

1997

SESSION LAWS

OF THE

STATE OF WASHINGTON

REGULAR SESSION
FIFTY-FIFTH LEGISLATURE
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Code Reviser

WASHINGTON SESSION LAWS GENERAL INFORMATION

1. EDITIONS AVAILABLE.

(a) *General Information.* The session laws are printed successively in two editions:

- (i) a temporary pamphlet edition consisting of a series of one or more paper bound books, which are published as soon as possible following the session, at random dates as accumulated; followed by
- (ii) a permanent hardbound edition containing the accumulation of all laws adopted in the legislative session. Both editions contain a subject index and tables indicating Revised Code of Washington sections affected.

(b) *Where and how obtained—price.* Both the temporary and permanent session laws may be ordered from the Statute Law Committee, Legislative Building, P.O. Box 40552, Olympia, Washington 98504-0552. The temporary pamphlet edition costs \$21.60 per set (\$20.00 plus \$1.60 for state and local sales tax at 8.0%). The permanent edition costs \$27.00 per volume (\$25.00 plus \$2.00 for state and local sales tax at 8.0%). All orders must be accompanied by payment.

2. PRINTING STYLE — INDICATION OF NEW OR DELETED MATTER

Both editions of the session laws present the laws in the form in which they were enacted by the legislature. This style quickly and graphically portrays the current changes to existing law as follows:

(a) In amendatory sections

(i) underlined matter is new matter.

(ii) deleted matter is (~~lined out and bracketed between double parentheses~~).

(b) Complete new sections are prefaced by the words NEW SECTION.

3. PARTIAL VETOES

(a) Vetoed matter is *printed in bold italics*.

(b) Pertinent excerpts of the governor's explanation of partial vetoes are printed at the end of the chapter concerned.

4. EDITORIAL CORRECTIONS. Words and clauses inserted in the session laws under the authority of RCW 44.20.060 are enclosed in [brackets].

5. EFFECTIVE DATE OF LAWS

(a) The state Constitution provides that unless otherwise qualified, the laws of any session take effect ninety days after adjournment sine die. The Secretary of State has determined the pertinent date for the Laws of the 1997 regular session to be July 27, 1997 (midnight July 26th).

(b) Laws that carry an emergency clause take effect immediately upon approval by the Governor.

(c) Laws that prescribe an effective date take effect upon that date.

6. INDEX AND TABLES

A cumulative index and tables of all 1997 laws may be found at the back of the final pamphlet edition and the permanent hardbound edition.

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CHAPTER 1

[Initiative 655]

METHODS OF TAKING WILDLIFE

AN ACT Relating to methods of taking wildlife; adding a new section to chapter 77.16 RCW; and prescribing penalties.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. Sec. 1. A new section is added to chapter 77.16 RCW to read as follows:

(1) Notwithstanding the provisions of RCW 77.12.240 and 77.12.265 or other provisions of law, it is unlawful to take, hunt, or attract black bear with the aid of bait.

(a) Nothing in this subsection shall be construed to prohibit the killing of black bear with the aid of bait by employees or agents of county, state, or federal agencies while acting in their official capacities for the purpose of protecting livestock, domestic animals, private property, or the public safety.

(b) Nothing in this subsection shall be construed to prevent the establishment and operation of feeding stations for black bear in order to prevent damage to commercial timber land.

(c) Nothing in this subsection shall be construed to prohibit the director from issuing a permit or memorandum of understanding to a public agency, university, or scientific or educational institution for the use of bait to attract black bear for scientific purposes.

(d) As used in this subsection, "bait" means a substance placed, exposed, deposited, distributed, scattered, or otherwise used for the purpose of attracting black bears to an area where one or more persons hunt or intend to hunt them.

(2) Notwithstanding RCW 77.12.240 or any other provisions of law, it is unlawful to hunt or pursue black bear, cougar, bobcat, or lynx with the aid of a dog or dogs.

(a) Nothing in this subsection shall be construed to prohibit the killing of black bear, cougar, bobcat, or lynx with the aid of a dog or dogs by employees or agents of county, state, or federal agencies while acting in their official capacities for the purpose of protecting livestock, domestic animals, private property, or the public safety. A dog or dogs may be used by the owner or tenant of real property consistent with a permit issued and conditioned by the director under RCW 77.12.265.

(b) Nothing in this subsection shall be construed to prohibit the director from issuing a permit or memorandum of understanding to a public agency, university, or scientific or educational institution for the use of a dog or dogs for the pursuit of black bear, cougar, bobcat, or lynx for scientific purposes.

(3) A person who violates subsection (1) or (2) of this section is guilty of a gross misdemeanor. In addition to appropriate criminal penalties, the director shall revoke the hunting license of a person who violates subsection (1) or (2) of this

section and a hunting license shall not be issued for a period of five years following the revocation. Following a subsequent violation of subsection (1) or (2) of this section by the same person, a hunting license shall not be issued to the person at any time.

NEW SECTION. Sec. 2. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

Originally filed in Office of Secretary of State January 12, 1996.

Approved by the People of the State of Washington in the General Election on November 5, 1996.

CHAPTER 2

[Engrossed House Bill 1417]

PROPERTY TAX LEVY REDUCTION--PARTIAL REFERENDUM

AN ACT Relating to reducing total state levy amounts by 4.7187 percent; amending RCW 84.55.012; adding a new section to chapter 84.55 RCW; creating a new section; providing for submission of a section of this act to a vote of the people; and declaring an emergency.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 84.55.012 and 1995 2nd sp.s. c 13 s 2 are each amended to read as follows:

(1) The state property tax levy for collection in 1996 shall be reduced by 4.7187 percent of the levy amount that would otherwise be allowed under this chapter without regard to this section or any other tax reduction legislation enacted in 1995.

~~(2) ((The tax reduction provided in this section is in addition to any other tax reduction legislation that may be enacted by the legislature.~~

~~—(3))~~ State levies for collection after ~~((1996))~~ 1997 shall be set at the amount that would be allowed otherwise under this chapter if the state ~~((levy))~~ levies for collection in 1996 and 1997 had been set without the reduction under subsection (1) of this section.

NEW SECTION. Sec. 2. A new section is added to chapter 84.55 RCW to read as follows:

The state property tax levy for collection in 1998 shall be reduced by 4.7187 percent of the levy amount that would otherwise be allowed under this chapter without regard to this section.

NEW SECTION. Sec. 3. Section 1 of this act applies to taxes levied for collection in 1997.

NEW SECTION. Sec. 4. Section 1 of this act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately.

NEW SECTION. Sec. 5. The secretary of state shall submit section 2 of this act to the people for their adoption and ratification, or rejection, at the next general election to be held in this state, in accordance with Article II, section 1 of the state Constitution and the laws adopted to facilitate its operation.

Passed the House January 24, 1997.

Passed the Senate January 29, 1997.

Approved by the Governor January 30, 1997.

Filed in Office of Secretary of State January 30, 1997.

CHAPTER 3

[Senate Bill 5835]

LIMITING PROPERTY TAXES—VALUE AVERAGING—LIMITING LEVY INCREASES— STATE LEVY REDUCTION—PARTIAL REFERENDUM

AN ACT Relating to limiting property taxes by reducing the state levy, reducing the one hundred six percent limit calculation, and allowing for valuation increases to be spread over time; amending RCW 84.04.030, 84.40.020, 84.40.030, 84.40.040, 84.40.045, 84.41.041, 84.48.010, 84.48.065, 84.48.075, 84.48.080, 84.12.270, 84.12.280, 84.12.310, 84.12.330, 84.12.350, 84.12.360, 84.16.040, 84.16.050, 84.16.090, 84.16.110, 84.16.120, 84.36.041, 84.52.063, 84.70.010, 84.55.005, 84.55.010, 84.55.020, 35.61.210, 70.44.060, 84.08.115, and 84.55.120; adding a new section to chapter 84.04 RCW; adding a new section to chapter 84.40 RCW; adding new sections to chapter 84.55 RCW; creating new sections; repealing RCW 84.55.—; repealing 1997 c 2 s 5 (uncodified); and providing for submission of this act to a vote of the people.

Be it enacted by the Legislature of the State of Washington:

PART I VALUE AVERAGING

NEW SECTION. Sec. 101. A new section is added to chapter 84.04 RCW to read as follows:

"Appraised value of property" means the aggregate true and fair value of the property as last determined by the county assessor according to the revaluation program approved under chapter 84.41 RCW, including revaluations based on statistical data between physical inspections.

Sec. 102. RCW 84.04.030 and 1961 c 15 s 84.04.030 are each amended to read as follows:

"Assessed value of property" shall be held and construed to mean the aggregate valuation of the property subject to taxation by any taxing district as determined under section 105 of this act, reduced by the value of any applicable exemptions under RCW 84.36.381 or other law, and placed on the last completed and balanced tax rolls of the county preceding the date of any tax levy.

Sec. 103. RCW 84.40.020 and 1973 c 69 s 1 are each amended to read as follows:

All real property in this state subject to taxation shall be listed and assessed every year, with reference to its appraised and assessed values on the first day of January of the year in which it is assessed. Such listing and all supporting documents and records shall be open to public inspection during the regular office

hours of the assessor's office: PROVIDED, That confidential income data is exempted from public inspection pursuant to RCW 42.17.310. All personal property in this state subject to taxation shall be listed and assessed every year, with reference to its value and ownership on the first day of January of the year in which it is assessed: PROVIDED, That if the stock of goods, wares, merchandise or material, whether in a raw or finished state or in process of manufacture, owned or held by any taxpayer on January 1 of any year does not fairly represent the average stock carried by such taxpayer, such stock shall be listed and assessed upon the basis of the monthly average of stock owned or held by such taxpayer during the preceding calendar year or during such portion thereof as the taxpayer was engaged in business.

Sec. 104. RCW 84.40.030 and 1994 c 124 s 20 are each amended to read as follows:

All personal property shall be valued at one hundred percent of its true and fair value in money and assessed on the same basis unless specifically provided otherwise by law.

All real property shall be appraised at one hundred percent of its true and fair value in money and assessed as provided in section 105 of this act unless specifically provided otherwise by law.

Taxable leasehold estates shall be valued at such price as they would bring at a fair, voluntary sale for cash without any deductions for any indebtedness owed including rentals to be paid.

The true and fair value of real property for taxation purposes (including property upon which there is a coal or other mine, or stone or other quarry) shall be based upon the following criteria:

(1) Any sales of the property being appraised or similar properties with respect to sales made within the past five years. The appraisal shall be consistent with the comprehensive land use plan, development regulations under chapter 36.70A RCW, zoning, and any other governmental policies or practices in effect at the time of appraisal that affect the use of property, as well as physical and environmental influences. The appraisal shall also take into account: (a) In the use of sales by real estate contract as similar sales, the extent, if any, to which the stated selling price has been increased by reason of the down payment, interest rate, or other financing terms; and (b) the extent to which the sale of a similar property actually represents the general effective market demand for property of such type, in the geographical area in which such property is located. Sales involving deed releases or similar seller-developer financing arrangements shall not be used as sales of similar property.

