corridor – No General Fund-State Revenue Impact**

Chapter 179, Laws of 1998 (SHB 3015) defers the state and local sales tax on State Route 16 corridor construction (Narrows Bridge) under the Public-Private Initiatives in Transportation (Chapter 47.46 RCW). Taxes are deferred for five years to be repaid over the following ten years. The State Route 16 corridor improvements project is exempt from leasehold excise tax, property tax, state public utility tax, state B&O tax, real estate excise tax, and local business tax. (The General Fund-State revenue impact is in future biennia.)

### **Tax Information Sharing for Investigation of Food Stamp Fraud – No General Fund-State Revenue Impact**

Chapter 234, Laws of 1998 (SHB 3076) permits the Department of Revenue to disclose tax information to the U.S. Department of Agriculture for the limited purpose of investigating food stamp fraud by retailers.

### **Preemption of Local Taxation of Health Care Services – No General Fund-State Revenue Impact**

Chapter 323, Laws of 1998 (SHB 3096) preempts local governments from imposing excise or privilege taxes on premiums or payments for health benefit plans provided by health care service contractors and health maintenance organizations (HMOs) beginning January 1, 2000. Health care services delivered by employees of HMOs are exempt.

### **Property Donated to Charitable Organizations – \$23,000 General Fund-State Revenue Decrease**

Chapter 182, Laws of 1998 (SSB 5355) creates new use tax exemptions for persons who donate materials to nonprofit organizations or to state or local governments. Similarly, persons who receive donated items from a nonprofit organization are exempt from paying use tax on the items received.

### **New Construction of Alternative Housing for Youth in Crisis – No General Fund-State Revenue Impact**

Chapter 183, Laws of 1998 (SB 5622) makes permanent the sales and use tax exemptions for items used in constructing new alternative housing for youth in crisis.

### **Education Loan Guarantee Services B&O Tax Exemption – \$24,000 General Fund-State Revenue Decrease**

Chapter 324, Laws of 1998 (SB 5631) exempts nonprofit agencies that provide student loan guarantees through programs other than the federal Guaranteed Student Loan Program from B&O taxes.

### **Nonprofit Hospice Agencies B&O Exemptions – \$290,000 General Fund-State Revenue Decrease**

Chapter 325, Laws of 1998 (SSB 6077) exempts nonprofit hospice agencies from paying B&O taxes on amounts received as compensation for patient services or as proceeds from the sale of prescription drugs furnished to patients.

## **1998 Supplemental Operating Budget (ESSB 6108)**

### **Nonprofit Organizations Providing Medical Research or Training of Medical Personnel – No General Fund-State Revenue Impact**

Chapter 184, Laws of 1998 (SB 6113) exempts a nonprofit corporation or association from paying property taxes on leased property if: 1) the leased property is used for medical research which is made available to the public without cost; or 2) the leased property is made available without charge to medical or hospital personnel for training or research purposes.

### **Pollution Control Tax Credit – \$50,000 General Fund-State Revenue Decrease**

Chapter 9, Laws of 1998 (SSB 6129) removes the requirement that a holder of a certificate for tax credits for a pollution control facility must apply for a new certificate when the facility is modified.

### **Waiver of Interest and Penalties on Property Taxes Delinquent Because of Hardship – No General Fund-State Revenue Impact**

Chapter 327, Laws of 1998 (ESSB 6205) requires counties to waive interest and penalties owed on delinquent property taxes on a personal residence if the reason for the delinquency is the death of a spouse, parent, or stepparent and the taxpayer notifies the county within 60 days of the tax due date of these hardship circumstances. The county may require the taxpayer to furnish a death certificate and to sign an affidavit.

### **Tax Appeals Board Filings – No General Fund-State Revenue Impact**

Chapter 54, Laws of 1998 (SB 6223) provides for the use of the postmark to determine the date of filing for excise tax appeals and provides for sending a copy of the notice of appeal to all named parties by the Board of Tax Appeals rather than the appellant.

### **Aircraft Dealer License Fees – \$1,000 General Fund-State Revenue Decrease**

Chapter 187, Laws of 1998 (SB 6228) increases the aircraft dealer's license fee from \$25 to \$75. The annual renewal fee is increased from \$10 to \$75. The cost for additional dealer license certificates is increased from \$2 to \$10. The fee to reapply after a dealer's license expiration is increased from \$25 to \$75. Registration fees are deposited into the aeronautics account rather than the general fund.

### **Aircraft Registration Compliance – \$5,000 General Fund-State Revenue Increase**

Chapter 188, Laws of 1998 (SSB 6229) requires port districts and municipalities that operate airports to require from an aircraft owner proof of aircraft registration or proof of the intent to register an aircraft as a condition of leasing or selling tie down or hangar space for an aircraft.

### **Elimination of the B&O Tax on Internal Distributions – \$4.3 Million General Fund-State Revenue Decrease**

Chapter 329, Laws of 1998 (SB 6270) eliminates the B&O tax on firms distributing merchandise from their own warehouses to two or more of their own retail stores. This "internal distributions" tax previously applied at the 0.484 percent rate on the value of the articles distributed.

### **Local Public Health Financing – \$424,000 General Fund-State Revenue Decrease**

Chapter 266, Laws of 1998 (SSB 6297) provides for use of excess revenues in the county sales and use tax equalization account to cover the cost of including the populations of cities over 50,000 that incorporated in 1996 and 1997 in the county public health funding calculation.

## **1998 Supplemental Operating Budget (ESSB 6108)**

### **Assembly Halls or Meeting Places Used for the Promotion of Specific Educational Purposes – No General Fund-State Revenue Impact**

Chapter 189, Laws of 1998 (SB 6311) allows a nonprofit assembly hall or meeting place located in a county with fewer than 10,000 residents to be used for private dance, art, or music classes without affecting the tax-exempt status of the property.

### **Sales Tax Certificate Elimination – No General Fund-State Revenue Impact**

Chapter 330, Laws of 1998 (SB 6348) eliminates the duplicate reporting requirement for sales and use tax exemptions for machinery and equipment used directly in a manufacturing operation or research and development operation. (The Governor vetoed provisions prohibiting the denial of an exemption solely on the basis that a duplicate was not filed and the January 1, 1999 effective date.)

### **Telephone Assistance Program – No General Fund-State Revenue Impact**

Chapter 159, Laws of 1998 (SB 6400) extends from June 30, 1998, to June 30, 2003 the program providing assistance to low-income persons in obtaining basic telephone services. The program is funded by an excise tax of up to \$0.14 per month on all switched access lines.

### **B&O Tax Rate for Income in the Nature of Royalties for the Use of Intangible Rights – \$2.0 Million General Fund-State Revenue Decrease**

Chapter 331, Laws of 1998 (SB 6449) reduces the B&O tax rate on royalty income from 1.5 percent to 0.484 percent.

### **Canned and Custom Software – \$3.0 Million General Fund-State Revenue Decrease**

Chapter 332, Laws of 1998, Partial Veto (ESSB 6470) taxes the customization of canned software as a service rather than as a sale subject to retail sales tax. (The Governor vetoed provisions eliminating the B&O tax for firms that create, distribute, wholesale, or warehouse canned or custom software in distressed counties for the first 36 months of operation and reducing the tax after 36 months by 90 percent for firms creating or distributing canned or custom software and reducing the tax by 70 percent for firms wholesaling or warehousing canned or custom software.)

### **Property Tax Exemptions and Deferrals for Senior Citizens and Persons Retired for Reasons of Physical Disability – No General Fund-State Revenue Impact**

Chapter 333, Laws of 1998, Partial Veto (ESSB 6533) increases the \$15,000 income threshold for the property tax relief program to \$18,000 for senior citizens and persons retired due to disability. The valuation exempt from regular property taxes for persons with incomes less than this amount is increased, from \$30,000 or 30 percent of the value, whichever is greater, but not more than \$50,000 to \$40,000 or 35 percent of the value, whichever is greater, but not more than \$60,000. The \$18,000 income threshold is increased to \$24,000. The valuation exempt from regular property taxes for persons with incomes less than this amount but greater than the lower threshold is increased from \$34,000 or 50 percent of the value to \$50,000 or 65 percent of the value. The \$28,000 income threshold is increased to \$30,000. (The Governor vetoed the increase in the parcel size eligible for tax relief from 1 acre to 5 acres if the larger parcel size is required under land use regulations, a deduction from income for medical insurance payments, and an exclusion of veterans' disability payments.)

### **Ad Valorem Taxation of Vessels or Ferries – No General Fund-State Revenue Impact**

Chapter 335, Laws of 1998 (SB 6552) makes the property taxation of all commercial vessels the same by eliminating the steamboat vessel classification.

## **1998 Supplemental Operating Budget (ESSB 6108)**

### **Pari-mutuel Tax - \$43,000 General Fund-State Revenue Decrease**

Chapter 345, Laws of 1998, Partial Veto (E2SSB 6562) decreases the pari-mutuel taxes on licensed horse racing events and increases the amount of gross receipts that may be retained by the licensee. The revenue distributions are changed. The changes expire June 30, 2001. (The Governor vetoed a section making the effectiveness of the bill contingent on funding in the budget.)

### **Fund-Raising Activities by Nonprofit Organizations - \$315,000 General Fund-State Revenue Decrease**

Chapter 336, Laws of 1998 (SB 6599) expands B&O and sales tax exemptions for fund-raising activities by nonprofit organizations. Eligible nonprofit organizations are exempt from paying B&O taxes on income earned from fund-raising activities involving direct solicitation or the exchange of goods or services for money. Goods and services sold by an eligible nonprofit organization during a fund-raising activity are also exempt from sales tax. Fund-raising activities do not include, however, the operation of a regular place of business such as a thrift store or bookshop.

### **Property Managers' Compensation - \$620,000 General Fund-State Revenue Decrease**

Chapter 338, Laws of 1998 (SB 6662) exempts from B&O tax amounts received by property management companies for the payment of wages and benefits to on-site personnel.

### **Tax Deferrals for New Thoroughbred Race Tracks - No General Fund-State Revenue Impact**

Chapter 339, Laws of 1998 (SB 6668) delays the repayment date of the deferred sales and use taxes on the construction of the new thoroughbred horse racing facility for five years to December 31, 2006.

### **Hop Commission B&O Tax Exemption - \$6,000 General Fund-State Revenue Decrease**

Chapter 200, Laws of 1998 (SB 6728) provides a B&O tax exemption for amounts received by a nonprofit organization from business activities for a hop commodity commission or board if the activity is approved by a referendum conducted by the commission or board.

### **Property Tax Exemption for Larger Airports Belonging to Out-of-State Municipal Corporations - No General Fund-State Revenue Impact**

Chapter 201, Laws of 1998 (SSB 6731) repeals the property tax exemption for airports larger than 500 acres that belong to municipal corporations in adjoining states.

### **Property Taxation of Residential Housing Occupied by Low-Income Developmentally Disabled Persons - No General Fund-State Revenue Impact**

Chapter 202, Laws of 1998 (SSB 6737) exempts from property taxation all real or personal property owned and used by a nonprofit organization to provide housing for low-income persons with developmental disabilities.

## **Summary of Full Vetoes**

### **Carbonated Beverage Tax Credit Against B&O Taxes**

SSB 6602 allowed retailers to claim a credit against the B&O tax for one-half the amount of carbonated syrup taxes paid. As enacted by the Legislature, SSB 6602 decreased General Fund-State revenues by \$4.1 million.

## **1998 Supplemental Operating Budget (ESSB 6108)**

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**Movie Theater Snack Counters Exempted from the Stadium Tax Imposed on Restaurants**  
SB 6588 provided that the special county 0.5 percent stadium food and beverage tax does not apply to consumable items sold at snack counters located in movie theaters or in centers or theaters for the performing arts. There was no General Fund-State revenue impact.

### **Thoroughbred Horses Taxation**

SHB 1447 exempted persons who race, raise, ride, exercise, groom, breed, train, or sell thoroughbred race horses from paying B&O taxes on amounts received as compensation for these services or sales transactions, including amounts received from purse winnings or awards. As enacted by the Legislature, SHB 1447 decreased General Fund-State revenues by \$1.2 million.

### **Excise Tax Exemptions Related to Horses**

SSB 5309 exempted feed sold for horses from sales and use taxes. SSB 5309 also exempted any amounts received as compensation for boarding, breeding, or selling horses from B&O taxes. As enacted by the Legislature, SSB 5309 decreased General Fund-State revenues by \$1.8 million.

## 1998 Operating Budget Comparisons

### Legislative

Supplemental appropriations for the state's legislative agencies did not authorize any ongoing program enhancements. However, funds are provided for several one-time studies and evaluations of state programs, including an audit of the new pension contribution rates, examinations of state water quality programs, long-term care services, management of developmental disability programs, financing of the K-12 school system, education technology, and the health care certificate of need program.

### Judicial

#### Court of Appeals

An amount of \$278,000 is provided for the costs of merit increments for nonjudicial employees. Also, \$11,000 is provided to cover the increased janitorial and utility costs associated with the expansion and remodel of the Division III facility in Spokane.

