

VETO MESSAGE ON HB 2790

March 30, 1996

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. 2790 entitled:

"AN ACT Relating to distribution of certain governmental lists and information;"

House Bill No. 2790 expands the permitted use of public records for commercial purposes. In certain circumstances it allows the Departments of Licensing and Revenue, as well as other agencies, to release information to private companies that provide on-line computer services to government agencies. This information would include lists in computer readable form or on magnetic tape.

The underlying law regarding the commercial use of records was established by an act of the people when they passed Initiative 276 in 1972. That initiative provided for access to public records in ways that would allow citizens to hold their government more accountable, but the use of lists for commercial purposes was generally prohibited. The initiative provided that "[t]his law shall not be construed as giving authority to any agency to give, sell or provide access to lists of individuals requested for commercial purposes, and agencies shall not do so unless specifically authorized or directed by law" (Initiative 276, Section 25 (5)). Specific legislative authorizations for the commercial use of lists have proliferated since 1972, a process that House Bill No. 2790 would continue.

The issue here is not only one of privacy, but also of the value and purpose of governmental records. The government collects an immense amount of information from its citizens and from businesses. Much of the information is required for specific purposes, but we try to limit those purposes to the administration of programs, the development of policies, and the collection of revenues - all things that promote the common good. As the economy becomes increasingly service-oriented and as the impact of electronic information systems becomes more pervasive, there is great pressure placed on government to relinquish public control over its data holdings to the benefit of private, commercial enterprises.

In the instance of House Bill No. 2790, the state is being asked to provide its information at cost or for nothing. The company is then contemplating selling that information back to the state for a profit. This raises serious issues that state policy now fails to answer. Does the governmental data base have a commercial value that should be considered an asset of the state? If it is to be used for commercial reasons at all, should the state share in whatever profit comes from the use of its data? Should the individual citizen who supplied the data or who is the subject of the file or list have a right to decide what commercial use should be made of his or her records?

House Bill No. 2790 may, by itself, promote a useful purpose. However, when viewed in combination with the myriad of requests for access to the public record that are being introduced into each

legislative session, this bill raises serious questions about what our policy should be regarding the commercialization of the government's data holdings. Our state must develop a clear, comprehensive policy about this issue lest the passage of bills like this one continue to erode away, in a piecemeal fashion, the policy established by a vote of the people in 1972.

In order that a comprehensive policy governing the commercial use of public records can be developed, I will soon appoint a task force to address this issue. Consideration also will be given to issues associated with privacy. This task force will consist of persons who can help advise the executive and legislative branches about this important matter. I will ask the task force to prepare recommendations that can be debated in the 1997 and in subsequent legislative sessions.

By raising the issue this year through the exercise of this veto and others, I am aware that I will be asking our policy makers to undertake a task that will bring into focus a complicated debate that will reveal conflicting values about public records, privacy, the future of technology, and governmental accountability. However, I am determined that this important debate go forward and that important principles of government not be determined by a process wherein the slow accumulation of exceptions to the underlying law become so extensive that more data is available for commercial uses than is withheld.

For these reasons, I have vetoed House Bill No. 2790 in its entirety.

Respectfully submitted,
Mike Lowry
Governor