(2) In addition to sales as defined in subsection (1) of this section, consideration may be given to cost, cost less depreciation, reconstruction cost less depreciation, or capitalization of income that would be derived from prudent use of the property. In the case of property of a complex nature, or being used under terms of a franchise from a public agency, or operating as a public utility, or

property not having a record of sale within five years and not having a significant number of sales of similar property in the general area, the provisions of this subsection (2) shall be the dominant factors in valuation. When provisions of this subsection (2) are relied upon for establishing values the property owner shall be advised upon request of the factors used in arriving at such value.

(3) In valuing any tract or parcel of real property, the true and fair value of the land, exclusive of structures thereon shall be determined; also the true and fair value of structures thereon, but the appraised valuation shall not exceed the true and fair value of the total property as it exists. In valuing agricultural land, growing crops shall be excluded.

NEW SECTION. Sec. 105. A new section is added to chapter 84.40 RCW to read as follows:

(1) As used in this section:

(a) "Previous assessed value" means the assessed value for the year immediately preceding the year for which a calculation is being made under this section.

(b) "Current appraised value" means the appraised value for the year for which a calculation is being made under this section.

(c) "Total value increase" means the current appraised value minus the previous assessed value. Total value increase can never be less than zero.

(d) "Improvement increase" means the portion of the total value increase attributable to any physical improvements made to the property since the previous assessment, other than improvements exempt under RCW 84.36.400 for the year for which a calculation is being made under this section. Improvement increase can never be less than zero.

(e) "Market increase" means the total value increase minus the improvement increase. Market increase can never be less than zero.

(2) The assessed value of property is equal to the lesser of the current appraised value or a limited value determined under this section. The limited value is equal to the greater of:

(a) The improvement increase plus one hundred fifteen percent of the previous assessed value; or

(b) The sum of:

(i) The previous assessed value;

(ii) The improvement increase; and

(iii) Twenty-five percent of the market increase.

(3) Upon loss of preferential tax treatment for property that qualifies for preferential tax treatment under chapter 84.14, 84.26, 84.33, 84.34, or 84.36 RCW, the previous assessed value shall be the assessed value the property would have had without the preferential tax treatment.

Sec. 106. RCW 84.40.040 and 1988 c 222 s 15 are each amended to read as follows:

The assessor shall begin the preliminary work for each assessment not later than the first day of December of each year in all counties in the state. The assessor shall also complete the duties of listing and placing valuations on all property by May 31st of each year, except that the listing and valuation of construction and mobile homes under RCW ~~((36.21.040 through))~~ 36.21.080 and 36.21.090 shall be completed by August 31st of each year, and in the following manner, to wit:

The assessor shall actually determine as nearly as practicable the true and fair value of each tract or lot of land listed for taxation and of each improvement located thereon and shall enter as the appraised value one hundred percent of the true and fair value of such land and of the total true and fair value of such improvements, together with the total of such one hundred percent valuations, opposite each description of property on the assessment list and tax roll.

The assessor shall determine the assessed value, under section 105 of this act, for each tract or lot of land listed for taxation, including improvements located thereon, and shall also enter this value opposite each description of property on the assessment list and tax roll.

The assessor shall make an alphabetical list of the names of all persons in the county liable to assessment of personal property, and require each person to make a correct list and statement of such property according to the standard form prescribed by the department of revenue, which statement and list shall include, if required by the form, the year of acquisition and total original cost of personal property in each category of the prescribed form, and shall be signed and verified under penalty of perjury by the person listing the property: PROVIDED, That the assessor may list and value improvements on publicly owned land in the same manner as real property is listed and valued, including conformance with the revaluation program required under chapter 84.41 RCW. Such list and statement shall be filed on or before the last day of April. The assessor shall on or before the 1st day of January of each year mail a notice to all such persons at their last known address that such statement and list is required, such notice to be accompanied by the form on which the statement or list is to be made: PROVIDED, That the notice mailed by the assessor to each taxpayer each year shall, if practicable, include the statement and list of personal property of the taxpayer for the preceding year. Upon receipt of such statement and list the assessor shall thereupon determine the true and fair value of the property included in such statement and enter one hundred percent of the same on the assessment roll opposite the name of the party assessed; and in making such entry in the assessment list, the assessor shall give the name and post office address of the party listing the property, and if the party resides in a city the assessor shall give the street and number or other brief description of the party's residence or place of business. The assessor may, after giving written notice of the action to the person to be assessed, add to the assessment list any taxable property which should be included in such list.

Sec. 107. RCW 84.40.045 and 1994 c 301 s 36 are each amended to read as follows:

The assessor shall give notice of any change in the ~~((true and fair))~~ assessed value of real property for the tract or lot of land and any improvements thereon no later than thirty days after appraisal: **PROVIDED**, That no such notice shall be mailed during the period from January 15 to February 15 of each year: **PROVIDED FURTHER**, That no notice need be sent with respect to changes in valuation of forest land made pursuant to chapter 84.33 RCW.

The notice shall contain a statement of both the prior and the new ~~((true and fair))~~ appraised and assessed values ~~((and the ratio of the assessed value to the true and fair value on which the assessment of the property is based))~~, stating separately land and improvement appraised values, and a brief statement of the procedure for appeal to the board of equalization and the time, date, and place of the meetings of the board.

The notice shall be mailed by the assessor to the taxpayer.

If any taxpayer, as shown by the tax rolls, holds solely a security interest in the real property which is the subject of the notice, pursuant to a mortgage, contract of sale, or deed of trust, such taxpayer shall, upon written request of the assessor, supply, within thirty days of receipt of such request, to the assessor the name and address of the person making payments pursuant to the mortgage, contract of sale, or deed of trust, and thereafter such person shall also receive a copy of the notice provided for in this section. Willful failure to comply with such request within the time limitation provided for herein shall make such taxpayer subject to a maximum civil penalty of five thousand dollars. The penalties provided for herein shall be recoverable in an action by the county prosecutor, and when recovered shall be deposited in the county current expense fund. The assessor shall make the request provided for by this section during the month of January.

Sec. 108. RCW 84.41.041 and 1987 c 319 s 4 are each amended to read as follows:

Each county assessor shall cause taxable real property to be physically inspected and valued at least once every six years in accordance with RCW 84.41.030, and in accordance with a plan filed with and approved by the department of revenue. Such revaluation plan shall provide that a reasonable portion of all taxable real property within a county shall be revalued and these newly-determined values placed on the assessment rolls each year. The department may approve a plan that provides that all property in the county be revalued every two years. If the revaluation plan provides for physical inspection at least once each four years, during the intervals between each physical inspection of real property, the appraised valuation of such property may be adjusted to its current true and fair value, such adjustments to be based upon appropriate statistical data. If the revaluation plan provides for physical inspection less frequently than once each four years, during the intervals between each physical inspection of real property, the appraised valuation of such property shall be adjusted to its current

true and fair value, such adjustments to be made once each year and to be based upon appropriate statistical data. If the appraised valuation is changed, the assessed value shall be recalculated under section 105 of this act.

The assessor may require property owners to submit pertinent data respecting taxable property in their control including data respecting any sale or purchase of said property within the past five years, the cost and characteristics of any improvement on the property and other facts necessary for appraisal of the property.

Sec. 109. RCW 84.48.010 and 1988 c 222 s 20 are each amended to read as follows:

Prior to July 15th, the county legislative authority shall form a board for the equalization of the assessment of the property of the county. The members of said board shall receive a per diem amount as set by the county legislative authority for each day of actual attendance of the meeting of the board of equalization to be paid out of the current expense fund of the county: PROVIDED, That when the county legislative authority constitute the board they shall only receive their compensation as members of the county legislative authority. The board of equalization shall meet in open session for this purpose annually on the 15th day of July and, having each taken an oath fairly and impartially to perform their duties as members of such board, they shall examine and compare the returns of the assessment of the property of the county and proceed to equalize the same, so that the appraised value of each tract or lot of real property and each article or class of personal property shall be entered on the assessment list at its true and fair value, according to the measure of value used by the county assessor in such assessment year, ((which is presumed to be correct pursuant to RCW 84.40.0301)) and so that the assessed value of each tract or lot of real property is entered on the assessment list at its correct amount, and subject to the following rules:

First. They shall raise the appraised valuation of each tract or lot or item of real property which is returned below its true and fair value to such price or sum as to be the true and fair value thereof, and raise the assessed valuation of each tract or lot or item of real property which is returned below its correct amount to the correct amount after at least five days' notice shall have been given in writing to the owner or agent.

Second. They shall reduce the appraised valuation of each tract or lot or item which is returned above its true and fair value to such price or sum as to be the true and fair value thereof and reduce the assessed valuation of each tract or lot or item of real property which is returned above its correct amount to the correct amount.

Third. They shall raise the valuation of each class of personal property which is returned below its true and fair value to such price or sum as to be the true and fair value thereof, and they shall raise the aggregate value of the personal property of each individual whenever the aggregate value is less than the true valuation of the taxable personal property possessed by such individual, to such sum or amount

as to be the true value thereof, after at least five days' notice shall have been given in writing to the owner or agent thereof.

Fourth. They shall reduce the valuation of each class of personal property enumerated on the detail and assessment list of the current year, which is returned above its true and fair value, to such price or sum as to be the true and fair value thereof; and they shall reduce the aggregate valuation of the personal property of such individual who has been assessed at too large a sum to such sum or amount as was the true and fair value of the personal property.

Fifth. The board may review all claims for either real or personal property tax exemption as determined by the county assessor, and shall consider any taxpayer appeals from the decision of the assessor thereon to determine (1) if the taxpayer is entitled to an exemption, and (2) if so, the amount thereof.

The clerk of the board shall keep an accurate journal or record of the proceedings and orders of said board showing the facts and evidence upon which their action is based, and the said record shall be published the same as other proceedings of county legislative authority, and shall make a true record of the changes of the descriptions and ~~((assessed))~~ appraised values ordered by the county board of equalization. The assessor shall recalculate assessed values and correct the real and personal assessment rolls in accordance with the changes made by the said county board of equalization, and the assessor shall make duplicate abstracts of such corrected values, one copy of which shall be retained in the office, and one copy forwarded to the department of revenue on or before the eighteenth day of August next following the meeting of the county board of equalization.

The county board of equalization shall meet on the 15th day of July and may continue in session and adjourn from time to time during a period not to exceed four weeks, but shall remain in session not less than three days: **PROVIDED**, That the county board of equalization with the approval of the county legislative authority may convene at any time when petitions filed exceed twenty-five, or ten percent of the number of appeals filed in the preceding year, whichever is greater.