#### Commission on Judicial Conduct

An amount of \$101,000 is provided for the additional workload associated with the increased public hearings and case appeals beyond what was projected in the original appropriation. In addition to this funding, the Commission on Judicial Conduct received \$60,000 from the Governor's emergency fund to partially cover their increased workload.

#### Office of the Administrator for the Courts

Beginning in fiscal year 1999, funding for the treatment alternatives for street crimes program is transferred from the Office of the Administrator for the Courts (OAC) to the Department of Social and Health Services, Division of Alcohol and Substance Abuse. In addition, a total of \$1.2 million from the judicial information systems account is provided to equip judges and commissioners so they can access the judicial information systems. The access is necessary to implement provisions of domestic violence legislation enacted in 1995.

An amount of \$175,000 is provided from the state general fund for the production and distribution of a judicial voter pamphlet for the 1998 primary election. Finally, due to a shortfall in the account, a \$170,000 reduction is made to OAC's public safety and education account (PSEA) appropriation. Similar reductions are made in other agencies funded from PSEA.

### Governmental Operations

#### Secretary of State

An amount of \$1.9 million from the state general fund is provided for the Secretary of State to enter into a four-year contract with Television Washington (TVW) beginning in fiscal year 1999 to provide independent, gavel-to-gavel coverage of legislative proceedings and other public affairs.



## **1998 Supplemental Operating Budget (ESSB 6108)**

### **Department of Community, Trade, and Economic Development**

Funding is provided to implement the provisions of Chapter 314, Laws of 1998, Partial Veto (SHB 2556), which creates citizen review panels to examine the policies and procedures of agencies that deal with the prevention of child abuse and neglect. These panels are required under new federal legislation known as the "Child Abuse Prevention and Treatment Act Amendments of 1996" or CAPTA. The Department of Community, Trade, and Economic Development (DCTED) must contract with a private nonprofit organization to serve as the appointing authority of the panels and to oversee their operation. In addition, DCTED will develop policies, procedures, and rules for the program with input from the Legislature.

### **Military Department**

The amounts of \$1.1 million from the state general fund and \$15.1 million from federal funds are provided to continue the accelerated rate of disaster recovery efforts. The Emergency Management Division has provided reimbursements to individuals, families, small businesses, and local governments more rapidly than anticipated in the original biennial appropriations. In addition, \$365,000 from the state general fund and \$305,000 from federal funds are provided for specific emergency management responses to the 1997 Pend Oreille County flood and four fire mobilizations covered under the State Fire Resource Mobilization Plan.

## **Human Services**

### **Strengthening Driving Under the Influence (DUI) Laws**

Funding is provided (\$720,000 county criminal justice assistance account, \$480,000 municipal criminal justice assistance account) to reimburse local governments for implementing a variety of pieces of legislation that modify the driving under the influence laws. Major changes include:

- Reducing the per se blood alcohol concentration (BAC) from 0.10 to 0.08 for a DUI;
- Adding electronic home monitoring for certain DUI offenders;
- Modifying the five-year washout period for prior DUI convictions;
- Limiting deferred prosecutions to once in a lifetime;
- Making the use of ignition interlocks mandatory for certain DUI offenders; and
- Implementing administrative license suspension for first-time DUI offenders.

The Human Services area is separated into two sections. The Department of Social and Health Services (DSHS) and Other Human Services. The DSHS budget is displayed by program division in order to better describe the costs of particular services provided by the department. The Other Human Services section displays budgets at the department level, and includes the Department of Corrections, the Department of Labor and Industries, the Employment Security Department, the Health Care Authority, the Department of Health, and other human services related agencies.

## **Department of Social and Health Services**

### **Children and Family Services**

The budget provides \$9.4 million from the state general fund for distribution to local governments for processing of truancy, children in need of services, and at-risk youth petitions reflecting costs related to the Becca bills. This increase brings the total amount of funding to counties for Becca-related costs to \$14 million.

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A total of \$322,000 in state and federal funds is provided to implement Chapter 314, Laws of 1998, Partial Veto (SHB 2556), an act related to child abuse prevention and treatment. Other bill provisions include an evaluation by the Institute for Public Policy of Washington's options to implement federally-required citizen review panels and child welfare intervention for mothers giving birth to drug or alcohol affected infants are funded in fiscal year 1999 by an interagency contract with the Department of Community, Trade, and Economic Development.

An amount of \$70,000 from the state general fund is provided for the Foster Intervention Retention Support Team (FIRST). FIRST is a statewide network of volunteers who provide nonjudgmental support to foster parents who find themselves under investigation by Child Protective Services for an alleged misconduct or license violation.

A variety of caseload, funding transfers, and other technical adjustments are also made to the Children and Family Services budget. These adjustments decrease the original appropriation by \$488,000 in state and federal funds.

### **Juvenile Rehabilitation Administration**

An amount of \$2.7 million from the violence reduction and drug enforcement account is provided for the Community Juvenile Accountability Act (CJAA) grant process established by Chapter 338, Laws of 1997 (E3SHB 3900). The CJAA grants will be distributed to local communities to implement proven and effective interventions aimed at reducing juvenile crime and recidivism. The budget provides \$200,000 for the remaining planning and development activities in fiscal year 1998, with full implementation beginning in fiscal year 1999 at a cost of \$2.5 million per year.

A total of \$2.4 million from the state general fund is provided to implement Chapter 269, Laws of 1998 (E2SSB 6445), which modifies provisions related to the placement of youth in Juvenile Rehabilitation Administration (JRA) community facilities. An amount of \$482,000 from the state general fund is provided to continue to implement Chapter 386, Laws of 1997, Partial Veto (E2SSB 5710), which required JRA to develop a policy to protect youth placed in residential facilities who are vulnerable to sexual victimization by other youth who are sexually aggressive.

A variety of caseload, funding transfers, and other technical adjustments are also made to JRA's budget. These adjustments increased JRA's original appropriations by \$1.8 million in state and federal funds.

### **Mental Health Division**

A total of \$5.0 million in state and federal funds is provided for four emergent budgetary issues at the state hospitals. These include the need for additional direct and indirect patient care staff; increased costs and utilization of outside acute or emergency medical services; increased costs of psychotropic drugs and greater utilization of atypical anti-psychotic drugs; and census pressure on the admissions ward at the Legal Offender Unit at Western State Hospital.

An amount of \$3.5 million is provided from state general fund for the relocation of the Special Commitment Center (SCC) from Monroe to McNeil Island. The relocation is necessary due to higher than projected growth in the number of people being civilly committed as sex predators. This funding provides for the costs associated with this larger population, the one-time SCC relocation expenses, and costs associated with housing and treatment of a female resident at a separate facility.

A total of \$3.0 million in state and federal funds is provided to implement Chapter 297, Laws of 1998, Partial Veto (2SSB 6214), which makes a variety of changes to the civil commitment and criminal competency statutes. The budget also includes a reduction of \$2 million in state and federal funds as a

## **1998 Supplemental Operating Budget (ESSB 6108)**

result of 30 dually diagnosed (mentally ill and developmentally disabled) patients leaving the state hospitals. A variety of other caseload, funding transfers, and technical adjustments are also made to the Mental Health Division's original biennial appropriations.

### **Developmental Disabilities**

The supplemental budget provides \$16.7 million (\$8.2 million state general fund) to develop intensively supervised residential placements for 169 persons with developmental disabilities whose behaviors might otherwise pose a significant threat to the community at large.

The number of children and adults receiving state-funded assistance with personal care activities is growing faster than originally budgeted, as is the cost per person served. An additional \$10.3 million (\$4.7 million state general fund) is provided to sustain this growth, bringing total growth in the program for the biennium to \$34.1 million over the 1995-97 level. The supplemental budget also provides sufficient funding for the agency to once again authorize exceptional payment rates for persons living with their parents at the same level before the blanket prohibition on such payments went into effect in September 1997.

Some of the other supplemental increases for the developmental disabilities program include new employment and day training opportunities for 360 adults (\$1.8 million); additional staffing to improve care and treatment in the state institutions (\$6.2 million); new community programs for 41 persons who moved from state institutions last biennium and for an additional 44 who are doing so in the 1997-99 biennium (\$3.2 million); and new community residential placements for 76 young people previously served in children's foster care (\$3.7 million).

### **Long-Term Care**

An additional \$32.8 million (\$14.6 million state general fund) is provided to continue the recent rapid expansions in the number of persons receiving publicly funded long-term care in their own homes and in community residential facilities, and in the average cost of that care. The number of elderly and disabled people receiving community long-term care is now budgeted to increase by an average of 11.5 percent each year in the 1997-99 biennium, rather than by the 9 percent per year originally budgeted. The total state population aged 75 and older will grow by approximately 3 percent per year during this same period.

Efforts to assure that community programs are providing appropriate care will be increased through two enhancements. An additional \$1.9 million (\$1.4 million state general fund) is provided to double the number of boarding home inspections. An \$8.7 million supplemental appropriation (\$4.6 million state general fund) will fund 60 additional state and Area Agency on Aging case managers to develop, coordinate, and monitor individual service plans.

Nursing home payment rates will increase an average of 2.7 percent the second year of the biennium under the new "case-mix" payment system adopted by the 1998 Legislature. Under this new system, the direct care component of the payment rate will be directly tied to patient care needs. Transition to the new payment system will be eased by paying facilities the higher of their current direct care rate, or the new case-mix rate, over the next several fiscal years. The legislation establishing the new payment system provides for future rate increases to be determined as part of the biennial budgeting process rather than by statutory entitlement.

### **Economic Services**

In 1997, as part of welfare reform, the Legislature directed DSHS to provide grants to community action agencies and other community-based organizations to help people on welfare become ready for employment and the transition off of public assistance. An amount of \$5.0 million from the federal temporary

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assistance for needy families (TANF) block grant is allocated to the Department of Community, Trade, and Economic Development for WorkFirst grants to community action agencies or other local nonprofit organizations. The proviso directing such an allocation was subsequently vetoed by the Governor.

An amount of \$10 million in state general funds is assumed to be available to match and earn federal Welfare-to-Work formula grants from the U.S. Department of Labor.

General assistance program savings of \$49.3 million in state general funds are realized primarily because Congress restored federal SSI benefits for thousands of legal immigrants. If a legal immigrant was receiving SSI benefits on August 22, 1996, or arrived in this country by that date and presents a qualifying disability, federal income support will be available.

Other transfers and technical adjustments are made to the Economic Services budget. These adjustments reduce the original appropriation by \$4.36 million in state and federal funds.

### **Alcohol and Substance Abuse**

Effective July 1, 1998, treatment alternatives to street crimes (TASC) will be administered by the Division of Alcohol and Substance Abuse (DASA), rather than the Office of the Administrator for the Courts (OAC). The budget transfers \$3.2 million of public safety and education account funding from OAC to operate the TASC program in fiscal year 1999.

Other funding transfers and technical adjustments are made to the DASA budget. These adjustments increase the original appropriation by \$4.6 million in state and federal funds.

### **Medical Assistance**

An average of about 760,000 people per month are budgeted to receive medical and dental coverage through Medicaid and other state-funded medical assistance programs. Due to the effects of the WorkFirst welfare reform, the number of adults and children covered by Medicaid because of their eligibility for state income assistance programs is projected to decrease by 43,000 (14 percent) from the level originally budgeted. This decrease is offset by more growth than originally budgeted among children with family incomes below 200 percent of poverty who are not on welfare.

Medical assistance expenditures are now expected to total \$4.0 billion for the 1997-99 biennium, an \$89 million (2.3 percent) increase over the level originally budgeted for the biennium. Because of a \$44 million increase in federal matching funds and disproportionate share hospital payments, state general fund expenditures will be \$30 million less than originally budgeted.

### **Administration and Supporting Services**

The budget provides \$323,000 in state and federal funds to implement Chapter 280, Laws of 1998, Partial Veto (E2SHB 2345), a regulatory reform bill making several changes to the Administrative Procedure Act related to rulemaking, review, and notification by state agencies.

Savings of \$39,000 in state and federal funds are realized from implementation of Chapter 66, Laws of 1998 (ESHB 2346). Legal remedies and dispute resolutions for recovery of vendor overpayments will now be the same as the process used by the department for public assistance benefits and child support orders.

### **Payments to Other Agencies**

As discussed above in Children and Family Services, a total of \$144,000 in state and federal funds are provided to implement Chapter 314, Laws of 1998, Partial Veto (SHB 2556), an act related to child abuse prevention and treatment.

## **1998 Supplemental Operating Budget (ESSB 6108)**

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A total of \$750,000 from the state general fund is provided for Attorney General (AG) tort defense in lawsuits involving child welfare and placement activities by the department. Joint recommendations on how to reduce or limit the state's liability for damages are expected from the AG and the department by December 1, 1998.