No taxes, except special taxes, shall be extended upon the tax rolls until the property valuations are equalized by the department of revenue for the purpose of raising the state revenue.

County legislative authorities as such shall at no time have any authority to change the valuation of the property of any person or to release or commute in whole or in part the taxes due on the property of any person.

Sec. 110. RCW 84.48.065 and 1996 c 296 s 1 are each amended to read as follows:

(1) The county assessor or treasurer may cancel or correct assessments on the assessment or tax rolls which are erroneous due to manifest errors in description, double assessments, clerical errors in extending the rolls, clerical errors in calculating the assessed value under section 105 of this act, and such manifest errors in the listing of the property which do not involve a revaluation of property, except in the case that a taxpayer produces proof that an authorized land use

authority has made a definitive change in the property's land use designation. In such a case, correction of the assessment or tax rolls may be made notwithstanding the fact that the action involves a revaluation of property. Manifest errors that do not involve a revaluation of property include the assessment of property exempted by law from taxation or the failure to deduct the exemption allowed by law to the head of a family. When the county assessor cancels or corrects an assessment, the assessor shall send a notice to the taxpayer in accordance with RCW 84.40.045, advising the taxpayer that the action has been taken and notifying the taxpayer of the right to appeal the cancellation or correction to the county board of equalization, in accordance with RCW 84.40.038. When the county assessor or treasurer cancels or corrects an assessment, a record of such action shall be prepared, setting forth therein the facts relating to the error. The record shall also set forth by legal description all property belonging exclusively to the state, any county, or any municipal corporation whose property is exempt from taxation, upon which there remains, according to the tax roll, any unpaid taxes. No manifest error cancellation or correction, including a cancellation or correction made due to a definitive change of land use designation, shall be made for any period more than three years preceding the year in which the error is discovered.

(2)(a) In the case of a definitive change of land use designation, an assessor shall make corrections that involve a revaluation of property to the assessment roll when:

(i) The assessor and taxpayer have signed an agreement as to the true and fair value of the taxpayer's property setting forth in the agreement the valuation information upon which the agreement is based; and

(ii) The assessment roll has previously been certified in accordance with RCW 84.40.320.

(b) In all other cases, an assessor shall make corrections that involve a revaluation of property to the assessment roll when:

(i) The assessor and taxpayer have signed an agreement as to the true and fair value of the taxpayer's property setting forth in the agreement the valuation information upon which the agreement is based; and

(ii) The following conditions are met:

(A) The assessment roll has previously been certified in accordance with RCW 84.40.320;

(B) The taxpayer has timely filed a petition with the county board of equalization pursuant to RCW 84.40.038 for the current assessment year;

(C) The county board of equalization has not yet held a hearing on the merits of the taxpayer's petition.

(3) The assessor shall issue a supplementary roll or rolls including such cancellations and corrections, and the assessment and levy shall have the same force and effect as if made in the first instance, and the county treasurer shall proceed to collect the taxes due on the rolls as modified.

Sec. 111. RCW 84.48.075 and 1988 c 222 s 23 are each amended to read as follows:

(1) The department of revenue shall annually, prior to the first Monday in September, determine and submit to each assessor a preliminary indicated ratio for each county: PROVIDED, That the department shall establish rules and regulations pertinent to the determination of the indicated ratio, the indicated real property ratio and the indicated personal property ratio: PROVIDED FURTHER, That these rules and regulations may provide that data, as is necessary for said determination, which is available from the county assessor of any county and which has been audited as to its validity by the department, shall be utilized by the department in determining the indicated ratio.

(2) To such extent as is reasonable, the department may define use classes of property for the purposes of determination of the indicated ratio. Such use classes may be defined with respect to property use and may include agricultural, open space, timber and forest lands.

(3) The department shall review each county's preliminary ratio with the assessor, a landowner, or an owner of an intercounty public utility or private car company of that county, if requested by the assessor, a landowner, or an owner of an intercounty public utility or private car company of that county, respectively, between the first and third Mondays of September. Prior to equalization of assessments pursuant to RCW 84.48.080 and after the third Monday of September, the department shall certify to each county assessor the real and personal property ratio for that county.

(4) The department of revenue shall also examine procedures used by the assessor to assess real and personal property in the county, including calculations, use of prescribed value schedules, and efforts to locate all taxable property in the county. If any examination by the department discloses other than market value is being listed as appraised value on the county assessment rolls of the county by the assessor and, after due notification by the department, is not corrected, the department of revenue shall, in accordance with rules adopted by the department, adjust the ratio of that type of property, which adjustment shall be used for determining the county's indicated ratio.

Sec. 112. RCW 84.48.080 and 1995 2nd sp.s. c 13 s 3 are each amended to read as follows:

(1) Annually during the months of September and October, the department of revenue shall examine and compare the returns of the assessment of the property in the several counties of the state, and the assessment of the property of railroad and other companies assessed by the department, and proceed to equalize the same, so that each county in the state shall pay its due and just proportion of the taxes for state purposes for such assessment year, according to the ratio the assessed valuation of the property in each county bears to the correct total assessed valuation of all property in the state.

First. The department shall classify all property, real and personal, and shall raise and lower the assessed valuation of any class of property in any county to a value that shall be equal, so far as possible, to the ~~((true and fair))~~ correct assessed value of such class as of January 1st of the current year, after determining the correct appraised value, and any adjustment applicable under section 105 of this act for the property, for the purpose of ascertaining the just amount of tax due from each county for state purposes. In equalizing personal property as of January 1st of the current year, the department shall use the assessment level of the preceding year. Such classification may be on the basis of types of property, geographical areas, or both. For purposes of this section, for each county that has not provided the department with an assessment return by December 1st, the department shall proceed, using facts and information and in a manner it deems appropriate, to estimate the value of each class of property in the county.

Second. The department shall keep a full record of its proceedings and the same shall be published annually by the department.

(2) The department shall levy the state taxes authorized by law. The amount levied in any one year for general state purposes shall not exceed the lawful dollar rate on the dollar of the assessed value of the property of the entire state ~~((which assessed value shall be one hundred percent of the true and fair value of such property in money))~~ as equalized under this section. The department shall apportion the amount of tax for state purposes levied by the department, among the several counties, in proportion to the assessed valuation of the taxable property of the county for the year as equalized by the department: PROVIDED, That for purposes of this apportionment, the department shall recompute the previous year's levy and the apportionment thereof to correct for changes and errors in taxable values reported to the department after October 1 of the preceding year and shall adjust the apportioned amount of the current year's state levy for each county by the difference between the apportioned amounts established by the original and revised levy computations for the previous year. For purposes of this section, changes in taxable values mean a final adjustment made by a county board of equalization, the state board of tax appeals, or a court of competent jurisdiction and shall include additions of omitted property, other additions or deletions from the assessment or tax rolls, any assessment return provided by a county to the department subsequent to December 1st, or a change in the indicated ratio of a county. Errors in taxable values mean errors corrected by a final reviewing body.

In addition to computing a levy under this subsection that is reduced under RCW 84.55.012, the department shall compute a hypothetical levy without regard to the reduction under RCW 84.55.012. This hypothetical levy shall also be apportioned among the several counties in proportion to the valuation of the taxable property of the county for the year, as equalized by the department, in the same manner as the actual levy and shall be used by the county assessors for the purpose of recomputing and establishing a consolidated levy under RCW 84.52.010.

(3) The department shall have authority to adopt rules and regulations to enforce obedience to its orders in all matters in relation to the returns of county assessments, the equalization of values, and the apportionment of the state levy by the department.

(4) After the completion of the duties prescribed in this section, the director of the department shall certify the record of the proceedings of the department under this section, the tax levies made for state purposes and the apportionment thereof among the counties, and the certification shall be available for public inspection.

Sec. 113. RCW 84.12.270 and 1994 c 301 s 20 are each amended to read as follows:

The department of revenue shall annually make an assessment of the operating property of all companies; and between the fifteenth day of March and the first day of July of each of said years shall prepare an assessment roll upon which it shall enter ~~((and assess))~~ the ~~((true and fair))~~ assessed value of all the operating property of each of such companies as of the first day of January of the year in which the assessment is made. For the purpose of determining the ~~((true and fair))~~ assessed value of such property the department of revenue may inspect the property belonging to said companies and may take into consideration any information or knowledge obtained by it from such examination and inspection of such property, or of the books, records and accounts of such companies, the statements filed as required by this chapter, the reports, statements or returns of such companies filed in the office of any board, office or commission of this state or any county thereof, the earnings and earning power of such companies, the franchises owned or used by such companies, the assessed valuation of any and all property of such companies, whether operating or nonoperating property, and whether situated within or outside the state, and any other facts, evidence or information that may be obtainable bearing upon the value of the operating property: PROVIDED, That in no event shall any statement or report required from any company by this chapter be conclusive upon the department of revenue in determining the amount, character and ~~((true and fair))~~ assessed value of the operating property of such company.

Sec. 114. RCW 84.12.280 and 1987 c 153 s 2 are each amended to read as follows:

(1) In making the assessment of the operating property of any railroad or logging railroad company and in the apportionment of the values and the taxation thereof, all land occupied and claimed exclusively as the right-of-way for railroads, with all the tracks and substructures and superstructures which support the same, together with all side tracks, second tracks, turn-outs, station houses, depots, round houses, machine shops, or other buildings belonging to the company, used in the operation thereof, without separating the same into land and improvements, shall be assessed as real property. And the rolling stock and other movable property belonging to any railroad or logging railroad company shall be considered as

personal property and taxed as such: PROVIDED, That all of the operating property of street railway companies shall be assessed and taxed as personal property.

(2) All of the operating property of airplane companies, telegraph companies, pipe line companies, water companies and toll bridge companies; the floating equipment of steamboat companies, and all of the operating property other than lands and buildings of electric light and power companies, telephone companies, gas companies and heating companies shall be assessed and taxed as personal property.

(3) Notwithstanding subsections (1) and (2) of this section, the limit provided under section 105 of this act shall be applied in the assessment of property under this section to the same extent as that limit is generally applied to property not assessed under this chapter.

Sec. 115. RCW 84.12.310 and 1994 c 301 s 21 are each amended to read as follows:

For the purpose of determining the system value of the operating property of any such company, the department of revenue shall deduct from the ~~((true and fair))~~ assessed value of the total assets of such company, the ~~((actual cash))~~ assessed value of all nonoperating property owned by such company. For such purpose the department of revenue may require of the assessors of the various counties within this state a detailed list of such company's properties assessed by them, together with the assessable or assessed value thereof: PROVIDED, That such assessed or assessable value shall be advisory only and not conclusive on the department of revenue as to the value thereof.

Sec. 116. RCW 84.12.330 and 1994 c 301 s 22 are each amended to read as follows:

Upon the assessment roll shall be placed after the name of each company a general description of the operating property of the company, which shall be considered sufficient if described in the language of ~~((subdivision (17) of))~~ RCW 84.12.200(13), as applied to ~~((said))~~ the company, following which shall be entered the ~~((true and fair))~~ assessed value of the operating property as determined by the department of revenue. No assessment shall be invalidated by reason of a mistake in the name of the company assessed, or the omission of the name of the owner or by the entry as owner of a name other than that of the true owner. When the department of revenue shall have prepared the assessment roll and entered thereon the ~~((true and fair))~~ assessed value of the operating property of the company, as herein required, it shall notify the company by mail of the valuation determined by it and entered upon ~~((said))~~ the roll.

Sec. 117. RCW 84.12.350 and 1994 c 301 s 23 are each amended to read as follows:

Upon determination by the department of revenue of the ~~((true and fair))~~ assessed value of the property appearing on such rolls it shall apportion such value to the respective counties entitled thereto, as hereinafter provided, and shall

determine the equalized assessed valuation of such property in each such county and in the several taxing districts therein, by applying to such actual apportioned value the same ratio as the ratio of assessed to (~~actual~~) the correct assessed value of the general property in such county: PROVIDED, That, whenever the amount of the true and correct assessed value of the operating property of any company otherwise apportionable to any county or other taxing district shall be less than two hundred fifty dollars, such amount need not be apportioned to such county or taxing district but may be added to the amount apportioned to an adjacent county or taxing district.

Sec. 118. RCW 84.12.360 and 1994 c 301 s 24 are each amended to read as follows:

The (~~true and fair~~) value of the operating property assessed to a company, as fixed and determined by the department of revenue, shall be apportioned by the department of revenue to the respective counties and to the taxing districts thereof wherein such property is located in the following manner:

(1) Property of all railroad companies other than street railroad companies, telegraph companies and pipe line companies—upon the basis of that proportion of the value of the total operating property within the state which the mileage of track, as classified by the department of revenue (in case of railroads), mileage of wire (in the case of telegraph companies), and mileage of pipe line (in the case of pipe line companies) within each county or taxing district bears to the total mileage thereof within the state, at the end of the calendar year last past. For the purpose of such apportionment the department may classify railroad track.

(2) Property of street railroad companies, telephone companies, electric light and power companies, gas companies, water companies, heating companies and toll bridge companies—upon the basis of relative value of the operating property within each county and taxing district to the value of the total operating property within the state to be determined by such factors as the department of revenue shall deem proper.

(3) Planes or other aircraft of airplane companies and watercraft of steamboat companies—upon the basis of such factor or factors of allocation, to be determined by the department of revenue, as will secure a substantially fair and equitable division between counties and other taxing districts.

All other property of airplane companies and steamboat companies—upon the basis set forth in subsection (2) of this section.

The basis of apportionment with reference to all public utility companies above prescribed shall not be deemed exclusive and the department of revenue in apportioning values of such companies may also take into consideration such other information, facts, circumstances, or allocation factors as will enable it to make a substantially just and correct valuation of the operating property of such companies within the state and within each county thereof.

Sec. 119. RCW 84.16.040 and 1994 c 301 s 26 are each amended to read as follows:

The department of revenue shall annually make an assessment of the operating property of each private car company; and between the first day of May and the first day of July of each of said years shall prepare an assessment roll upon which it shall enter ~~((and assess))~~ the ~~((true and fair))~~ assessed value of all the operating property of each of such companies as of the first day of January of the year in which the assessment is made. For the purpose of determining the ~~((true and fair))~~ assessed value of such property the department of revenue may take into consideration any information or knowledge obtained by it from an examination and inspection of such property, or of the books, records and accounts of such companies, the statements filed as required by this chapter, the reports, statements or returns of such companies filed in the office of any board, office or commission of this state or any county thereof, the earnings and earning power of such companies, the franchises owned or used by such companies, the assessed valuation of any and all property of such companies, whether operating property or nonoperating property, and whether situated within or without the state, and any other facts, evidences or information that may be obtainable bearing upon the value of the operating property: PROVIDED, That in no event shall any statement or report required from any company by this chapter be conclusive upon the department of revenue in determining the amount, character and ~~((true and fair))~~ assessed value of the operating property of such company.

Sec. 120. RCW 84.16.050 and 1994 c 301 s 27 are each amended to read as follows:

The department of revenue may, in determining the ~~((true and fair))~~ assessed value of the operating property to be placed on the assessment roll value the entire property as a unit. If the company owns, leases, operates or uses property partly within and partly without the state, the department of revenue may determine the value of the operating property within this state by the proportion that the value of such property bears to the value of the entire operating property of the company, both within and without this state. In determining the operating property which is located within this state the department of revenue may consider and base such determination on the proportion which the number of car miles of the various classes of cars made in this state bears to the total number of car miles made by the same cars within and without this state, or to the total number of car miles made by all cars of the various classes within and without this state. If the value of the operating property of the company cannot be fairly determined in such manner the department of revenue may use any other reasonable and fair method to determine the value of the operating property of the company within this state.

Sec. 121. RCW 84.16.090 and 1994 c 301 s 28 are each amended to read as follows:

Upon the assessment roll shall be placed after the name of each company a general description of the operating property of the company, which shall be considered sufficient if described in the language of ~~((subsection (3) of))~~ RCW 84.16.010(3) or otherwise, following which shall be entered the ~~((true and fair))~~

assessed value of the operating property as determined by the department of revenue. No assessment shall be invalid by a mistake in the name of the company assessed, by omission of the name of the owner or by the entry of a name other than that of the true owner. When the department of revenue shall have prepared the assessment roll and entered thereon the ~~((true and fair))~~ assessed value of the operating property of the company, as ~~((herein))~~ required, it shall notify the company by mail of the valuation determined by it and entered upon ~~((said))~~ the roll; and thereupon such assessed valuation shall become the ~~((true and fair))~~ assessed value of the operating property of the company, subject to revision or correction by the department of revenue as hereinafter provided; and shall be the valuation upon which, after equalization by the department of revenue as hereinafter provided, the taxes of such company shall be based and computed.

Sec. 122. RCW 84.16.110 and 1994 c 301 s 29 are each amended to read as follows:

Upon determination by the department of revenue of the true and ~~((fair))~~ correct assessed value of the property appearing on such rolls the department shall apportion such value to the respective counties entitled thereto as hereinafter provided, and shall determine the equalized or assessed valuation of such property in such counties by applying to such actual apportioned value the same ratio as the ratio of assessed to ~~((actual))~~ the correct assessed value of the general property of the respective counties: PROVIDED, That, whenever the amount of the true and correct assessed value of the operating property of any company otherwise apportionable to any county shall be less than two hundred fifty dollars, such amount need not be apportioned to such county but may be added to the amount apportioned to an adjacent county.

Sec 123. RCW 84.16.120 and 1994 c 301 s 30 are each amended to read as follows:

The ~~((true and fair))~~ assessed value of the property of each company as fixed and determined by the department of revenue as herein provided shall be apportioned to the respective counties in the following manner:

(1) If all the operating property of the company is situated entirely within a county and none of such property is located within, extends into, or through or is operated into or through any other county, the entire value thereof shall be apportioned to the county within which such property is ~~((situate [situated]))~~ situated, located, and operated.

(2) If the operating property of any company is situated or located within, extends into or is operated into or through more than one county, the value thereof shall be apportioned to the respective counties into or through which its cars are operated in the proportion that the length of main line track of the respective railroads moving such cars in such counties bears to the total length of main line track of such respective railroads in this state.

(3) If the property of any company is of such character that it will not be reasonable, feasible or fair to apportion the value as hereinabove provided, the

value thereof shall be apportioned between the respective counties into or through which such property extends or is operated or in which the same is located in such manner as may be reasonable, feasible and fair.

Sec. 124. RCW 84.36.041 and 1993 c 151 s 1 are each amended to read as follows:

(1) All real and personal property used by a nonprofit home for the aging that is reasonably necessary for the purposes of the home is exempt from taxation if the benefit of the exemption inures to the home and:

(a) At least fifty percent of the occupied dwelling units in the home are occupied by eligible residents; or

(b) The home is subsidized under a federal department of housing and urban development program. The department of revenue shall provide by rule a definition of homes eligible for exemption under this subsection (b), consistent with the purposes of this section.

(2) All real and personal property used by a nonprofit home for the aging that is reasonably necessary for the purposes of the home is exempt from taxation if the benefit of the exemption inures to the home and the construction, rehabilitation, acquisition, or refinancing of the home is financed under a program using bonds exempt from federal income tax if at least seventy-five percent of the total amount financed uses the tax exempt bonds and the financing program requires the home to reserve a percentage of all dwelling units so financed for low-income residents. The initial term of the exemption under this subsection shall equal the term of the tax exempt bond used in connection with the financing program, or the term of the requirement to reserve dwelling units for low-income residents, whichever is shorter. If the financing program involves less than the entire home, only those dwelling units included in the financing program are eligible for total exemption. The department of revenue shall provide by rule the requirements for monitoring compliance with the provisions of this subsection and the requirements for exemption including:

(a) The number or percentage of dwelling units required to be occupied by low-income residents, and a definition of low income;

(b) The type and character of the dwelling units, whether independent units or otherwise; and

(c) Any particular requirements for continuing care retirement communities.

(3) A home for the aging is eligible for a partial exemption on the real property and a total exemption for the home's personal property if the home does not meet the requirements of subsection (1) of this section because fewer than fifty percent of the occupied dwelling units are occupied by eligible residents, as follows:

(a) A partial exemption shall be allowed for each dwelling unit in a home occupied by a resident requiring assistance with activities of daily living.

(b) A partial exemption shall be allowed for each dwelling unit in a home occupied by an eligible resident.

(c) A partial exemption shall be allowed for an area jointly used by a home for the aging and by a nonprofit organization, association, or corporation currently exempt from property taxation under one of the other provisions of this chapter. The shared area must be reasonably necessary for the purposes of the nonprofit organization, association, or corporation exempt from property taxation under one of the other provisions of this chapter, such as kitchen, dining, and laundry areas.

(d) The amount of exemption shall be calculated by multiplying the assessed value of the property reasonably necessary for the purposes of the home, less the assessed value of any area exempt under (c) of this subsection, by a fraction. The numerator of the fraction is the number of dwelling units occupied by eligible residents and by residents requiring assistance with activities of daily living. The denominator of the fraction is the total number of occupied dwelling units as of January 1st of the year for which exemption is claimed.

(4) To be exempt under this section, the property must be used exclusively for the purposes for which the exemption is granted, except as provided in RCW 84.36.805.

(5) A home for the aging is exempt from taxation only if the organization operating the home is exempt from income tax under section 501(c) of the federal internal revenue code as existing on January 1, 1989, or such subsequent date as the director may provide by rule consistent with the purposes of this section.