### **Other Human Services**

#### **Human Rights Commission**

An amount of \$432,000 from the state general fund is provided for seven additional investigators and one office assistant to eliminate the backlog of approximately 1,170 cases by January 1, 1999. After January 1, 1999, the Human Rights Commission will reduce overall case processing time with the increased staff level so that investigations begin within 60 days of a complaint being filed.

#### **Criminal Justice Training Commission**

A total of \$300,000 from the state general fund is provided for upgrading and improving the technology infrastructure supporting the Criminal Justice Training Commission (CJTC); increased lease obligations associated with relocation of the CJTC headquarters in Thurston County; and the costs associated with the implementation of incident-based crime reporting. Also, due to a shortfall in the account, a \$93,000 reduction is made to CJTC's public safety and education account (PSEA) appropriation. Similar reductions are made in other agencies funded from PSEA.

#### **Department of Labor and Industries**

An amount of \$1.4 million from the accident and medical aid accounts is provided with additional staffing to reduce the time-loss duration on worker compensation claims. A total of 24 new claims management staff will reduce the time-loss duration by 7.5 percent by the end of the next biennium.

#### **Department of Corrections**

General Fund-State savings of \$3.4 million are achieved as a result of the following: delays in hiring staff at expanded prison facilities; adjustments to reflect actual personnel costs; timing of utility connection fees at the new Stafford Creek Correctional Center; a delay in opening the Tri-Cities Work Training Release facility; the migration of offender based tracking system to the Department of Information Systems; and lower than expected costs for housing juvenile offenders separately from adult offenders. An additional reduction of \$866,000 was made due to the transfer of funding for the education of offenders under the age of 18 from the Department of Corrections to the Superintendent of Public Instruction. Funding for the education of these offenders, at a higher rate, is included in the Superintendent of Public Instruction's budget.

A total of \$1.7 million from the state general fund was appropriated to the department. This included an adjustment to the inmate forecast; allowing community corrections officers to carry firearms in the course of their duties; Chapter 220, Laws of 1998 (HB 1172), which makes a variety of changes to the state's sex offender registration laws; Chapter 78, Laws of 1998 (HB 2628), which increases the penalty for manufacturing methamphetamine; Chapter 260, Laws of 1998 (ESSB 5760), which requires the gathering of additional information and monitoring of mentally ill offenders; and Chapter 82, Laws of 1998 (ESB 6139), which increases the penalties for amphetamine crimes.

#### **Department of Health**

Effective April 1, 1998, the regulation of boarding homes becomes the responsibility of the Division of Long-Term Care, which also regulates nursing homes and adult family homes. The budget transfers \$1.5

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million of state and local revenue collections for inspectors, equipment and related quality assurance activities from the Department of Health to the Department of Social and Health Services (DSHS). Assigned personnel are presumed to transfer to DSHS.

An amount of \$6.4 million in state general funds replaces health service account appropriations to the Department of Health for fiscal year 1999. This action is taken by the Legislature to meet budget requirements of the state's Basic Health Care Plan.

The budget provides \$1 million in state general funds to screen low-income women for breast and cervical cancer. Total federal resources available to Washington State from the Centers for Disease Control were unexpectedly less than levels anticipated by the department for the current biennium. An amount of \$300,000 in state general funds is provided to implement an emergency vaccination program in counties where Hepatitis A infection rates are in excess of 100 per 100,000 population.

The budget provides \$129,000 in state general funds for water reuse activities related to salmon restoration. The budget provides \$60,000 in state general funds to implement Chapter 37, Laws of 1998 (2SSB 6168), a bill related to temporary worker housing. Also provided is \$40,000 of state and local funds to implement Chapter 280, Laws of 1998, Partial Veto (E2SHB 2345), a regulatory reform bill making several changes to the Administrative Procedure Act related to rulemaking, review, and notification by state agencies.

A variety of grant and fee-supported activities are authorized. These and other technical adjustments increase the original appropriation for the Department of Health by \$3 million federal and local funds.

### **Department of Veterans' Affairs**

Federal revenues and patient contributions at the veterans' homes are lower than originally budgeted, resulting in the need for a \$620,000 state general fund appropriation to maintain services at the two homes. The supplemental budget provides \$200,000 to cover one-third of the cost for constructing a monument on the state capitol grounds to the men and women who served in the armed forces during the World War II. The remaining cost of the monument is to be covered through individual and corporate contributions.

## **Natural Resources**

### **Salmon Recovery**

Last year, wild steelhead runs in the upper Columbia basin were listed as endangered under the Federal Endangered Species Act (ESA). This added to the existing ESA listings of Snake River Sockeye and Chinook. In the next year, further listings in the state are expected as the federal National Marine Fisheries Service completes status reviews for salmonid populations in the Puget Sound, the lower Columbia River, and the Pacific Coast.

When a salmonid species is listed under ESA, the species is included in a federal regulatory framework designed to conserve and rebuild species populations. This regulatory framework may include water use, land use, and natural resource use restrictions, as well as harvest reductions in both commercial and recreational fisheries.

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The budget for salmon recovery addresses potential ESA listings by taking action now to rebuild threatened salmon populations. The budget provides new funding (\$26.1 million) in three areas: salmon restoration projects; expansion of existing programs; and planning, assessment, and coordination.

### Salmon Restoration Funding

(Dollars in Thousands)

Item	GF-S	Other	Total
<b>Salmon Restoration Projects</b>			
Conservation Reserve Program	1,000	5,000	6,000
Fish Passage Barriers and Restoration Projects - Grants	0	5,750	5,750
Fish Passage Barriers - Technical Assistance	450	0	450
Salmon Restoration Projects	3,500	750	4,250
Remote Site Incubators	393	0	393
<b>Subtotal</b>	<b>5,343</b>	<b>11,500</b>	<b>16,843</b>
<b>Expansion of Existing Programs</b>			
License Buy-Back	1,170	3,500	4,670
Mass Marking of Chinook	1,000	625	1,625
<b>Subtotal</b>	<b>2,170</b>	<b>4,125</b>	<b>6,295</b>
<b>Planning, Coordination, and Assessment</b>			
Watershed Assessment Grants	1,500	0	1,500
Governor's Salmon Team	500	0	500
Volunteer Initiative	1,000	0	1,000
<b>Subtotal</b>	<b>3,000</b>	<b>0</b>	<b>3,000</b>
<b>Total</b>	<b>10,513</b>	<b>15,625</b>	<b>26,138</b>

### Salmon Restoration Projects

#### Conservation Reserve Enhancement Program

Funding is available through the U.S. Department of Agriculture for the protection and restoration of riparian zones to benefit salmon and improve water quality. The supplemental budget includes \$5.0 million in the capital budget for a state match for fencing and restoration of riparian areas; and \$1.0 million from the state general fund in the operating budget for local conservation districts to assist landowners in designing restoration projects that meet the federal requirements.

#### Fish Passage Barriers

The Department of Fish and Wildlife estimates that there are over 2,400 barriers at road crossings in the state, blocking fish access to an estimated 3,000 miles of freshwater spawning and rearing habitat. The capital budget includes \$5.75 million from the salmon restoration account for a grant program for state, local, and volunteer groups to inventory and correct fish passage barriers. The operating budget includes \$450,000 from the state general fund for the Department of Fish and Wildlife to provide engineering and design review assistance to groups planning fish barrier removal.

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### **Local Restoration Projects**

The supplemental budget includes \$3.9 million from the state general fund and \$750,000 in federal funds for the Department of Fish and Wildlife to develop a remote site incubator program, and funds a grant program for salmon restoration projects as defined in the salmon recovery planning bill, Chapter 246, Laws of 1998 (ESHB 2496).

### **Expansion of Existing Programs**

#### **License Buy-Back Program**

The supplemental budget provides \$1.2 million from the state general fund and \$3.5 million in federal funds to continue the existing commercial license buy-back program. The program allows those who fish for salmon to sell their licenses back to the state, thus both reducing harvest pressure on stocks and allowing fishers to recover a portion of their investment.

#### **Mass Marking of Chinook**

Mass marking of hatchery Coho salmon allows fishers to selectively catch hatchery-produced salmon in mixed-stock fisheries. This program allows a continuation of both sport and commercial Coho fisheries, while protecting wild salmon runs. The supplemental budget provides \$1.0 million in state general funds, \$400,000 in federal funds, and \$225,000 in local funds to expand the existing mass marking program to Chinook salmon.

### **Planning, Coordination, and Assessment**

#### **Watershed Assessment Grants**

The threat of salmon ESA listings highlights the need to increase the capacity of local governments and local volunteer groups to address salmon restoration. The supplemental budget provides \$1.5 million in state general funds for grant programs to lead entities to assess the current habitat conditions in watersheds; identify potential salmon restoration projects; and prioritize projects for immediate implementation.

#### **Governor's Salmon Team**

The supplemental includes \$500,000 from the state general fund to add four staff to the Governor's Salmon Team. The Salmon Team will coordinate agency activities related to salmon restoration and report on the status of salmon recovery efforts.

#### **Volunteer Initiative**

The amount of \$1.0 million from the state general fund is provided to contract with a nonprofit group to develop a volunteer habitat initiative. The initiative will include a training program for volunteers; a public outreach and education program; and a program to encourage landowners and land managers to use volunteers in salmon habitat improvement projects.

### **Wildlife Account**

Late in the legislative session the Department of Fish and Wildlife revealed that the agency's wildlife account could reach a deficit of up to \$16.0 million by the end of the biennium. The Legislature has developed the following plan to assist the agency with the immediate shortfall and to develop a long-term plan for balancing the wildlife account revenues and program expenditures.



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### **General Fund-State Loan**

To help the department through the immediate budget shortfall, the enacted budget proposes to lend \$3.5 million from the state general fund to the wildlife account. The loan is contingent upon the following departmental actions:

- The department must submit an expenditure reduction plan to the Office of Financial Management (OFM) and to the Senate Ways and Means and House Appropriations Committees by April 17, 1998. The plan must specify positions to be eliminated and properties proposed for sale. Reductions must be limited to wildlife account programs.
- The department must submit quarterly revenue and expenditure reports to OFM, the Senate Ways and Means Committee, and the House Appropriations Committee.
- The department must work with OFM and the Department of Revenue to develop a model for forecasting revenues to the state wildlife account. The forecast must be incorporated into the quarterly economic and revenue forecast.
- By November 1, 1998, the department must submit a six-year financial plan for the state wildlife account for fiscal years 1999-2005 to OFM, the Senate Ways and Means Committee, and the House Appropriations Committee. The plan must include a plan for repayment of the general fund loan.

### **Program Reductions**

To help balance the projected shortfall in the wildlife account, a series of program reductions totaling \$7.5 million must be implemented. A comprehensive reduction plan must be submitted to OFM by April 17, 1998.

### **Management Consultant Audit**

The enacted budget includes \$250,000 from the state general fund to OFM to hire an outside management consultant to review the agency's operations and management practices. This information will be used to refine the long-term financial plan for the wildlife-funded programs.

### **Recreational License Database**

The amount of \$1.0 million from the state general fund is provided to the Department of Fish and Wildlife to purchase and develop a recreational license database. The database will include point-of-sale system implementation.

## **Other Natural Resources**

### **Aquatic Land Lease Rate Study**

The supplemental budget provides \$71,000 from the Resource Management Cost Account to implement Chapter 185, Laws of 1998 (2SSB 6156), requiring the Department of Natural Resources to study methods for calculating water-dependent lease rates on state-owned aquatic lands.

### **Finfish Net-Pen Aquaculture Study**

The amount of \$50,000 from the state general fund is provided to the Department of Natural Resources for a study of potential sites for finfish net-pen aquaculture in the Strait of Juan de Fuca and along the Pacific Coast.

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### **Spartina Control**

The amount of \$50,000 from the resource management cost account is provided for a field study of the effectiveness of biological control methods for control of spartina in Willapa Bay.

## **Agriculture and Water**

### **Watershed Management**

The supplemental budget provides \$1.1 million from the state general fund to the Department of Ecology to provide technical assistance to local watershed planning groups. The budget also provides \$3.9 million from the state general fund for grants to local watershed planning groups to implement Chapter 247, Laws of 1998, Partial Veto (ESHB 2514).

### **Fertilizer Regulation**

The amount of \$675,000 from the local toxics control account is provided to the Departments of Agriculture and Ecology to implement Chapter 36, Laws of 1998 (SSB 6474), regulating fertilizers. This includes funding for a study of plant uptake of heavy metals, and a study of the occurrence of dioxins in soils, fertilizers, and soil amendments.

### **Dairy Nutrients**

The amount of \$400,000 from the state general fund is provided to add five inspectors in the Department of Ecology to implement Chapter 26, Laws of 1998, Partial Veto (SSB Bill 6161). Staff will conduct dairy inspections, permit dairies, and establish and administer a dairy database. The amount of \$200,000 is provided to the Conservation Commission to assist dairies in developing farm plans.

### **Water Reuse**

The amount of \$129,999 from the state general fund is provided to the Department of Health to provide technical assistance and permit review for water reuse projects.