(6) In order for the home to be eligible for exemption under subsections (1)(a) and (2)(b) of this section, each eligible resident of a home for the aging shall submit an income verification form to the county assessor by July 1st of the assessment year in which the application for exemption is made. The income verification form shall be prescribed and furnished by the department of revenue. An eligible resident who has filed a form for a previous year need not file a new form until there is a change in status affecting the person's eligibility.

(7) In determining the ~~((true and fair))~~ assessed value of a home for the aging for purposes of the partial exemption provided by subsection (3) of this section, the assessor shall apply the computation method provided by RCW 84.34.060 and shall consider only the use to which such property is applied during the years for which such partial exemptions are available and shall not consider potential uses of such property.

(8) A home for the aging that was exempt or partially exempt for taxes levied in 1993 for collection in 1994 is partially exempt for taxes levied in 1994 for collection in 1995, has an increase in taxable value for taxes levied in 1994 for collection in 1995 due to the change prescribed by chapter 151, Laws of 1993 with respect to the numerator of the fraction used to determine the amount of a partial exemption, and is not fully exempt under this section is entitled to partial exemptions as follows:

(a) For taxes levied in 1994 for collection in 1995, the home shall pay taxes based upon the taxable value in 1993 plus one-third of the increase in the taxable

value from 1993 to the nonexempt value calculated under subsection (3)(d) of this section for 1994.

(b) For taxes levied in 1995 for collection in 1996, the home shall pay taxes based upon the taxable value for 1994 as calculated in (a) of this subsection plus one-half of the increase in the taxable value from 1994 to the nonexempt value calculated under subsection (3)(d) of this section for 1995. For taxes levied in 1996 for collection in 1997 and for taxes levied thereafter, this subsection (8) does not apply, and the home shall pay taxes without reference to this subsection (8).

(c) For purposes of this subsection (8), "taxable value" means the value of the home upon which the tax rate is applied in order to determine the amount of taxes due.

(9) As used in this section:

(a) "Eligible resident" means a person who:

(i) Occupied the dwelling unit as a principal place of residence as of January 1st of the year for which the exemption is claimed. Confinement of the person to a hospital or nursing home does not disqualify the claim of exemption if the dwelling unit is temporarily unoccupied or if the dwelling unit is occupied by a spouse, a person financially dependent on the claimant for support, or both; and

(ii) Is sixty-one years of age or older on December 31st of the year in which the exemption claim is filed, or is, at the time of filing, retired from regular gainful employment by reason of physical disability. Any surviving spouse of a person who was receiving an exemption at the time of the person's death shall qualify if the surviving spouse is fifty-seven years of age or older and otherwise meets the requirements of this subsection; and

(iii) Has a combined disposable income of no more than the greater of twenty-two thousand dollars or eighty percent of the median income adjusted for family size as most recently determined by the federal department of housing and urban development for the county in which the person resides. For the purposes of determining eligibility under this section, a "cotenant" means a person who resides with an eligible resident and who shares personal financial resources with the eligible resident.

(b) "Combined disposable income" means the disposable income of the person submitting the income verification form, plus the disposable income of his or her spouse, and the disposable income of each cotenant occupying the dwelling unit for the preceding calendar year, less amounts paid by the person submitting the income verification form or his or her spouse or cotenant during the previous year for the treatment or care of either person received in the dwelling unit or in a nursing home. If the person submitting the income verification form was retired for two months or more of the preceding year, the combined disposable income of such person shall be calculated by multiplying the average monthly combined disposable income of such person during the months such person was retired by twelve. If the income of the person submitting the income verification form is reduced for two or more months of the preceding year by reason of the death of the

person's spouse, the combined disposable income of such person shall be calculated by multiplying the average monthly combined disposable income of such person after the death of the spouse by twelve.

(c) "Disposable income" means adjusted gross income as defined in the federal internal revenue code, as amended prior to January 1, 1989, or such subsequent date as the director may provide by rule consistent with the purpose of this section, plus all of the following items to the extent they are not included in or have been deducted from adjusted gross income:

(i) Capital gains, other than nonrecognized gain on the sale of a principal residence under section 1034 of the federal internal revenue code, or gain excluded from income under section 121 of the federal internal revenue code to the extent it is reinvested in a new principal residence;

(ii) Amounts deducted for loss;

(iii) Amounts deducted for depreciation;

(iv) Pension and annuity receipts;

(v) Military pay and benefits other than attendant-care and medical-aid payments;

(vi) Veterans benefits other than attendant-care and medical-aid payments;

(vii) Federal social security act and railroad retirement benefits;

(viii) Dividend receipts; and

(ix) Interest received on state and municipal bonds.

(d) "Resident requiring assistance with activities of daily living" means a person who requires significant assistance with the activities of daily living and who would be at risk of nursing home placement without this assistance.

(e) "Home for the aging" means a residential housing facility that (i) provides a housing arrangement chosen voluntarily by the resident, the resident's guardian or conservator, or another responsible person; (ii) has only residents who are at least sixty-one years of age or who have needs for care generally compatible with persons who are at least sixty-one years of age; and (iii) provides varying levels of care and supervision, as agreed to at the time of admission or as determined necessary at subsequent times of reappraisal.

(10) A for-profit home for the aging that converts to nonprofit status after June 11, 1992, and would otherwise be eligible for tax exemption under this section may not receive the tax exemption until five years have elapsed since the conversion. The exemption shall then be ratably granted over the next five years.

Sec. 125. RCW 84.52.063 and 1973 1st ex.s. c 195 s 105 are each amended to read as follows:

A rural library district may impose a regular property tax levy in an amount equal to that which would be produced by a levy of fifty cents per thousand dollars of assessed value multiplied by an equalized assessed valuation (~~equal to one hundred percent of the true and fair value of the taxable property in the rural library district~~), as determined by the department of revenue's indicated county ratio: PROVIDED, That when any county assessor shall find that the aggregate rate of

levy on any property will exceed the limitation set forth in RCW 84.52.043 and ((RCW)) 84.52.050, as now or hereafter amended, before recomputing and establishing a consolidated levy in the manner set forth in RCW 84.52.010, the assessor shall first reduce the levy of any rural library district, by such amount as may be necessary, but the levy of any rural library district shall not be reduced to less than fifty cents per thousand dollars against the value of the taxable property, as determined by the county, prior to any further adjustments pursuant to RCW 84.52.010. For purposes of this section "regular property tax levy" shall mean a levy subject to the limitations provided for in Article VII, section 2 of the state Constitution and/or by statute.

Sec. 126. RCW 84.70.010 and 1994 c 301 s 56 are each amended to read as follows:

(1) If, on or before December 31 in any calendar year, any real or personal property placed upon the assessment roll of that year is destroyed in whole or in part, or is in an area that has been declared a disaster area by the governor and has been reduced in value by more than twenty percent as a result of a natural disaster, the ((true and fair)) assessed value of such property shall be reduced for that year by an amount determined as follows:

(a) First take the ((true and fair)) assessed value of such taxable property before destruction or reduction in value and deduct therefrom the true and fair value of the remaining property after destruction or reduction in value.

(b) Then divide any amount remaining by the number of days in the year and multiply the quotient by the number of days remaining in the calendar year after the date of the destruction or reduction in value of the property.

(2) No reduction in the ((true and fair)) assessed value shall be made more than three years after the date of destruction or reduction in value.

(3) The assessor shall make such reduction on his or her own motion; however, the taxpayer may make application for reduction on forms prepared by the department and provided by the assessor. The assessor shall notify the taxpayer of the amount of reduction.

(4) If destroyed property is replaced prior to the valuation dates contained in RCW 36.21.080 and 36.21.090, the total taxable value for that year shall not exceed the value as of the appropriate valuation date in RCW 36.21.080 or 36.21.090, whichever is appropriate.

(5) The taxpayer may appeal the amount of reduction to the county board of equalization within thirty days of notification or July 1st of the year of reduction, whichever is later. The board shall reconvene, if necessary, to hear the appeal.

PART II
106 PERCENT LIMIT

Sec. 201. RCW 84.55.005 and 1994 c 301 s 49 are each amended to read as follows:

As used in this chapter (~~(, the term)~~):

(1) "Inflation" means the percentage change in the implicit price deflator for personal consumption expenditures for the United States as published for the most recent twelve-month period by the bureau of economic analysis of the federal department of commerce in September of the year before the taxes are payable;

(2) "Limit factor" means:

(a) For taxing districts with a population of less than ten thousand in the calendar year prior to the assessment year, one hundred six percent;

(b) For taxing districts for which a limit factor is authorized under section 204 of this act, the lesser of the limit factor authorized under that section or one hundred six percent;

(c) For all other districts, the lesser of one hundred six percent or one hundred percent plus inflation; and

(3) "Regular property taxes" has the meaning given it in RCW 84.04.140, and also includes amounts received in lieu of regular property taxes.

Sec. 202. RCW 84.55.010 and 1979 ex.s. c 218 s 2 are each amended to read as follows:

Except as provided in this chapter, the levy for a taxing district in any year shall be set so that the regular property taxes payable in the following year shall not exceed (~~(one hundred six percent of)~~) the limit factor multiplied by the amount of regular property taxes lawfully levied for such district in the highest of the three most recent years in which such taxes were levied for such district plus an additional dollar amount calculated by multiplying the increase in assessed value in that district resulting from new construction, improvements to property, and any increase in the assessed value of state-assessed property by the regular property tax levy rate of that district for the preceding year.

Sec. 203. RCW 84.55.020 and 1971 ex.s. c 288 s 21 are each amended to read as follows:

Notwithstanding the limitation set forth in RCW 84.55.010, the first levy for a taxing district created from consolidation of similar taxing districts shall be set so that the regular property taxes payable in the following year shall not exceed (~~(one hundred six percent of)~~) the limit factor multiplied by the sum of the amount of regular property taxes lawfully levied for each component taxing district in the highest of the three most recent years in which such taxes were levied for such district plus the additional dollar amount calculated by multiplying the increase in assessed value in each component district resulting from new construction and improvements to property by the regular property tax rate of each component district for the preceding year.

NEW SECTION. Sec. 204. A new section is added to chapter 84.55 RCW to read as follows:

Upon a finding of substantial need, the legislative authority of a taxing district other than the state may provide for the use of a limit factor under this chapter of one hundred six percent or less. In districts with legislative authorities of four members or less, two-thirds of the members must approve an ordinance or resolution under this section. In districts with more than four members, a majority plus one vote must approve an ordinance or resolution under this section. The new limit factor shall be effective for taxes collected in the following year only.