## **Transportation**

### **Washington State Patrol**

As part of the overall funding plan for transportation projects, a total of \$12.4 million from the state general fund is provided in fiscal year 1999 for State Patrol activities previously funded in the transportation budget. Transfers also occur in the Office of Financial Management and the Department of Community, Trade, and Economic Development.

An amount of \$1.1 million from the state general fund is provided to cover fixed costs associated with data center operations. The data center supports several criminal justice information technology systems. Funding responsibility is shared between the operating and transportation budgets.

## **Public Schools**

### **Successful Readers Program**

In 1997, the first results from the new fourth grade assessments indicated that 36 percent of students performed significantly below the reading standards. Research has shown that various strategies can be

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used to increase the number of students meeting the standards. A total of \$17.0 million is provided for these strategies in accordance with Chapter 271, Laws of 1998, Partial Veto (E2SSB 6509). The components are listed below.

### **Beginning Reading Instructional Strategies**

Funds in the amount of \$9.0 million from the state general fund are provided for elementary schools interested in providing professional development and related instructional materials in beginning reading skills for certificated instructional staff that provide direct instructional services to students in grades kindergarten through grade two. The training for teachers in reading instruction will be provided by public or private contractors and must include research-based scientifically proven strategies.

### **Tutoring and Mentoring Grants**

The amount of \$8.0 million from the state general fund is provided for grants to elementary schools interested in providing programs that use volunteer tutors and mentors to assist struggling readers in kindergarten through sixth grade for programs that are research based and have proven effectiveness in improving student performance.

The Superintendent of Public Instruction must notify school districts of the availability of the funds for both programs by April 15, 1998, and the funds must be available by June 1, 1998. Districts in which less than half of the students meet the reading standards will have first priority for funds under both programs prior to June 1, 1998. Thereafter, all school districts are eligible for the funds on a first-come, first-served basis.

### **Workload and Other Adjustments**

Changes in enrollments, staff mix, lower inflation, and other factors result in K-12 budget savings of more than \$67 million. The major items are discussed below.

Public school enrollment growth is lower than anticipated by 7,005 full-time equivalent students in the 1997-98 school year (from 943,019 to 936,014) and an estimated 8,625 in the 1998-99 school year (from 959,507 to 950,882). While this is less than a 1 percent change in the original forecast in both years, the cost reduction totals \$46.6 million for the biennium.

Staff mix, which is a measure of the experience and education of certificated instructional staff, is also not increasing as fast as expected. This produces \$8.2 million in budget savings.

The original 1997-99 budget provided inflation adjustments for K-12 basic education programs based on estimates of inflation. The inflation forecast for fiscal year 1998 has changed from 2.1 percent to 1.6 percent and for fiscal year 1999 from 2.7 percent to 1.8 percent. Basic education budgets cannot be adjusted once school districts have set their budgets, so no changes are made for the 1997-98 school year. A budget adjustment is made for the 1998-99 school year taking into account the lower inflation in the previous year and the coming year. These adjustments result in budget savings of \$5.9 million.

### **Correctional Facilities Education Programs**

The amount of \$1.2 million from the state general fund is provided to implement Chapter 244, Laws of 1998 (ESSB 6600) which transfers responsibility for provision of educational services for juveniles under age 18 in adult correctional facilities to the K-12 system beginning in the 1998-99 school year.

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### **Vocational Education Formula Restructure**

The original budget for K-12 vocational education programs in high schools provided funding to maintain a ratio of one certificated staff per 18.3 vocational students. However, beginning with the 1998-99 school year, funding at that ratio would be provided only if districts staffed at that level.

A number of school districts indicated that they would lose vocational funding because they do not staff at the funded ratio. Instead, they use a portion of the staffing funds for such things as contracted services, equipment and supplies. The budget provides funding for such nonpersonnel costs at a rate of \$15,556 for each allocated certificated staff. Districts that would lose funds under the staffing ratio requirement report that their non-personnel expenditures exceed the state funding rate.

The supplemental budget changes the staffing ratio to one certificated staff per 19.5 students which is a reduction in the staffing ratio and increases the allocation for non-personnel costs from \$15,556 to \$19,775 per allocated certificated staff. This formula change is budget neutral. Districts would still have to maintain a ratio of one certificated staff per 19.5 students in order to receive funding for that ratio. The restructured formula gives districts greater flexibility in how they expend vocational education funds since nonpersonnel cost allocations may be expended for equipment and supplies, and may also may be expended for staffing costs.

### **K-20 Network**

The amount of \$6.9 million from the education savings account is provided in the Department of Information Systems budget to complete the Phase II portion of the K-20 network for school districts.

### **Leadership Internship Program**

The superintendent/principal internship program was created beginning in the 1994-95 school year. The purpose of the program was to provide funds for partial release time for district employees participating in internship programs. Funding for the program was discontinued in the original 1997-99 budget and the funds placed in the block grant program. The 1998 supplemental budget provides \$799,000 from the state general fund for a leadership internship program that is similar to the 1994 superintendent/principal internship program and the funds for this program are transferred from the block grant program.

### **Washington School Information Processing Cooperative (WSIPC) - \$400,000 General Fund-State**

Most school districts in this state belong to WSPIC which provides financial and student data processing services. Matching funds are provided to improve the software capabilities of the cooperative in order to maintain its membership base.

## **Education Studies**

### **K-12 Finance Study**

The amount of \$340,000 is provided to fund a K-12 finance study to be conducted by the Joint Legislative Audit and Review Committee. This study will examine revenue and expenditure practices of local school districts and the staffing ratios in selected buildings and classrooms. A final report is due to the Legislature by June 30, 1999.

### **Skills Centers Definition and Standards**

The Superintendent of Public Instruction is directed to conduct a study and to make recommendations to the 1999 Legislature on a definition of, and standards for, skills centers by November 25, 1998. The

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budget contains a moratorium on new skills centers pending receipt of the study by the Legislature. This study has no general fund state impact.

### **Special Education Requirements Study**

The superintendent is directed to conduct a study which compares the state's administrative and statutory requirements for special education with the requirements of federal law. The study is due by December 15, 1998. This study has no general fund state impact.

## **Higher Education**

### **Enrollment Adjustment**

Funding for additional enrollments in the 1998-99 academic year is reduced for the Washington State University (WSU) Pullman and WSU Tri-Cities based on the university's enrollment projections conducted in the fall of 1997. The university projected that Pullman enrollments would fall 451 below budgeted levels and that Tri-Cities enrollment would fall 60 students below budget levels resulting in a savings of \$2.7 million of the state general fund.

### **WSU Construction Claims**

State general fund support of \$3.3 million is provided on a one-time basis to pay for the costs of litigation, negotiation, and settlement associated with the Vancouver branch campus and Veterinary Teaching Hospital capital projects. In addition to this appropriation, \$3 million is provided in the capital budget for settlement costs of the Veterinary Teaching Hospital.

### **Internet2**

The budget provides \$3.0 million from the state general fund to allow the University of Washington to join in the development of the next generation internet. State funds are provided to establish a gigabit per second network point-of-presence (Gigapop) which will allow the connection to the very high-speed network. The federal government will establish a limited number of hub sites for the new network and the provision of state funds in this fiscal year is necessary to secure a connection in Washington State.

### **Pre-Paid Tuition Program**

The 1997 Legislature established the Advanced College Tuition Payment Program as Chapter 289, Laws of 1997 (E2SHB 1372). Refinements were made to the enabling legislation in the 1998 session under Chapter 69, Laws of 1998 (2SHB 2430). The budget provides \$1.3 million in state general fund as initial capital to allow the program to begin operation in the fall of 1998. It is anticipated that approximately \$1.2 million will be returned to the state general fund in fiscal year 1999 when application fees from tuition contract sales are deposited into the program fund.

### **Aviation Trades Center (Clover Park Technical College)**

As part of the agreement accompanying the transfer of the Clover Park Technical College from the Clover Park School District to the State Board for Community and Technical Colleges, the technical college is moving the aviation trades facility from the campus to Thun airfield. The budget provides \$5.2 million state general fund to begin the move. Funding for Clover Park School District was provided in the original 1997-99 biennial budget.

### **Completion of Cooperative Library Project**

Funds are provided to complete the cooperative library project for the four-year public higher education institutions. The amount of \$810,000 of the state general fund will be distributed through the Higher

## **1998 Supplemental Operating Budget (ESSB 6108)**

Education Coordinating Board for this system and used by the University of Washington for one-time equipment acquisition, ongoing support of the system, and for the acquisition of shared electronic journals for use by all the member institutions.

### **Emergent Needs**

The budget provides \$739,000 of the state general fund for a variety of emergent needs, including community and technical colleges revolving funds charges, increased fire protection costs at Central Washington University, follow-up financial aid study at the Washington State Institute for Public Policy, and space modifications at The Evergreen State College and the University of Washington-Bothell to accommodate increased fiscal year 1998 enrollments.

### **Community and Technical College Technology Equipment**

The supplemental budget provides \$700,000 of the state general fund for a one-time matching program for technology equipment. The community and technical colleges will match this funding with cash donations from private sources. State general funding for this program is transferred from the Cascadia Community College where library resources acquisition is delayed by one year.

### **DO-IT**

The disabilities, opportunities, internet working, and technology program (DO-IT) has provided training and skill development to high school students with disabilities. The program will be forced to terminate unless state funds are provided to replace a federal grant that has expired. The budget provides \$600,000 state general fund to continue the program for Washington residents.

### **Spokane Area Educational Assessment**

The amount of \$250,000 is provided from the state general fund to support the recommendation of the Higher Education Coordinating Board (HECB) to conduct an assessment of the educational and economic needs of Spokane. The study is part of the HECB evaluation and recommendation on the restructuring of governance in the Spokane area.

### **Aquatic Animal Diagnostic Laboratory**

The budget provides \$100,000 of the state general fund for workload increases at the fish disease diagnostic laboratory of Washington State University.

### **Reorganization of Spokane Riverpoint Campus**

Chapter 344, Laws of 1998, Partial Veto (SSB 6655) transfers the management of the Spokane Riverpoint Higher Education Campus to Washington State University (WSU) and establishes the Spokane Intercollegiate Research and Technology Institute (SIRTI) as a separate entity. Funding for 1999 is removed from the Joint Center for Higher Education (\$1.47 million) and distributed to WSU (\$590,000) and SIRTI (\$944,000). The general fund operating appropriation for SIRTI is distributed through the Department of Community, Trade, and Economic Development (DCTED). DCTED is provided \$21,000 for oversight and participation in SIRTI. The net increased cost is \$85,000.

## **Other Education**

### **State School for the Blind**

The amount of \$226,000 from the General Fund-Private/Local is provided to expand the educational outreach services to blind and visually impaired children in school districts throughout the state.

## **1998 Supplemental Operating Budget (ESSB 6108)**

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### **Washington State Library**

The amount of \$100,000 from the state general fund is provided for enhancement of the library collection.

### **Washington State Historical Society**

The amount of \$50,000 from the state general fund is provided for planning, coordination, and development of programs for the bicentennial of Lewis and Clark's expedition to the Northwest.

## **Special Appropriations**

### **Driving Under the Influence (DUI) Legislation**

Chapter 212, Laws of 1998 (ESHB 6187) increases the reinstatement fee for drivers obtaining their license after a DUI from \$50 to \$150. The additional revenue is then appropriated into the county criminal justice assistance account (\$720,000) and the municipal criminal justice assistance account (\$480,000) to reimburse local governments for their costs in implementing a variety of pieces of legislation that modify the DUI legislation laws. Statutory changes with significant fiscal impact include reducing the per se blood alcohol concentration (BAC) from 0.10 to 0.08 for DUI; adding electronic monitoring for certain DUI offenders; modifying the five-year washout period for prior DUI convictions; limiting deferred prosecutions to once in a lifetime; making the use of ignition interlocks mandatory for certain DUI offenders; and implementing administrative license suspension for first-time DUI offenders.

### **Life Insurance**

Life insurance benefits will be increased from \$5,000 to \$15,000 beginning January 1999 for state and higher education employees, in accordance with the settlement in *Burbage v. Washington State*.

### **Retired State Employees v. State of Washington**

A long-standing disagreement over the calculation of retiree health benefit premiums has been resolved. Up to 19,000 retired state and higher education employees who were Uniform Medical Plan Medicare enrollees at any time from 1988-1994 will be eligible to receive a settlement from the Health Care Authority. Settlement claims will be paid from reserves in the Health Care Authority's nonappropriated public employees' and retirees' insurance account. Funding is provided to rebuild the reserves in the public employees' and retirees' insurance account. Health benefits of current employees and retirees will not be impacted by the use of these funds.

**1998 Supplemental Transportation Budget (ESSB 6456)**

**1998 Supplemental Transportation Budget — ESSB 6456**

**Chapter 348, Laws of 1998 PV**

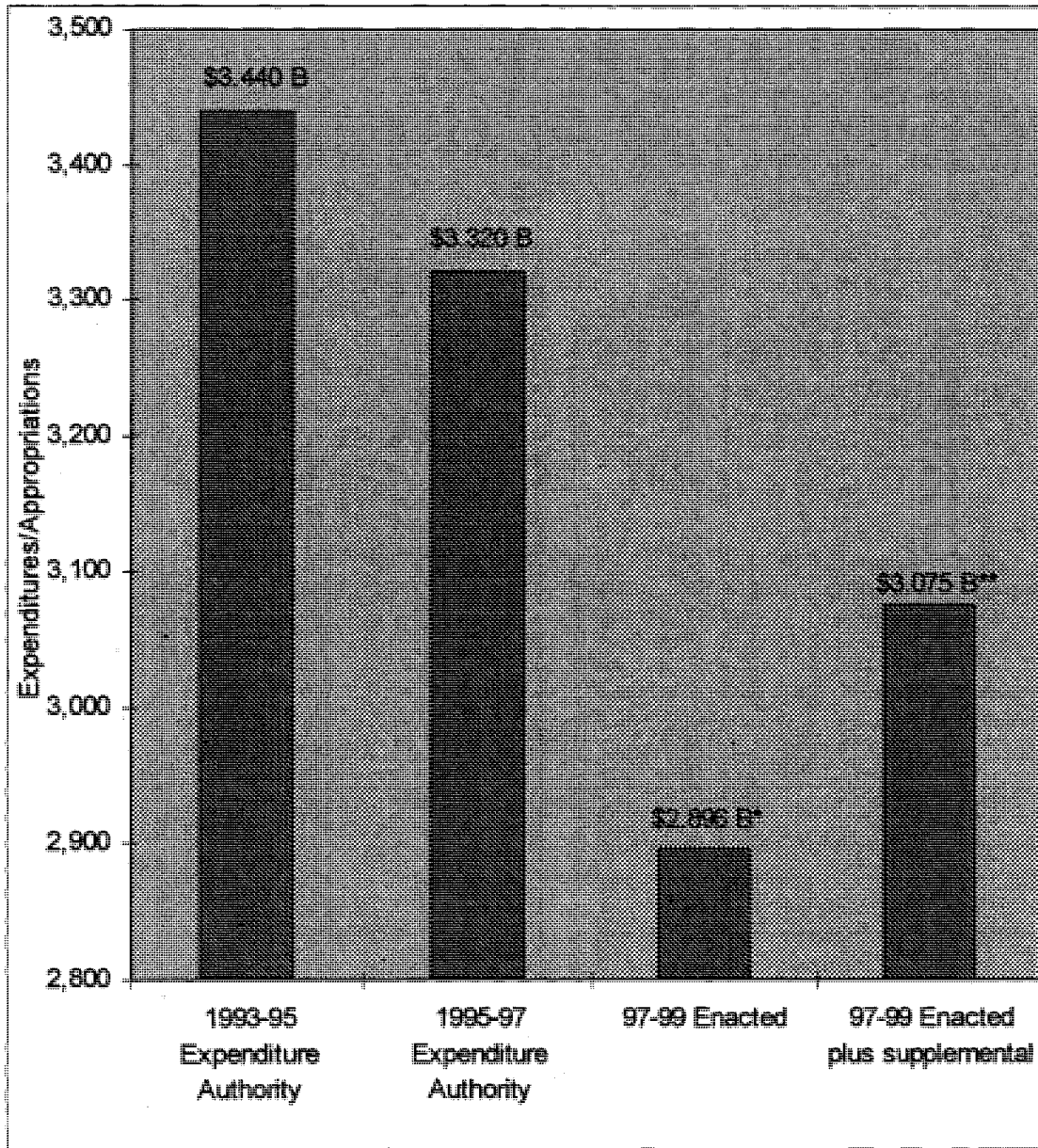
(Dollars in Thousands)

	<u>Orig 97-99</u>	<u>1998 Supp</u>	<u>Revised 97-99</u>
Joint Legislative Audit and Review Committee	1,500	-	1,500
Legislative Transportation Committee	3,022	1,150	4,172
Legislative Evaluation and Accountability Program	420	-	420
Joint Legislative Systems Committee	111	-	111
Special Appropriations to the Governor	2,000	-	2,000
Dept. of Community, Trade, and Economic Development	252	(126)	126
Office of Financial Management	116	(58)	58
Board of Pilotage Commissioners	275	-	275
Utilities and Transportation Commission	222	-	222
Washington Traffic Safety Commission	6,657	250	6,907
County Road Administration Board	87,268	-	87,268
Transportation Improvement Board	221,031	-	221,031
Marine Employees' Commission	354	-	354
Transportation Commission	804	-	804
State Parks and Recreation Commission	4,431	-	4,431
Department of Agriculture	304	10	314
Washington State Patrol	251,035	(8,079)	242,956
Field Operations Bureau	172,613	242	172,855
Investigative Services Bureau	6,317	(3,184)	3,133
Support Services Bureau	61,030	(5,487)	55,543
Capital	11,075	350	11,425
Department of Licensing	140,893	2,638	143,531
Management and Support Services	11,073	375	11,448
Information Systems	11,569	2,706	14,275
Vehicle Services	53,522	(373)	53,149
Driver Services	64,729	(70)	64,659
Department of Transportation	2,175,348	183,462	2,358,810
Program D - Highway Mgmt/Facilities-Operations	71,137	-	71,137
Program F - Aviation	3,722	520	4,242
Program I1 - Improvements-Mobility	354,984	97,416	452,400
Program I2 - Improvements-Safety	107,757	400	108,157
Program I3 - Improvements-Economic Initiative	63,452	30,931	94,383
Program I4 - Improvements-Environment Retrofit	4,701	2,500	7,201
Program K - Transp. Economic Partnerships-Operations	17,515	-	17,515
Program M - Highway Maintenance	242,000	1,000	243,000
Program P1 - Preservation-Roadways	332,293	(2,687)	329,606
Program P2 - Preservation-Structures	149,895	1,000	150,895
Program P3 - Preservation-Other Facilities	84,248	630	84,878
Program Q - Traffic Operations	29,140	2,700	31,840
Program S - Transportation Management	60,490	12,570	73,060
Program T - Transportation Plan, Data and Research	27,948	-	27,948
Program U - Charges from Other Agencies	25,690	475	26,165
Program W - WA State Ferries-Capital	224,738	16,718	241,456
Program X - WA State Ferries	267,358	3,164	270,522
Program Y - Transit and Rail-Operations	65,602	13,500	79,102
Program Z - Financial Assistance-Operations	42,678	2,625	45,303
<b>Total Budget</b>	<b>2,896,043</b>	<b>179,247</b>	<b>3,075,290</b>



# 1998 Supplemental Transportation Budget (ESSB 6456)

## 1998 Supplemental Transportation Budget 1997-99 Appropriation Authority



\* Excludes \$271.7 million of federal and local appropriation with the implementation of HB 1010.

\*\* Includes \$44.2 million of appropriations that are contingent on passage of the referendum in November.

**Transportation Budget Comparisons**

**1995-97 Transportation Funding**

1995-97 Funding	\$ 3.288 Billion
1997 Supplemental Budget	\$ <u>32</u> Million
Total 1995-97 Funding	\$ 3.320 Billion

**1997-99 Transportation Funding**

1997-99 Budget (ESSB 6061)	\$ 2.896 Billion
1998 Supplemental Budget (ESSB 6456)	\$ <u>179</u> Million
Total 1997-99 Funding	\$ 3.075 Billion

**Summary of ESSB 6456 As Enacted  
April 3, 1998**

**DOT Current Law**

- \$91 million is provided for the following projects within current law revenue.
  - \$27 million is provided to fund a list of statewide freight mobility, economic development, and partnership projects (referred to as the \$50 million project list). The total six-year project cost is \$43 million. Funds vetoed by the Governor last session are used.
  - \$60 million of transportation dollars, federal dollars and general fund transfer is provided for mobility projects, including \$13 million for emergent economic development projects, \$2 million for corridor studies, and \$45 million for preliminary engineering and right of way.
  - \$1 million for Ebey Slough Bridge.
  - \$2 million is transferred to the Advanced Environmental Mitigation Revolving Account to purchase and develop sites to meet environmental requirements on future construction projects.
  - \$0.5 million is provided for fish passage barrier removal.
  - \$0.6 million is provided for Centralia area flood mitigation.
  - \$4.2 million is provided for Special Category "C" projects (SR 18 construction).

## **1998 Supplemental Transportation Budget (ESSB 6456)**

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- \$11.6 million is appropriated for the Year 2000 conversion effort.
- \$4.1 million is provided to fund 13 items in the marine operating program, including: (1) second-year funding for items funded for one year only pending audit results; (2) items not approved in 1997 pending audit results; and (3) new items. In addition, \$0.9 million in savings is taken to reflect lower fuel costs and late delivery of the new Jumbo ferry.
- \$3.5 million is provided for ferry terminal preservation projects.
- \$3 million is provided for preconstruction activities related to construction of four passenger-only ferries and associated docking facilities.
- \$2.7 million is provided for the Commercial Vehicle Information Systems and Networks (CVISN) program transferred from WSP to DOT.
- \$2.5 million is provided for the commute trip reduction program from the High Capacity Transportation Account.
- \$4 million is provided from the High Capacity Transportation Account for facility improvements to match the federal commitment to improve passenger rail service between Seattle and Vancouver B.C.
- Funding is reappropriated for highway, ferry and aviation programs.
- \$1 million is provided for increased noxious weed control along state highways.
- \$0.5 million is provided for the rural mobility program.

### **DOT items contingent on the passage of the referendum EHB 2894 (\$44.2 million)**

- \$0.5 million is provided for freight rail branch line rehabilitation;
- \$6 million is provided for passenger rail infrastructure and facilities;
- \$0.4 million is provided for SR 2 safety improvements;
- \$0.4 million is provided for Port of Benton study;
- \$0.8 million is provided for the Spokane Street median barrier (Seattle);
- \$0.2 million is provided for a railroad crossing in Steilacoom;
- \$0.6 million is provided for SR 166, Ross Point slope repair; and
- \$0.3 million is provided for SR 536, Memorial Highway Bridge.
- \$35 million is placed in reserve for preconstruction activities.

**The total supplemental budget for DOT is \$183.5 million in transportation funds, including items contingent on passage of the referendum.**

## **1998 Supplemental Transportation Budget (ESSB 6456)**

### **WSP Current Law**

- \$302,000 is provided for Medicare coverage for commissioned officers hired prior to 1986 if the majority of the officers vote for the coverage.
- \$1,580,000 is provided for Transportation's share of the WSP data center shortfall and transition costs to the DIS data center.
- \$289,000 is provided for vehicle license fraud enforcement.
- \$350,000 is provided for the Vancouver commercial vehicle enforcement inspection building.
- \$461,000 funds the WSP portion of the fuel tax enforcement program.
- \$26,000 is provided for fiscal year 1999 vehicle inspection number (VIN) lane costs.
- \$1 million in reversions and savings is realized.
- General fund activities transferred to the transportation fund in 1993-95 are returned to the general fund. The general fund is to assume a portion of the Technical Services Division and the Communication Division of the WSP.
- The general fund is assuming \$12.4 million in general fund activities.

**The total supplemental budget for WSP is \$2 million in transportation funds, excluding the general fund transfer.**

### **DOL Current Law**

- \$339,000 is provided for the Year 2000 conversion effort.
- \$2.8 million is provided to replace the Wang Imaging System instead of spending \$1.2 million to bring an obsolete system into Year 2000 compliance.
- \$331,000 and 2.2 full-time equivalents (FTEs) are provided for additional staffing in Vancouver and Yakima.
- \$2.1 million is provided to implement proposed legislation, including \$1.5 million to implement proposed driving under the influence (DUI) legislation.
- \$4.4 million in reversions and savings is realized.

**The total supplemental budget for DOL is \$2.6 million in transportation funds.**

### **General Government Agencies**

- \$10,000 is provided for the Department of Agriculture to conduct laboratory analysis of diesel fuel samples to detect illegally-blended diesel fuel.

## **1998 Supplemental Transportation Budget (ESSB 6456)**

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- The Office of Financial Management and the Department of Community, Trade, and Economic Development are transferred to the general fund.

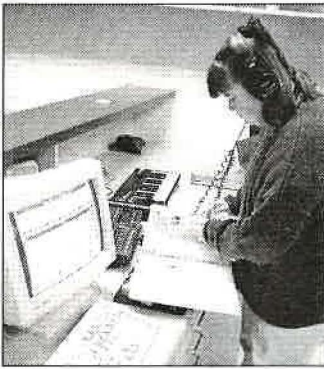
### **Legislative Transportation Committee**

- \$1 million is provided for the creation of a special panel to conduct an analysis of existing transportation funding mechanisms and to propose solutions for long-term financing of transportation.
- \$150,000 is provided for a performance and management audit of selected public transportation systems to determine their effectiveness and efficiency.

**The total supplemental budget for LTC is \$1.2 million in transportation funds.**

**Total 1998 Supplemental Transportation Budget \$179.2 Million**

Richland School District photo by Steven Aagaard



**Top:** A student at Richland School District's Chief Joseph Middle School composes a musical score in the school's Industrial Technology Lab.