Sec. 205. RCW 35.61.210 and 1990 c 234 s 3 are each amended to read as follows:

The board of park commissioners may levy or cause to be levied a general tax on all the property located in said park district each year not to exceed fifty cents per thousand dollars of assessed value of the property in such park district. In addition, the board of park commissioners may levy or cause to be levied a general tax on all property located in said park district each year not to exceed twenty-five cents per thousand dollars of assessed valuation. Although park districts are authorized to impose two separate regular property tax levies, the levies shall be considered to be a single levy for purposes of the ~~((one hundred six percent))~~ limitation provided for in chapter 84.55 RCW.

The board is hereby authorized to levy a general tax in excess of its regular property tax levy or levies when authorized so to do at a special election conducted in accordance with and subject to all the requirements of the Constitution and laws of the state now in force or hereafter enacted governing the limitation of tax levies. The board is hereby authorized to call a special election for the purpose of submitting to the qualified voters of the park district a proposition to levy a tax in excess of the seventy-five cents per thousand dollars of assessed value herein specifically authorized. The manner of submitting any such proposition, of certifying the same, and of giving or publishing notice thereof, shall be as provided by law for the submission of propositions by cities or towns.

The board shall include in its general tax levy for each year a sufficient sum to pay the interest on all outstanding bonds and may include a sufficient amount to create a sinking fund for the redemption of all outstanding bonds. The levy shall be certified to the proper county officials for collection the same as other general taxes and when collected, the general tax shall be placed in a separate fund in the office of the county treasurer to be known as the "metropolitan park district fund" and paid out on warrants.

Sec. 206. RCW 70.44.060 and 1990 c 234 s 2 are each amended to read as follows:

All public hospital districts organized under the provisions of this chapter shall have power:

(1) To make a survey of existing hospital and other health care facilities within and without such district.

(2) To construct, condemn and purchase, purchase, acquire, lease, add to, maintain, operate, develop and regulate, sell and convey all lands, property, property rights, equipment, hospital and other health care facilities and systems for the maintenance of hospitals, buildings, structures, and any and all other facilities, and to exercise the right of eminent domain to effectuate the foregoing purposes or for the acquisition and damaging of the same or property of any kind appurtenant thereto, and such right of eminent domain shall be exercised and instituted pursuant to a resolution of the commission and conducted in the same manner and by the same procedure as in or may be provided by law for the exercise of the power of eminent domain by incorporated cities and towns of the state of Washington in the acquisition of property rights: PROVIDED, That no public hospital district shall have the right of eminent domain and the power of condemnation against any health care facility.

(3) To lease existing hospital and other health care facilities and equipment and/or other property used in connection therewith, including ambulances, and to pay such rental therefor as the commissioners shall deem proper; to provide hospital and other health care services for residents of said district by facilities located outside the boundaries of said district, by contract or in any other manner said commissioners may deem expedient or necessary under the existing conditions; and said hospital district shall have the power to contract with other communities, corporations, or individuals for the services provided by said hospital district; and they may further receive in said hospitals and other health care facilities and furnish proper and adequate services to all persons not residents of said district at such reasonable and fair compensation as may be considered proper: PROVIDED, That it must at all times make adequate provision for the needs of the district and residents of said district shall have prior rights to the available hospital and other health care facilities of said district, at rates set by the district commissioners.

(4) For the purpose aforesaid, it shall be lawful for any district so organized to take, condemn and purchase, lease, or acquire, any and all property, and property rights, including state and county lands, for any of the purposes aforesaid, and any and all other facilities necessary or convenient, and in connection with the construction, maintenance, and operation of any such hospitals and other health care facilities, subject, however, to the applicable limitations provided in subsection (2) of this section.

(5) To contract indebtedness or borrow money for corporate purposes on the credit of the corporation or the revenues of the hospitals thereof, and the revenues of any other facilities or services that the district is or hereafter may be authorized by law to provide, and to issue and sell: (a) Revenue bonds, revenue warrants, or other revenue obligations therefor payable solely out of a special fund or funds into which the district may pledge such amount of the revenues of the hospitals thereof, and the revenues of any other facilities or services that the district is or hereafter may be authorized by law to provide, to pay the same as the commissioners of the

district may determine, such revenue bonds, warrants, or other obligations to be issued and sold in the same manner and subject to the same provisions as provided for the issuance of revenue bonds, warrants, or other obligations by cities or towns under the Municipal Revenue Bond Act, chapter 35.41 RCW, as may hereafter be amended; (b) general obligation bonds therefor in the manner and form as provided in RCW 70.44.110 and 70.44.130, as may hereafter be amended; or (c) interest-bearing warrants to be drawn on a fund pending deposit in such fund of money sufficient to redeem such warrants and to be issued and paid in such manner and upon such terms and conditions as the board of commissioners may deem to be in the best interest of the district; and to assign or sell hospital accounts receivable, and accounts receivable for the use of other facilities or services that the district is or hereafter may be authorized by law to provide, for collection with or without recourse. General obligation bonds shall be issued and sold in accordance with chapter 39.46 RCW. Revenue bonds, revenue warrants, or other revenue obligations may be issued and sold in accordance with chapter 39.46 RCW.

(6) To raise revenue by the levy of an annual tax on all taxable property within such public hospital district not to exceed fifty cents per thousand dollars of assessed value, and an additional annual tax on all taxable property within such public hospital district not to exceed twenty-five cents per thousand dollars of assessed value, or such further amount as has been or shall be authorized by a vote of the people. Although public hospital districts are authorized to impose two separate regular property tax levies, the levies shall be considered to be a single levy for purposes of the ~~((one hundred six percent))~~ limitation provided for in chapter 84.55 RCW. Public hospital districts are authorized to levy such a general tax in excess of their regular property taxes when authorized so to do at a special election conducted in accordance with and subject to all of the requirements of the Constitution and the laws of the state of Washington now in force or hereafter enacted governing the limitation of tax levies. The said board of district commissioners is authorized and empowered to call a special election for the purpose of submitting to the qualified voters of the hospital district a proposition or propositions to levy taxes in excess of its regular property taxes. The superintendent shall prepare a proposed budget of the contemplated financial transactions for the ensuing year and file the same in the records of the commission on or before the first Monday in September. Notice of the filing of said proposed budget and the date and place of hearing on the same shall be published for at least two consecutive weeks in a newspaper printed and of general circulation in said county. On the first Monday in October the commission shall hold a public hearing on said proposed budget at which any taxpayer may appear and be heard against the whole or any part of the proposed budget. Upon the conclusion of said hearing, the commission shall, by resolution, adopt the budget as finally determined and fix the final amount of expenditures for the ensuing year. Taxes levied by the commission shall be certified to and collected by the proper county officer of the county in which such public hospital district is located in the same

manner as is or may be provided by law for the certification and collection of port district taxes. The commission is authorized, prior to the receipt of taxes raised by levy, to borrow money or issue warrants of the district in anticipation of the revenue to be derived by such district from the levy of taxes for the purpose of such district, and such warrants shall be redeemed from the first money available from such taxes when collected, and such warrants shall not exceed the anticipated revenues of one year, and shall bear interest at a rate or rates as authorized by the commission.

(7) To enter into any contract with the United States government or any state, municipality, or other hospital district, or any department of those governing bodies, for carrying out any of the powers authorized by this chapter.

(8) To sue and be sued in any court of competent jurisdiction: PROVIDED, That all suits against the public hospital district shall be brought in the county in which the public hospital district is located.

(9) To pay actual necessary travel expenses and living expenses incurred while in travel status for (a) qualified physicians who are candidates for medical staff positions, and (b) other qualified persons who are candidates for superintendent or other managerial and technical positions, when the district finds that hospitals or other health care facilities owned and operated by it are not adequately staffed and determines that personal interviews with said candidates to be held in the district are necessary or desirable for the adequate staffing of said facilities.

(10) To make contracts, employ superintendents, attorneys, and other technical or professional assistants and all other employees; to make contracts with private or public institutions for employee retirement programs; to print and publish information or literature; and to do all other things necessary to carry out the provisions of this chapter.

Sec. 207. RCW 84.08.115 and 1991 c 218 s 2 are each amended to read as follows:

(1) The department shall prepare a clear and succinct explanation of the property tax system, including but not limited to:

- (a) The standard of true and fair value as the basis of the property tax.
- (b) How the assessed value for particular parcels is determined.
- (c) The procedures and timing of the assessment process.
- (d) How district levy rates are determined, including the (~~one hundred six percent~~) limit under chapter 84.55 RCW.
- (e) How the composite tax rate is determined.
- (f) How the amount of tax is calculated.
- (g) How a taxpayer may appeal an assessment, and what issues are appropriate as a basis of appeal.
- (h) A summary of tax exemption and relief programs, along with the eligibility standards and application processes.

(2) Each county assessor shall provide copies of the explanation to taxpayers on request, free of charge. Each revaluation notice shall include information regarding the availability of the explanation.

NEW SECTION. Sec. 208. It is the intent of sections 201 through 207 of this act to lower the one hundred six percent limit while still allowing taxing districts to raise revenues in excess of the limit if approved by a majority of the voters as provided in RCW 84.55.050.

Sec. 209. RCW 84.55.120 and 1995 c 251 s 1 are each amended to read as follows:

A taxing district, other than the state, that collects regular levies shall hold a public hearing on revenue sources for the district's following year's current expense budget. The hearing must include consideration of possible increases in property tax revenues and shall be held prior to the time the taxing district levies the taxes or makes the request to have the taxes levied. The county legislative authority, or the taxing district's governing body if the district is a city, town, or other type of district, shall hold the hearing. For purposes of this section, "current expense budget" means that budget which is primarily funded by taxes and charges and reflects the provision of ongoing services. It does not mean the capital, enterprise, or special assessment budgets of cities, towns, counties, or special purpose districts.

If the taxing district is otherwise required to hold a public hearing on its proposed regular tax levy, a single public hearing may be held on this matter.

No increase in property tax revenue, other than that resulting from the addition of new construction and improvements to property and any increase in the value of state-assessed property, may be authorized by a taxing district, other than the state, except by adoption of a separate ordinance or resolution, pursuant to notice, specifically authorizing the increase in terms of both dollars and percentage. The ordinance or resolution may cover a period of up to two years, but the ordinance shall specifically state for each year the dollar increase and percentage change in the levy from the previous year.

PART III PERMANENT STATE LEVY REDUCTION

NEW SECTION. Sec. 301. A new section is added to chapter 84.55 RCW to read as follows:

The state property tax levy for collection in 1998 shall be reduced by 4.7187 percent of the levy amount that would otherwise be allowed under this chapter without regard to this section.

PART IV
REPEAL OF PERMANENT STATE LEVY REDUCTION
UNDER ENGROSSED HOUSE BILL NO. 1417

NEW SECTION. Sec. 401. The following acts or parts of acts are each repealed:

- (1) RCW 84.55.— and 1997 c 2 s 2; and
- (2) 1997 c 2 s 5 (uncodified).

PART V
MISCELLANEOUS

NEW SECTION. Sec. 501. (1) Sections 101 through 126 of this act apply to taxes levied for collection in 1999 and thereafter.