Photo provided by the Mukilteo School District



Photo provided by the Walla Walla School District

**Middle:** Students at Fairmount Elementary School in the Mukilteo School District share a reading assignment.

**Bottom:** This student is one of many who are enrolling in the Walla Walla High School Vocational Education Computer Repair course taught by Dennis DeBroeck. This course has been offered for only a few years, yet is one of the most popular. Technology is a relative newcomer in education.

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SSB	6727	Education investments . . . . .	C 302	L 98	
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SSB	6731	Airport property/tax exemption . . . . .	C 201	L 98	
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C	5	L 98	Fire protection district finances . . . . .	SSB 5853
C	6	L 98	Model toxics control liability . . . . .	SSB 5873
C	7	L 98	Ethics in public service/gifts . . . . .	SB 6118
C	8	L 98	Animal health . . . . .	ESB 6123
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C	10	L 98	Background checks/drug offense . . . . .	SSB 6136
C	11	L 98	Wheat commission/duplicate authority repealed . . . . .	SB 6158
C	12	L 98	Washington land bank repealed . . . . .	SB 6159
C	13	L 98	Public works projects funding . . . . .	SB 6171
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C	21	L 98	Administrative rules review committee . . . . .	SSB 6575
C	22	L 98	School director candidates . . . . .	SB 6631
C	23	L 98	Insurance corporate document filing . . . . .	2SHB 1065
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C	26	L 98	Court of appeals terms . . . . .	SHB 2295
C	27	L 98	Recording documents . . . . .	ESHB 2297
C	28	L 98	Consumer loan company fees . . . . .	SHB 2321
C	29	L 98	Health professions administrative procedures . . . . .	SHB 2364
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C	31	L 98	HJR 4209 implementation . . . . .	HB 2717
C	32	L 98	Counselor continuing education requirements . . . . .	EHB 2920
C	33	L 98	Electronic signatures . . . . .	SHB 2931
C	34	L 98	On-site wastewater certification . . . . .	SHB 3056
C	35	L 98	Lodging tax statutes . . . . .	HB 2698
C	36	L 98	Fertilizer regulation . . . . .	SSB 6474
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C	38	L 98	Fax filings to secretary of state . . . . .	HB 1248
C	39	L 98	Trademarks . . . . .	HB 1250
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C	49	L 98	Water works recipients . . . . .	HB	2784
C	50	L 98	Natural heritage advisory council . . . . .	HB	2797
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C	52	L 98	Small claims case appeals . . . . .	HB	2907
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C	54	L 98	State tax board filings . . . . .	SB	6223
C	55	L 98	RCW technical corrections . . . . .	SSB	6258
C	56	L 98	Unlawful issuance of checks . . . . .	SB	6299
C	57	L 98	Forest land adverse possession . . . . .	ESSB	6323
C	58	L 98	Voting system tests . . . . .	SB	6398
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C	60	L 98	Fish run recovery pilot project . . . . .	ESHB	2836
C	61	L 98	Mobile home park septic systems . . . . .	SHB	1750
C	62	L 98	Teachers as legislators . . . . .	SHB	1971
C	63	L 98	Running start student option . . . . .	SHB	1977
C	64	L 98	Snohomish County district court . . . . .	HB	2293
C	65	L 98	County moneys for schools . . . . .	EHB	2302
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C	67	L 98	Sex offender registry information . . . . .	EHB	2350
C	68	L 98	Outdoor burning compliance . . . . .	EHB	2414
C	69	L 98	Advanced college tuition payment . . . . .	2SHB	2430
C	70	L 98	Medication assistance . . . . .	SHB	2452
C	71	L 98	Forest land funds distribution . . . . .	SHB	2461
C	72	L 98	Health provider/patient privileges . . . . .	EHB	2465
C	73	L 98	District court jurisdiction . . . . .	HB	2499
C	74	L 98	Storm water control facilities . . . . .	HB	2503
C	75	L 98	Pharmacy students fee waiver . . . . .	HB	2534
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C	77	L 98	Wage assignment orders . . . . .	HB	2732
C	78	L 98	Methamphetamine manufacture . . . . .	HB	2628
C	79	L 98	Food stamp electronic transfer . . . . .	HB	2692
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C	81	L 98 PV	Methamphetamine . . . . .	EHB	2791
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C	94	L 98	Assault on bus drivers . . . . .	ESB 5499
C	95	L 98	Higher education governing boards . . . . .	SSB 5517
C	96	L 98	Regional fisheries enhancement . . . . .	SB 6149
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C	98	L 98	Electric generation equipment/Labor and Industries . . . . .	SB 6604
C	99	L 98	Artificial insemination liens . . . . .	SSB 6605
C	100	L 98	Perpetual timber rights . . . . .	SSB 6669
C	101	L 98	Personal service contracts . . . . .	SHB 1193
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C	103	L 98	Uniform partnership act . . . . .	SHB 2386
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C	108	L 98	Sunset review/CINTRAFOR, Office of Public Defense . . . . .	HB 2436
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C	111	L 98	State vehicle management . . . . .	HB 2568
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C	114	L 98 PV	Private club liquor licenses . . . . .	2SHB 2782
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C	118	L 98	Mobile home park eviction . . . . .	SB 5164
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C	120	L 98	Third-party appraisals . . . . .	SB 6169
C	121	L 98	Special district commissioners . . . . .	ESSB 6174
C	122	L 98	Credit union share insurance . . . . .	SB 6355
C	123	L 98	Pipeline facilities regulation . . . . .	SSB 6358
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C	125	L 98	Agency head legal authority . . . . .	SSB 6425
C	126	L 98	Liquor license designations . . . . .	SB 6539
C	127	L 98	Retail alcoholic beverage business permits . . . . .	ESSB 6648
C	128	L 98	Senior housing financing . . . . .	SB 6729
C	129	L 98	State fossil . . . . .	SHB 1088
C	130	L 98	Child custody . . . . .	SHB 1121
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C	132	L 98	Impaired physician programs . . . . .	2SHB 1618
C	133	L 98	Tobacco possession by minors . . . . .	2ESHB 1746
C	134	L 98	Computer hardware trade-ins . . . . .	SHB 1829
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C 137	L 98	PV	Elevators and conveyances . . . . .	ESHB 2313
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C 139	L 98		Sex offender register college campuses . . . . .	SHB 2368
C 140	L 98		Public housing authorities . . . . .	SHB 2459
C 141	L 98		DSHS statutory reference corrections . . . . .	HB 2558
C 142	L 98		Hearing instrument fitter/dispenser . . . . .	SHB 2688
C 143	L 98		Physical therapist inactive license status . . . . .	HB 2704
C 144	L 98		Nonhighway vehicle fund distribution . . . . .	SHB 2826
C 145	L 98		Rental car tax payment . . . . .	SHB 2858
C 146	L 98		Sexually violent predators . . . . .	HB 2905
C 147	L 98		Health care limitation of actions . . . . .	SHB 2936
C 148	L 98		Basic health plan eligibility . . . . .	SHB 3109
C 149	L 98		Unsolicited E-mail . . . . .	ESHB 2752
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C 154	L 98		Horticultural product inspection . . . . .	SB 6122
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C 159	L 98		Telephone assistance program . . . . .	SB 6400
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C 162	L 98		Unemployment compensation/public contracts . . . . .	ESSB 6421
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C 166	L 98		Ferry vessels authorized . . . . .	ESB 6325
C 167	L 98		Farm machinery/sales tax . . . . .	HB 2476
C 168	L 98		Dental appliance taxation . . . . .	EHB 1042
C 169	L 98		Accident report availability . . . . .	SHB 1211
C 170	L 98		Hay, alfalfa, seed/B&O tax . . . . .	E2SHB 1328
C 171	L 98		Transportation planning . . . . .	HB 1487
C 172	L 98		Terminal safety audits . . . . .	HB 2141
C 173	L 98		Coordinated transportation service . . . . .	SHB 2166
C 174	L 98		Nonprofit organization property tax exemption . . . . .	HB 2598
C 175	L 98	PV	Strategic freight investments . . . . .	ESHB 2615
C 176	L 98		Special fuel/vehicle fuel tax . . . . .	SHB 2659
C 177	L 98		Transportation funding/planning . . . . .	HB 2945
C 178	L 98		Gun safes/tax exemption . . . . .	HB 2969
C 179	L 98		SR 16 corridor tax exemptions . . . . .	SHB 3015
C 180	L 98		Adopt-a-highway signs . . . . .	SHB 3057
C 181	L 98		Advanced environmental mitigation . . . . .	SHB 3110
C 182	L 98		Donated property tax exemption . . . . .	SSB 5355

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C 184	L 98	Nonprofit organizations property tax . . . . .	SB 6113
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C 186	L 98	Agency actions/judicial review . . . . .	SB 6172
C 187	L 98	Aircraft dealer license fees . . . . .	SB 6228
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C 189	L 98	Assembly halls/property tax exemption . . . . .	SB 6311
C 190	L 98 PV	Fish and wildlife code enforcement . . . . .	ESSB 6328
C 191	L 98 PV	Fish and wildlife licenses . . . . .	2SSB 6330
C 192	L 98	Regional transportation authorities . . . . .	SSB 6346
C 193	L 98	WSP officers exam eligibility . . . . .	SB 6352
C 194	L 98	WSP officers disability . . . . .	SB 6353
C 195	L 98	Design-build demonstration projects . . . . .	SSB 6439
C 196	L 98	Transportation environmental change orders . . . . .	SB 6441
C 197	L 98	Criminal justice information transfer . . . . .	SSB 6535
C 198	L 98	Vessel registration . . . . .	SSB 6603
C 199	L 98 PV	Transportation planning . . . . .	ESB 6628
C 200	L 98	Hop commodity commissions/tax exemption . . . . .	SB 6728
C 201	L 98	Airport property/tax exemption . . . . .	SSB 6731
C 202	L 98	Low-income developmentally disabled person's housing . . . . .	SSB 6737
C 203	L 98 PV	Vehicle impoundment . . . . .	ESHB 1221
C 204	L 98	Driving records destruction . . . . .	EHB 1254
C 205	L 98	Fresh pursuit . . . . .	HB 2500
C 206	L 98 PV	Drunk driving penalties . . . . .	SHB 2885
C 207	L 98 PV	DUI penalties . . . . .	2SHB 3070
C 208	L 98 PV	DUI deferred prosecution . . . . .	2SHB 3089
C 209	L 98	DUI/license suspension . . . . .	ESB 6142
C 210	L 98 PV	Ignition interlock violations . . . . .	ESSB 6165
C 211	L 98	DUI penalties . . . . .	ESSB 6166
C 212	L 98	DUI penalties . . . . .	ESSB 6187
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C 214	L 98	DUI penalties . . . . .	E2SSB 6293
C 215	L 98	Alcohol violator penalties . . . . .	ESSB 6408
C 216	L 98	Developmentally disabled residential options . . . . .	SSB 6751
C 217	L 98	Interception of communications . . . . .	SHB 1072
C 218	L 98	Licensing department records use . . . . .	SHB 1083
C 219	L 98	Watercraft crimes . . . . .	HB 1165
C 220	L 98	Sex offender registration . . . . .	HB 1172
C 221	L 98	Voyeurism . . . . .	SHB 1441
C 222	L 98	Prescriptions/electronic information . . . . .	ESHB 1769
C 223	L 98	Supervised offender monitoring . . . . .	SHB 1781
C 224	L 98	Workplace safety . . . . .	SHB 1992
C 225	L 98	Educational pathways . . . . .	ESHB 2300
C 226	L 98	Court records preservation . . . . .	HB 2402
C 227	L 98	Garnishee's processing fees . . . . .	HB 2463
C 228	L 98	Theatrical agencies . . . . .	ESHB 2477