(2) Sections 201 through 207 of this act apply to taxes levied for collection in 1998 and thereafter.

NEW SECTION. Sec. 502. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

NEW SECTION. Sec. 503. Part headings used in this act are not any part of the law.

NEW SECTION. Sec. 504. Except for section 401 of this act, the secretary of state shall submit this act to the people for their adoption and ratification, or rejection, at the next general election to be held in this state, in accordance with Article II, section 1 of the state Constitution and the laws adopted to facilitate its operation.

Passed the Senate February 24, 1997.

Passed the House February 26, 1997.

Approved by the Governor March 6, 1997.

Filed in Office of Secretary of State March 6, 1997.

CHAPTER 4

[House Bill 1959]

**WHOLESALE TRANSACTIONS INVOLVING MOTOR VEHICLES AT AUCTIONS—BUSINESS
AND OCCUPATION TAX EXEMPTIONS**

AN ACT Relating to business and occupation tax exemptions for wholesale transactions involving motor vehicles at auctions; adding a new section to chapter 82.04 RCW; and declaring an emergency.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. Sec. 1. A new section is added to chapter 82.04 RCW to read as follows:

This chapter does not apply to amounts received by a motor vehicle manufacturer, as defined in RCW 19.118.021, or by a financing subsidiary of such motor vehicle manufacturer which subsidiary is at least fifty percent owned by the

manufacturer, from the sale of motor vehicles at wholesale auctions to dealers licensed under chapter 46.70 RCW or dealers licensed by any other state.

NEW SECTION, Sec. 2. This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately.

Passed the House February 14, 1997.

Passed the Senate March 12, 1997.

Approved by the Governor March 18, 1997.

Filed in Office of Secretary of State March 18, 1997.

CHAPTER 5

[Substitute Senate Bill 5464]

GENDER EQUITY IN HIGHER EDUCATION ATHLETICS

AN ACT Relating to gender equity in higher education; amending RCW 28B.15.455, 28B.15.460, 28B.15.465, 28B.15.470, and 28B.110.040; repealing RCW 28B.15.480; providing an effective date; and declaring an emergency.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 28B.15.455 and 1989 c 340 s 3 are each amended to read as follows:

Institutions of higher education shall strive to accomplish the following goals by June 30, 2002:

(1) Provide the following benefits and services equitably to male and female athletes participating in intercollegiate athletic programs: Equipment and supplies; medical services; services and insurance; transportation and per diem allowances; opportunities to receive coaching and instruction; scholarships and other forms of financial aid; conditioning programs; laundry services; assignment of game officials; opportunities for competition, publicity, and awards; and scheduling of games and practice times, including use of courts, gyms, and pools. Each institution which provides showers, toilets, lockers, or training room facilities for athletic purposes shall provide access to comparable facilities for both males and females.

(2) Provide equitable intercollegiate athletic opportunities for male and female students including opportunities to participate and to receive the benefits of the services listed in subsection (1) of this section.

(3) Provide participants with female and male coaches and administrators to act as role models.

Sec. 2. RCW 28B.15.460 and 1989 c 340 s 4 are each amended to read as follows:

(1) An institution of higher education shall not grant any waivers for the purpose of achieving gender equity until the 1991-92 academic year, and may grant waivers for the purpose of achieving gender equity in intercollegiate athletic programs as authorized in RCW 28B.15.740, for the 1991-92 academic year only

if the institution's governing board has adopted a plan for complying with the provisions of RCW 28B.15.455 and submitted the plan to the higher education coordinating board.

(2)(a) Beginning in the 1992-93 academic year, an institution of higher education shall not grant any waiver for the purpose of achieving gender equity in intercollegiate athletic programs as authorized in RCW 28B.15.740 unless the institution's plan has been approved by the higher education coordinating board.

(b) Beginning in the 1999-2000 academic year, an institution that did not provide, by June 30, 1998, athletic opportunities for an historically underrepresented gender class at a rate that meets or exceeds the current rate at which that class participates in high school athletics in Washington state shall have a new institutional plan approved by the higher education coordinating board before granting further waivers.

(c) Beginning in the 2003-04 academic year, an institution of higher education that was not within five percent of the ratio of undergraduates described in RCW 28B.15.470 by June 30, 2002, shall have a new plan for achieving gender equity in intercollegiate athletic programs approved by the higher education coordinating board before granting further waivers.

(3) The plan shall include, but not be limited to:

(a) For any institution with an historically underrepresented gender class described in subsection (2)(b) of this section, provisions that ensure that by July 1, ~~((1994))~~ 2000, the institution shall provide athletic opportunities for the underrepresented gender class at a rate that meets or exceeds the current rate at which that class participates in high school interscholastic athletics in Washington state not to exceed the point at which the underrepresented gender class is no longer underrepresented;

(b) For any institution with an underrepresented gender class described in subsection (2)(c) of this section, provisions that ensure that by July 1, 2004, the institution will have reached substantial proportionality in its athletic program;

(c) Activities to be undertaken by the institution to increase participation rates of any underrepresented gender class in interscholastic and intercollegiate athletics. These activities may include, but are not limited to: Sponsoring equity conferences, coaches clinics and sports clinics; and taking a leadership role in working with athletic conferences to reduce barriers to participation by those gender classes in interscholastic and intercollegiate athletics;

~~((e))~~ (d) An identification of barriers to achieving and maintaining equitable intercollegiate athletic opportunities for men and women; and

~~((d))~~ (e) Measures to achieve institutional compliance with the provisions of RCW 28B.15.455.

Sec. 3. RCW 28B.15.465 and 1989 c 340 s 5 are each amended to read as follows:

(1) The higher education coordinating board shall report ~~((biennially))~~ every four years, beginning December ~~((1992))~~ 1998, to the governor and the house of

representatives and senate committees on higher education, on institutional efforts to comply with the requirements of RCW 28B.15.740, 28B.15.455, and 28B.15.460. Each report shall include recommendations on measures to assist institutions with compliance. ~~((The first report shall also include a recommendation on whether to grant this waiver authority to community college governing boards:))~~

(2) Before the board makes its report in December ~~((1994))~~ 2006, the board shall assess the extent of institutional compliance with the requirements of RCW 28B.15.740, 28B.15.455, and 28B.15.460. ~~((The 1994 report shall include a recommendation on whether to continue this waiver authority:))~~

(3) The report in this section may be combined with the report required in RCW 28B.110.040(3).

Sec. 4. RCW 28B.15.470 and 1989 c 340 s 6 are each amended to read as follows:

(1) As used in and for the limited purposes of RCW 28B.15.450 through 28B.15.465 and 28B.15.740, "underrepresented gender class" means female students or male students, where the ratio of participation of female or male students who are seventeen to twenty-four year old undergraduates enrolled full-time on the main campus, respectively, in intercollegiate athletics ~~((is))~~ has historically been less than approximately the ratio of female to male students or male to female students, respectively, enrolled as undergraduates at an institution.

(2) As used in and for the limited purpose of ~~((subsection 4(b) of this act))~~ RCW 28B.15.460(3)(a), an "underrepresented gender class" in interscholastic athletics means female students or male students, where the ratio of participation of female or male students, respectively, in K-12 interscholastic athletics ~~((is))~~ has historically been less than approximately the ratio of female to male students or male to female students, respectively, enrolled in K-12 public schools in Washington.

(3) As used in and for the limited purposes of RCW 28B.15.460, "equitable" means that the ratio of female and male students participating in intercollegiate athletics is substantially proportionate to the percentages of female and male students who are seventeen to twenty-four year old undergraduates enrolled full time on the main campus.

Sec. 5. RCW 28B.110.040 and 1989 c 341 s 4 are each amended to read as follows:

The executive director of the higher education coordinating board, in consultation with the council of presidents and the state board for community ~~((college education))~~ and technical colleges, shall monitor the compliance by institutions of higher education with this chapter.

(1) The board shall establish a timetable and guidelines for compliance with this chapter.

(2) ~~((By September 30, 1990, each institution shall complete a self-study on its compliance with the requirements listed in RCW 28B.110.030.~~

—(~~3~~) By November 30, 1990, each institution shall submit to the board for approval a plan to comply with the requirements of RCW 28B.110.030. The plan shall contain measures to ensure institutional compliance with the provisions of this chapter by September 30, 1994. If participation in activities, such as intercollegiate athletics and matriculation in academic programs is not proportionate to the percentages of male and female enrollment, the plan should outline efforts to identify barriers to equal participation and to encourage gender equity in all aspects of college and university life.

((~~4~~)) (3) The board shall report ((~~biennially~~)) every four years, beginning December 31, ((~~1990~~)) 1998, to the governor and the higher education committees of the house of representatives and the senate on institutional efforts to comply with this chapter. The report shall include recommendations on measures to assist institutions with compliance. This report may be combined with the report required in RCW 28B.15.465.

((~~5~~)) (4) The board may delegate to the state board for community and technical colleges ((~~education~~)) any or all responsibility for community college compliance with the provisions of this chapter.

NEW SECTION. Sec. 6. RCW 28B.15.480 and 1989 c 340 s 9 are each repealed.

NEW SECTION. Sec. 7. This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect July 1, 1997.

Passed the Senate March 11, 1997.

Passed the House March 31, 1997.

Approved by the Governor April 8, 1997.

Filed in Office of Secretary of State April 8, 1997.

CHAPTER 6

[Substitute House Bill 1320]

STATE INSECT

AN ACT Relating to the state insect; adding a new section to chapter 1.20 RCW; and creating a new section.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. Sec. 1. The legislature finds that the common green darner dragonfly, *Anax junius* Drury, can be found throughout Washington and is easily recognizable by its bright green head and thorax. The legislature further recognizes that the common green darner dragonfly, also known as the "mosquito hawk," is a beneficial contributor to our ecosystem.

NEW SECTION. Sec. 2. A new section is added to chapter 1.20 RCW to read as follows:

The common green darner dragonfly, *Anax junius* Drury, is hereby designated as the official insect of the state of Washington.

Passed the House February 17, 1997.
Passed the Senate April 8, 1997.
Approved by the Governor April 10, 1997.
Filed in Office of Secretary of State April 10, 1997.

CHAPTER 7

[Engrossed House Bill 1821]

BUSINESS AND OCCUPATION TAXES—LOWERING AND CONSOLIDATING RATES

AN ACT Relating to consolidating business and occupation tax rates into fewer categories; amending RCW 82.04.255, 82.04.290, 82.04.293, and 82.04.4452; creating a new section; repealing RCW 82.04.055; and providing an effective date.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 82.04.255 and 1996 c 1 s 1 are each amended to read as follows:

Upon every person engaging within the state as a real estate broker; as to such persons, the amount of the tax with respect to such business shall be equal to the gross income of the business, multiplied by the rate of ~~((1-75))~~ 1.5 percent.