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C 229	L 98		Out-of-home child placement . . . . .	HB 2557
C 230	L 98		Labor and Industries medical coverage decisions . . . . .	SHB 2822
C 231	L 98		Agency vendor contracting . . . . .	E2SHB 2880
C 232	L 98		State contractor audits . . . . .	E2SHB 2881
C 233	L 98		Part-time faculty unemployment compensation . . . . .	ESHB 2947
C 234	L 98		Food stamp fraud investigations . . . . .	SHB 3076
C 235	L 98		Firearms crimes/sentencing . . . . .	ESB 5695
C 236	L 98		Be verge crate and pallet theft . . . . .	ESSB 5769
C 237	L 98		Actions/child injury, death . . . . .	SSB 6153
C 238	L 98		Municipal court probation . . . . .	SB 6155
C 239	L 98		Airline employee shift trades . . . . .	SB 6220
C 240	L 98		Port district petition signatures . . . . .	SB 6278
C 241	L 98		Health carriers capital standards . . . . .	SSB 6302
C 242	L 98		First degree rape . . . . .	SSB 6518
C 243	L 98		Chemical dependency counselors . . . . .	SSB 6550
C 244	L 98		Correctional facilities education programs . . . . .	ESSB 6600
C 245	L 98	PV	Reports to legislature . . . . .	SB 6219
C 246	L 98		Salmon recovery planning . . . . .	ESHB 2496
C 247	L 98	PV	Integrated watershed management . . . . .	ESHB 2514
C 248	L 98		Wetlands mitigation banking . . . . .	E2SHB 2339
C 249	L 98		Fish enhancement projects . . . . .	2SHB 2879
C 250	L 98		Chinook salmon mass marking . . . . .	2SSB 6264
C 251	L 98		Fish remote site incubators . . . . .	SSB 6324
C 252	L 98		Disarming of law officers . . . . .	HB 1309
C 253	L 98	PV	Carrying concealed pistols . . . . .	EHB 1408
C 254	L 98		Retiree medical expense plan . . . . .	HB 2371
C 255	L 98		Mortgage insurance . . . . .	SHB 2611
C 256	L 98		Wine furnished to nonprofits . . . . .	SHB 3001
C 257	L 98	PV	Waste reduction/litter control . . . . .	2SHB 3058
C 258	L 98		Water rights nonuse cause . . . . .	HB 3060
C 259	L 98		Liquor sales to intoxicated persons . . . . .	SSB 5582
C 260	L 98		Mentally ill offenders . . . . .	ESSB 5760
C 261	L 98		Fee-based offender education . . . . .	ESSB 5936
C 262	L 98	PV	Dairy nutrient management . . . . .	SSB 6161
C 263	L 98	PV	Livestock identification . . . . .	ESSB 6204
C 264	L 98		Community athletic facilities . . . . .	E2SSB 6235
C 265	L 98		Agency liquor vendors/credit card sales . . . . .	SSB 6253
C 266	L 98		Local public health financing . . . . .	SSB 6297
C 267	L 98		Charter boat alternate operators . . . . .	SSB 6341
C 268	L 98		Children's trust fund . . . . .	SB 6429
C 269	L 98		Child community facility placement . . . . .	E2SSB 6445
C 270	L 98		Yakima county superior court . . . . .	ESSB 6492
C 271	L 98	PV	Reading instruction training . . . . .	E2SSB 6509
C 272	L 98	PV	Adult family/boarding homes . . . . .	2SSB 6544
C 273	L 98		Work ethic camp program extension . . . . .	SB 6758
C 274	L 98		Personality rights . . . . .	ESHB 1074

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C 275	L 98	Coin-operated laundries/tax . . . . .	SHB 1184
C 276	L 98	Tenant public nuisance activities . . . . .	ESHB 1223
C 277	L 98	Limited partnership dissolution . . . . .	HB 1252
C 278	L 98	Competitive bidding . . . . .	SHB 2077
C 279	L 98	Workers' compensation employer obligation . . . . .	SHB 2312
C 280	L 98 PV	Administrative law revisions . . . . .	E2SHB 2345
C 281	L 98	Local vehicle license fees . . . . .	ESHB 2417
C 282	L 98 PV	Wholesale auto auctions . . . . .	EHB 2501
C 283	L 98 PV	Retirement system funding . . . . .	SHB 2544
C 284	L 98	Charitable gift annuity business . . . . .	HB 2550
C 285	L 98	Utility payment deposits . . . . .	ESHB 2551
C 286	L 98 PV	Land use study commission recommendations . . . . .	ESHB 2830
C 287	L 98 PV	Electric service unbundling . . . . .	E2SHB 2831
C 288	L 98 PV	Family and children's ombudsman office . . . . .	EHB 3041
C 289	L 98	Industrial development/county master plans . . . . .	SHB 3099
C 290	L 98 PV	Drugs used to facilitate rape . . . . .	ESSB 5305
C 291	L 98	Financing contracts . . . . .	SSB 6175
C 292	L 98	Probate, trusts, and estates . . . . .	SSB 6181
C 293	L 98	Professional services corporations . . . . .	SSB 6182
C 294	L 98	Disabled persons' parking . . . . .	2SSB 6190
C 295	L 98	Deeds of trust . . . . .	ESSB 6191
C 296	L 98 PV	At-risk youth . . . . .	SSB 6208
C 297	L 98 PV	Mentally ill commitment . . . . .	2SSB 6214
C 298	L 98	Vehicle franchise agreements . . . . .	SB 6301
C 299	L 98	Tourism development funding . . . . .	SB 6541
C 300	L 98 PV	Electric customer rights . . . . .	ESSB 6560
C 301	L 98	Domestic violence victim insurance . . . . .	SSB 6565
C 302	L 98	Education investments . . . . .	SSB 6727
C 303	L 98	Purchasing insurance services . . . . .	SSB 6746
C 304	L 98	911 funding . . . . .	SHB 1126
C 305	L 98	Murder/aggravating circumstance . . . . .	HB 1297
C 306	L 98	Government restrictions/property tax . . . . .	HB 1549
C 307	L 98	Reserve law enforcement officers . . . . .	SHB 1939
C 308	L 98	Hazardous waste remediation/tax . . . . .	SHB 2051
C 309	L 98	Electric generating facility/tax . . . . .	HB 2278
C 310	L 98	Property tax exemption denials . . . . .	HB 2309
C 311	L 98	Excise/property tax corrections . . . . .	SHB 2315
C 312	L 98	B&O tax rates consolidated . . . . .	HB 2335
C 313	L 98	International services/tax . . . . .	E2SHB 2342
C 314	L 98 PV	Child abuse prevention/treatment . . . . .	SHB 2556
C 315	L 98	Laundry service/tax . . . . .	HB 2566
C 316	L 98	Small irrigation district/tax exemption . . . . .	SHB 2711
C 317	L 98	Drug paraphernalia . . . . .	EHB 2772
C 318	L 98	Electric utility/net metering . . . . .	SHB 2773
C 319	L 98	Student achievement accountability . . . . .	2SHB 2849
C 320	L 98 PV	Agricultural land classification . . . . .	ESHB 2871

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C	321	L 98	PV	Vehicle excise tax/general fund . . . . .	EHB	2894
C	322	L 98		Nursing home payment rates . . . . .	E2SHB	2935
C	323	L 98		Health care services/tax . . . . .	SHB	3096
C	324	L 98		Education loan guarantee/tax exemptions . . . . .	SB	5631
C	325	L 98		Terminally ill care/B&O tax . . . . .	SSB	6077
C	326	L 98		Water-sewer district assumption . . . . .	SSB	6119
C	327	L 98		Delinquent property taxes . . . . .	ESSB	6205
C	328	L 98	PV	Dependent children . . . . .	ESSB	6238
C	329	L 98		Internal distributions/B&O tax . . . . .	SB	6270
C	330	L 98	PV	Manufacturing machinery/tax exemptions . . . . .	SB	6348
C	331	L 98		Intangible rights royalties/tax rate . . . . .	SB	6449
C	332	L 98	PV	Software taxation . . . . .	ESSB	6470
C	333	L 98	PV	Senior/disabled property taxes . . . . .	ESSB	6533
C	334	L 98		Employer-furnished apparel . . . . .	SB	6536
C	335	L 98		Vessel/ferry ad valorem tax . . . . .	SB	6552
C	336	L 98		Nonprofit fundraising/tax exemption . . . . .	SB	6599
C	337	L 98		Federal telecommunications act . . . . .	ESSB	6622
C	338	L 98		Property manager's wages/tax exemption . . . . .	SB	6662
C	339	L 98		Thoroughbred race tracks/tax deferral extensions . . . . .	SB	6668
C	340	L 98		Investment gains sharing . . . . .	ESHB	2491
C	341	L 98		School employees retirement system . . . . .	SSB	6306
C	342	L 98		Air pollution control . . . . .	2E2SHB	1354
C	343	L 98		Pharmaceutical warehouses/tax . . . . .	ESHB	2933
C	344	L 98	PV	Spokane research and technology institute . . . . .	SSB	6655
C	345	L 98	PV	Horse racing parimutuel tax . . . . .	E2SSB	6562
C	346	L 98	PV	Supplemental operating budget . . . . .	ESSB	6108
C	347	L 98		Supplemental capital budget . . . . .	SSB	6455
C	348	L 98	PV	Supplemental transportation budget . . . . .	ESSB	6456

### FIRST SPECIAL SESSION - 1997

C	1	L 97	E1	Warrant checks . . . . .	HB	3902
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***EXECUTIVE AGENCIES***

**Employment Security Department**  
Carver Gayton, Commissioner

**Office of Financial Management**  
Richard Thompson, Director

**Department of Labor and Industries**  
Gary Moore, Director

**Lottery Commission**  
Merritt Long, Director

**Department of Revenue**  
Frederick C. Kiga, Director

**Department of Veterans Affairs**  
John M. King, Director

***UNIVERSITIES AND COLLEGES  
BOARDS OF TRUSTEES***

**University of Washington**  
William H. Gates, Board of Regents

**Washington State University**  
Robert D. Fukai, Board of Regents  
William Marler, Board of Regents

**Western Washington University**  
Charlie Earl  
Wayne H. Ehlers

***HIGHER EDUCATION BOARDS***

**Higher Education Coordinating Board**  
Bob Craves, Chair  
Kristi Blake  
Dr. Frank B. Brouillet  
Larry L. Hanson

***COMMUNITY AND TECHNICAL  
COLLEGES  
BOARDS OF TRUSTEES***

**Bates Technical College District No. 28**  
Tom Hilyard

**Bellingham Technical College District No. 25**  
Felix H. Anderson

**Clark Community College District No. 14**  
Holly Echo-Hawk Middleton

**Edmonds Community College District No. 23**  
Honorable M.J. Hrdlicka

**Green River Community College District No. 10**  
Linda Sprenger

**Lower Columbia Community College District  
No. 13**  
Sharon Hart

**Olympic Community College District No. 3**  
James Robinson

**Peninsula Community College District No. 1**  
Dan C. Wilder

**Seattle, South Seattle and North Seattle  
Community Colleges District No. 6**  
Dean S. Lum

**Shoreline Community College District No. 7**  
Edith L. Nelson

**Skagit Valley Community College District No. 4**  
Dr. Barbara Andersen

**Whatcom Community College District No. 21**  
Phyllis S. Self

## **Gubernatorial Appointments Confirmed**

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### ***STATE BOARDS, COUNCILS AND COMMISSIONS***

#### **Fish and Wildlife Commission**

Kelly D. White

#### **Horse Racing Commission**

Honorable Barbara Shinpoch

#### **Interagency Committee for Outdoor Recreation**

Donna M. Mason, Chair

Christine Wakefield

#### **Parks and Recreation Commission**

Joan K. Thomas

**House of Representatives**

**Senate**

**Republican Leadership**

Clyde Ballard . . . . . Speaker  
 John Pennington . . . . . Speaker Pro Tempore  
 Barbara Lisk . . . . . Majority Leader  
 Eric Robertson . . . . . Majority Caucus Chair  
 Maryann Mitchell . . . . . Majority Caucus Vice Chair  
 Gigi Talcott . . . . . Majority Whip  
 Mike Wensman . . . . . Assistant Majority Whip  
 Richard DeBolt . . . . . Assistant Majority Whip  
 Jack Cairnes . . . . . Assistant Majority Whip  
 Jerome Delvin . . . . . Asst. Majority Floor Leader  
 Kathy Lambert . . . . . Asst. Majority Floor Leader

**Democratic Leadership**

Marlin Appelwick . . . . . Minority Leader  
 Frank Chopp . . . . . Minority Floor Leader  
 Bill Grant . . . . . Minority Caucus Chair  
 Mary Lou Dickerson . . . . . Minority Caucus Vice Chair  
 Lynn Kessler . . . . . Minority Whip  
 Brian Hatfield . . . . . Asst. Minority Floor Leader  
 Patty Butler . . . . . Assistant Minority Whip  
 Mike Cooper . . . . . Assistant Minority Whip  
 Alex Wood . . . . . Assistant Minority Whip  
  
 Timothy A. Martin . . . . . Chief Clerk  
 Sharon Hayward . . . . . Deputy Chief Clerk

**Officers**

Lt. Governor Brad Owen . . . . . President  
 Irv Newhouse . . . . . President Pro Tempore  
 Bob Morton . . . . . Vice President Pro Tempore  
 Mike O'Connell . . . . . Secretary  
 Susan Carlson . . . . . Deputy Secretary  
 Dennis Lewis . . . . . Sergeant-At-Arms

**Caucus Officers**

**Republican Caucus**

Dan McDonald . . . . . Majority Leader  
 George L. Sellar . . . . . Majority Caucus Chair  
 Stephen L. Johnson . . . . . Majority Floor Leader  
 Patricia S. Hale . . . . . Majority Whip  
 Ann Anderson . . . . . Majority Deputy Leader  
 Jeanine H. Long . . . . . Majority Caucus Vice Chair  
 Gary Strannigan . . . . . Majority Asst. Floor Leader  
 Dan Swecker . . . . . Majority Assistant Whip

**Democratic Caucus**

Sid Snyder . . . . . Democratic Leader  
 Valoria H. Loveland . . . . . Democratic Caucus Chair  
 Betti L. Sheldon . . . . . Democratic Floor Leader  
 Rosa Franklin . . . . . Democratic Whip  
 Pat Thibaudeau . . . . . Democratic Caucus Vice Chair  
 Calvin Goings . . . . . Democratic Asst. Floor Leader  
 Adam Kline . . . . . Democratic Assistant Whip



## **Standing Committee Assignments**

### **House Agriculture & Ecology**

Gary Chandler, *Chair*  
Linda Evans Parlette,  
*V. Chair*  
Mark G. Schoesler, *V.*  
*Chair*  
David H. Anderson  
Mike Cooper  
Jerome Delvin  
John Koster  
Kelli Linville  
Dave Mastin  
Debbie Regala  
Bob Sump

### **House Appropriations**

Tom C. Huff, *Chair*  
Gary Alexander, *V. Chair*  
James Clements, *V. Chair*  
Mike Wensman, *V. Chair*  
Brad Benson  
Don Carlson  
Frank Chopp  
Eileen Cody  
Suzette Cooke  
Larry Crouse  
Mark L. Doumit  
Philip E. Dyer  
Jeff Gombosky  
William Grant  
Karen Keiser  
Phyllis Gutierrez Kenney  
Lynn Kessler  
Kathy Lambert  
Kelli Linville  
Barbara Lisk  
Dave Mastin  
Cathy McMorris  
Linda Evans Parlette  
Erik Poulsen  
Debbie Regala  
Dave Schmidt  
Barry Sehlin  
Larry Sheahan  
Helen Sommers  
Gigi Talcott  
Kip Tokuda

### **Senate Agriculture & Environment**

Bob Morton, *Chair*  
Dan Swecker, *V. Chair*  
Karen Fraser  
Rosemary McAuliffe  
Irv Newhouse  
Bob Oke  
Marilyn Rasmussen

### **See Senate Ways & Means**

### **House Capital Budget**

Barry Sehlin, *Chair*  
Jim Honeyford, *V. Chair*  
Jeralita Costa  
Shirley Hankins  
John Koster  
Patricia Lantz  
Maryann Mitchell  
Val Ogden  
Duane Sommers  
Helen Sommers  
Brian Sullivan

### **House Children & Family Services**

Suzette Cooke, *Chair*  
Marc Boldt, *V. Chair*  
Roger Bush, *V. Chair*  
Ida Ballasiotes  
Michael Carrell  
Mary Lou Dickerson  
Jeff Gombosky  
Jim Kastama  
Joyce McDonald  
Kip Tokuda  
Cathy Wolfe

### **House Commerce & Labor**

Cathy McMorris, *Chair*  
Jim Honeyford, *V. Chair*  
Marc Boldt  
James Clements  
Grace Cole  
Steve Conway  
Brian Hatfield  
Barbara Lisk  
Alex Wood

### **see Senate Ways & Means**

### **see Senate Human Services & Corrections**

### **Senate Commerce & Labor**

Ray Schow, *Chair*  
Jim Horn, *V. Chair*  
Ann Anderson  
Rosa Franklin  
Karen Fraser  
Michael Heavey  
Irv Newhouse

## Standing Committee Assignments

<p><b><u>House Criminal Justice &amp; Corrections</u></b>          Ida Ballasiotes, <i>Chair</i>          Brad Benson, <i>V. Chair</i>          John Koster, <i>V. Chair</i>          Jack Cairnes          Mary Lou Dickerson          Timothy Hickel          James McCune          Maryann Mitchell          Al O'Brien          Dave Quall          Renee Radcliff          Brian Sullivan</p>	<p><b><u>see Senate Law &amp; Justice; Human Services &amp; Corrections</u></b></p>	<p><b><u>House Finance</u></b>          Brian Thomas, <i>Chair</i>          Michael Carrell, <i>V. Chair</i>          Joyce Mulliken, <i>V. Chair</i>          Marc Boldt          Patty Butler          Steve Conway          Mary Lou Dickerson          Hans Dunshee          Jim Kastama          Dawn Mason          Jeff Morris          John Pennington          Mark G. Schoesler          Bill Thompson          Steve Van Luven</p>	<p><b><u>see Senate Ways &amp; Means</u></b></p>
<p><b><u>House Education</u></b>          Peggy Johnson, <i>Chair</i>          Timothy Hickel, <i>V. Chair</i>          Grace Cole          Karen Keiser          Kelli Linville          Dave Quall          Scott Smith          Mark Sterk          Bob Sump          Gigi Talcott          Velma Veloria</p>	<p><b><u>Senate Education</u></b>          Harold Hochstatter, <i>Chair</i>          Bill Finkbeiner, <i>V. Chair</i>          Calvin Goings          Stephen L. Johnson          Rosemary McAuliffe          Marilyn Rasmussen          Joseph Zarelli</p>	<p><b><u>House Financial Institutions &amp; Insurance</u></b>          Les Thomas, <i>Chair</i>          Scott Smith, <i>V. Chair</i>          Paul Zellinsky, Sr., <i>V. Chr</i>          Brad Benson          Dow Constantine          Richard DeBolt          William Grant          Karen Keiser          Brian Sullivan          Mike Wensman          Cathy Wolfe</p>	<p><b><u>Senate Financial Institutions, Insurance &amp; Housing</u></b>          Shirley J. Winsley, <i>Chair</i>          Don Benton, <i>V. Chair</i>          Bill Finkbeiner          Patricia S. Hale          Michael Heavey          Adam Kline          Margarita Prentice</p>
<p><b><u>House Energy &amp; Utilities</u></b>          Larry Crouse, <i>Chair</i>          Richard DeBolt, <i>V. Chair</i>          Dave Mastin, <i>V. Chair</i>          Roger Bush          Mike Cooper          Jerome Delvin          Jim Honeyford          Jim Kastama          Lynn Kessler          Thomas M. Mielke          Jeff Morris          Erik Poulsen          Brian Thomas</p>	<p><b><u>Senate Energy &amp; Utilities</u></b>          Bill Finkbeiner, <i>Chair</i>          Harold Hochstatter, <i>V. Chair</i>          Lisa J. Brown          Ken Jacobsen          Dino Rossi          Timothy Sheldon          Gary Strannigan</p>	<p><b><u>House Government Administration</u></b>          Dave Schmidt, <i>Chair</i>          Duane Sommers, <i>V. Chair</i>          Mark L. Doumit          Jim Dunn          Hans Dunshee          Georgia Gardner          Edward B. Murray          Bill H. Reams          Patricia "Pat" Scott          Scott Smith          Les Thomas          Mike Wensman          Cathy Wolfe</p>	<p><b><u>Senate Government Operations</u></b>          Bob McCaslin, <i>Chair</i>          Patricia S. Hale, <i>V. Chair</i>          Ann Anderson          Mary Margaret Haugen          Jim Horn          Julia Patterson          Timothy Sheldon</p>

## **Standing Committee Assignments**

### **House Government Reform & Land Use**

Bill H. Reams, *Chair*  
Jack Cairnes, *V. Chair*  
Mike Sherstad, *V. Chair*  
Roger Bush  
Ruth Fisher  
Georgia Gardner  
Patricia Lantz  
Thomas M. Mielke  
Joyce Mulliken  
Sandra Singery Romero  
Bill Thompson

### **House Health Care**

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Eileen Cody  
Steve Conway  
Edward B. Murray  
Linda Evans Parlette  
Mike Sherstad  
Alex Wood  
Paul Zellinsky, Sr.

### **House Higher Education**

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Renee Radcliff, *V. Chair*  
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Jim Dunn  
Phyllis Gutierrez Kenney  
Dawn Mason  
Al O'Brien  
Larry Sheahan  
Steve Van Luven

### **see Senate Government Operations**

### **Senate Health & Long-Term Care**

Alex A. Deccio, *Chair*  
Jeannette Wood, *V. Chair*  
Don Benton  
Darlene Fairley  
Rosa Franklin  
Gary Strannigan  
R. Lorraine Wojahn

### **Senate Higher Education**

Jeannette Wood, *Chair*  
Shirley J. Winsley, *V. Chair*  
Albert Bauer  
Patricia S. Hale  
Jeanne Kohl  
Julia Patterson  
Eugene A. Prince  
Betti L. Sheldon  
James E. West

### **see House Criminal Justice & Corrections; Children & Family Services**

### **House Law & Justice**

Larry Sheahan, *Chair*  
Joyce McDonald, *V. Chair*  
Mark Sterk, *V. Chair*  
Michael Carrell  
Eileen Cody  
Dow Constantine  
Jeralita Costa  
Phyllis Gutierrez Kenney  
Kathy Lambert  
Patricia Lantz  
Joyce Mulliken  
Eric Robertson  
Mike Sherstad

### **House Natural Resources**

Jim Buck, *Chair*  
Bob Sump, *V. Chair*  
Bill Thompson, *V. Chair*  
Gary Alexander  
David H. Anderson  
Patty Butler  
Gary Chandler  
Bill Eickmeyer  
Brian Hatfield  
John Pennington  
Debbie Regala

### **Senate Human Services & Corrections**

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Joseph Zarelli, *V. Chair*  
Rosa Franklin  
James E. Hargrove  
Jeanne Kohl  
Ray Schow  
Val Stevens

### **Senate Law & Justice**

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Stephen L. Johnson, *V. Chair*  
Darlene Fairley  
Calvin Goings  
James E. Hargrove  
Adam Kline  
Jeanine H. Long  
Bob McCaslin  
Val Stevens  
Pat Thibaudeau  
Joseph Zarelli

### **Senate Natural Resources & Parks**

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Dino Rossi, *V. Chair*  
James E. Hargrove  
Ken Jacobsen  
Bob Morton  
Margarita Prentice  
Pam Roach  
Sid Snyder  
Harriet A. Spanel  
Val Stevens  
Dan Swecker

## Standing Committee Assignments

### House Rules

Clyde Ballard, *Chair*  
Marlin Appelwick  
Bill Backlund  
Frank Chopp  
Jeralita Costa  
Jerome Delvin  
Shirley Hankins  
Jim Honeyford  
Kathy Lambert  
Barbara Lisk  
Val Ogden  
John Pennington  
Dave Quall  
Eric Robertson  
Sandra Singery Romero  
Karen Schmidt  
Mark G. Schoesler  
Patricia "Pat" Scott  
Gigi Talcott

### House Trade & Economic Development

Steve Van Luven, *Chair*  
Jim Dunn, *V. Chair*  
Gary Alexander  
Ida Ballasiotes  
Bill Eickmeyer  
Dawn Mason  
Joyce McDonald  
Jeff Morris  
Velma Veloria

### Senate Rules

Lt. Governor Brad Owen,  
*Chair*  
Irv Newhouse, *V. Chair*  
Albert Bauer  
Don Benton  
Patricia S. Hale  
Jim Horn  
Stephen L. Johnson  
Valoria H. Loveland  
Rosemary McAuliffe  
Dan McDonald  
George L. Sellar  
Betti L. Sheldon  
Sid Snyder  
Val Stevens  
Gary Strannigan  
Dan Swecker  
Pat Thibaudeau  
R. Lorraine Wojahn  
Joseph Zarelli

### see Senate Commerce & Labor

### House Transportation

#### Policy & Budget

Karen Schmidt, *Chair*  
Shirley Hankins, *V. Chair*  
Thomas M. Mielke, *V. Chr*  
Maryann Mitchell, *V. Chr*  
Bill Backlund  
Jim Buck  
Jack Cairnes  
Gary Chandler  
Dow Constantine  
Mike Cooper  
Richard DeBolt  
Ruth Fisher  
Georgia Gardner  
Brian Hatfield  
Peggy Johnson  
James McCune  
Edward B. Murray  
Al O'Brien  
Val Ogden  
Renee Radcliff  
Eric Robertson  
Sandra Singery Romero  
Patricia "Pat" Scott  
Mary Skinner  
Mark Sterk  
Alex Wood  
Paul Zellinsky, Sr.

### Senate Transportation

Eugene A. Prince, *Chair*  
Don Benton, *V. Chair*  
Jeannette Wood, *V. Chair*  
Calvin Goings  
Mary Margaret Haugen  
Michael Heavey  
Jim Horn  
Ken Jacobsen  
Bob Morton  
Irv Newhouse  
Bob Oke  
Julia Patterson  
Margarita Prentice  
Marilyn Rasmussen  
George L. Sellar

## Standing Committee Assignments

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see House

Appropriations,

Capital Budget, Finance

### Senate Ways & Means

James E. West, *Chair*

Alex A. Deccio, *V. Chair*

Gary Strannigan, *V. Chair*

Albert Bauer

Lisa J. Brown

Karen Fraser

Harold Hochstatter

Jeanne Kohl

Jeanine H. Long

Valoria H. Loveland

Dan McDonald

Pam Roach

Dino Rossi

Ray Schow

Betti L. Sheldon

Sid Snyder

Harriet A. Spanel

Dan Swecker

Pat Thibaudeau

Shirley J. Winsley

Joseph Zarelli