The measure of the tax on real estate commissions earned by the real estate broker shall be the gross commission earned by the particular real estate brokerage office including that portion of the commission paid to salesmen or associate brokers in the same office on a particular transaction: **PROVIDED, HOWEVER,** That where a real estate commission is divided between an originating brokerage office and a cooperating brokerage office on a particular transaction, each brokerage office shall pay the tax only upon their respective shares of said commission: **AND PROVIDED FURTHER,** That where the brokerage office has paid the tax as provided herein, salesmen or associate brokers within the same brokerage office shall not be required to pay a similar tax upon the same transaction.

Sec. 2. RCW 82.04.290 and 1996 c 1 s 2 are each amended to read as follows:

~~(1) ((Upon every person engaging within this state in the business of providing selected business services other than or in addition to those enumerated in RCW 82.04.250 or 82.04.270; as to such persons the amount of tax on account of such activities shall be equal to the gross income of the business multiplied by the rate of 2.0 percent.~~

~~—(2) Upon every person engaging within this state in banking, loan, security, investment management, investment advisory, or other financial businesses, other than or in addition to those enumerated in subsection (3) of this section; as to such persons, the amount of the tax with respect to such business shall be equal to the gross income of the business, multiplied by the rate of 1.6 percent.~~

~~—(3)) Upon every person engaging within this state in the business of providing international investment management services, as to such persons, the amount of tax with respect to such business shall be equal to the gross income or gross proceeds of sales of the business multiplied by a rate of 0.275 percent.~~

~~((4))~~ (2) Upon every person engaging within this state in any business activity other than or in addition to those enumerated in RCW 82.04.230, 82.04.240, 82.04.250, 82.04.255, 82.04.260, 82.04.270, and 82.04.280, and subsection(s) (1)~~((2), and (3))~~ of this section; as to such persons the amount of tax on account of such activities shall be equal to the gross income of the business multiplied by the rate of ~~((1.75))~~ 1.5 percent.

This section includes, among others, and without limiting the scope hereof (whether or not title to materials used in the performance of such business passes to another by accession, confusion or other than by outright sale), persons engaged in the business of rendering any type of service which does not constitute a "sale at retail" or a "sale at wholesale." The value of advertising, demonstration, and promotional supplies and materials furnished to an agent by his principal or supplier to be used for informational, educational and promotional purposes shall not be considered a part of the agent's remuneration or commission and shall not be subject to taxation under this section.

Sec. 3. RCW 82.04.293 and 1995 c 229 s 1 are each amended to read as follows:

For purposes of RCW 82.04.290~~((3))~~:

(1) A person is engaged in the business of providing international investment management services, if:

(a) Such person is engaged primarily in the business of providing investment management services; and

(b) At least ten percent of the gross income of such person is derived from providing investment management services to any of the following: (i) Persons or collective investment funds residing outside the United States; or (ii) persons or collective investment funds with at least ten percent of their investments located outside the United States.

(2) "Investment management services" means investment research, investment consulting, portfolio management, fund administration, fund distribution, investment transactions, or related investment services.

(3) "Collective investment fund" includes:

(a) A mutual fund or other regulated investment company, as defined in section 851(a) of the internal revenue code of 1986, as amended;

(b) An "investment company," as that term is used in section 3(a) of the investment company act of 1940, as well as any entity that would be an investment company for this purpose but for the exemptions contained in section 3(c)(1) or (11);

(c) An "employee benefit plan," which includes any plan, trust, commingled employee benefit trust, or custodial arrangement that is subject to the employee retirement income security act of 1974, as amended, 29 U.S.C. Sec. 1001 et seq., or that is described in sections 125, 401, 403, 408, 457, and 501(c)(9) and (17) through (23) of the internal revenue code of 1986, as amended, or a similar plan

maintained by a state or local government, or a plan, trust, or custodial arrangement established to self-insure benefits required by federal, state, or local law;

(d) A fund maintained by a tax-exempt organization, as defined in section 501(c)(3) of the internal revenue code of 1986, as amended, for operating, quasi-endowment, or endowment purposes;

(e) Funds that are established for the benefit of such tax-exempt organizations, such as charitable remainder trusts, charitable lead trusts, charitable annuity trusts, or other similar trusts; or

(f) Collective investment funds similar to those described in (a) through (e) of this subsection created under the laws of a foreign jurisdiction.

(4) Investments are located outside the United States if the underlying assets in which the investment constitutes a beneficial interest reside or are created, issued or held outside the United States.

Sec. 4. RCW 82.04.4452 and 1994 sp.s. c 5 s 2 are each amended to read as follows:

(1) In computing the tax imposed under this chapter, a credit is allowed for each person whose research and development spending during the year in which the credit is claimed exceeds 0.92 percent of the person's taxable amount during the same calendar year.

(2) The credit is equal to the greater of the amount of qualified research and development expenditures of a person or eighty percent of amounts received by a person other than a public educational or research institution in compensation for the conduct of qualified research and development, multiplied by the rate (~~of 0.515 percent~~) provided in RCW 82.04.260(6) in the case of a nonprofit corporation or nonprofit association engaging within this state in research and development, and (~~2.5 percent~~) the rate provided in RCW 82.04.290(2) for every other person.

(3) Any person entitled to the credit provided in subsection (2) of this section as a result of qualified research and development conducted under contract may assign all or any portion of the credit to the person contracting for the performance of the qualified research and development.

(4) The credit, including any credit assigned to a person under subsection (3) of this section, shall be taken against taxes due for the same calendar year in which the qualified research and development expenditures are incurred. The credit, including any credit assigned to a person under subsection (3) of this section, for each calendar year shall not exceed the lesser of two million dollars or the amount of tax otherwise due under this chapter for the calendar year.

(5) Any person taking the credit, including any credit assigned to a person under subsection (3) of this section, whose research and development spending during the calendar year in which the credit is claimed fails to exceed 0.92 percent of the person's taxable amount during the same calendar year shall be liable for payment of the additional taxes represented by the amount of credit taken together with interest, but not penalties. Interest shall be due at the rate provided for

delinquent excise taxes retroactively to the date the credit was taken until the taxes are paid. Any credit assigned to a person under subsection (3) of this section that is disallowed as a result of this section may be taken by the person who performed the qualified research and development subject to the limitations set forth in subsection (4) of this section.

(6) Any person claiming the credit, and any person assigning a credit as provided in subsection (3) of this section, shall file an affidavit form prescribed by the department which shall include the amount of the credit claimed, an estimate of the anticipated qualified research and development expenditures during the calendar year for which the credit is claimed, an estimate of the taxable amount during the calendar year for which the credit is claimed, and such additional information as the department may prescribe.

(7) A person claiming the credit shall agree to supply the department with information necessary to measure the results of the tax credit program for qualified research and development expenditures.

(8) The department shall use the information required under subsection (7) of this section to perform three assessments on the tax credit program authorized under this section. The assessments will take place in 1997, 2000, and 2003. The department shall prepare reports on each assessment and deliver their reports by September 1, 1997, September 1, 2000, and September 1, 2003. The assessments shall measure the effect of the program on job creation, the number of jobs created for Washington residents, company growth, the introduction of new products, the diversification of the state's economy, growth in research and development investment, the movement of firms or the consolidation of firms' operations into the state, and such other factors as the department selects.

(9) For the purpose of this section:

(a) "Qualified research and development expenditures" means operating expenses, including wages, compensation of a proprietor or a partner in a partnership as determined under rules adopted by the department, benefits, supplies, and computer expenses, directly incurred in qualified research and development by a person claiming the credit provided in this section. The term does not include amounts paid to a person other than a public educational or research institution to conduct qualified research and development. Nor does the term include capital costs and overhead, such as expenses for land, structures, or depreciable property.

(b) "Qualified research and development" shall have the same meaning as in RCW 82.63.010.

(c) "Research and development spending" means qualified research and development expenditures plus eighty percent of amounts paid to a person other than a public educational or research institution to conduct qualified research and development.

(d) "Taxable amount" means the taxable amount subject to the tax imposed in this chapter required to be reported on the person's combined excise tax returns

during the year in which the credit is claimed, less any taxable amount for which a credit is allowed under RCW 82.04.440.

(10) This section shall expire December 31, 2004.

NEW SECTION. Sec. 5. RCW 82.04.055 and 1993 sp.s. c 25 s 201 are each repealed.

NEW SECTION. Sec. 6. This act does not affect any existing right acquired or liability or obligation incurred under the sections amended or repealed in this act or under any rule or order adopted under those sections, nor does it affect any proceeding instituted under those sections.

NEW SECTION. Sec. 7. This act takes effect July 1, 1998.

Passed the House April 4, 1997.

Passed the Senate April 4, 1997.

Approved by the Governor April 14, 1997.

Filed in Office of Secretary of State April 14, 1997.

CHAPTER 8

[Substitute House Bill 1007]

HEATING OIL POLLUTION LIABILITY PROTECTION

AN ACT Relating to heating oil pollution liability protection; amending RCW 70.149.040 and 70.149.070; and providing an expiration date.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 70.149.040 and 1995 c 20 s 4 are each amended to read as follows:

The director shall:

(1) Design a program for providing pollution liability insurance for heating oil tanks that provides sixty thousand dollars per occurrence coverage and aggregate limits, and protects the state of Washington from unwanted or unanticipated liability for accidental release claims;

(2) Administer, implement, and enforce the provisions of this chapter. To assist in administration of the program, the director is authorized to appoint up to two employees who are exempt from the civil service law, chapter 41.06 RCW, and who shall serve at the pleasure of the director;

(3) Administer the heating oil pollution liability trust account, as established under RCW 70.149.070;

(4) Employ and discharge, at his or her discretion, agents, attorneys, consultants, companies, organizations, and employees as deemed necessary, and to prescribe their duties and powers, and fix their compensation;

(5) Adopt rules under chapter 34.05 RCW as necessary to carry out the provisions of this chapter;

(6) Design and from time to time revise a reinsurance contract providing coverage to an insurer or insurers meeting the requirements of this chapter. The

director is authorized to provide reinsurance through the pollution liability insurance ((agency)) program trust account;

(7) Solicit bids from insurers and select an insurer to provide pollution liability insurance for third-party bodily injury and property damage, and corrective action to owners and operators of heating oil tanks;

(8) Register, and design a means of accounting for, operating heating oil tanks;

(9) Implement a program to provide advice and technical assistance to owners and operators of active and abandoned heating oil tanks if contamination from an active or abandoned heating oil tank is suspected. Advice and assistance regarding administrative and technical requirements may include observation of testing or site assessment and review of the results of reports. If the director finds that contamination is not present or that the contamination is apparently minor and not a threat to human health or the environment, the director may provide written opinions and conclusions on the results of the investigation to owners and operators of active and abandoned heating oil tanks. The agency is authorized to collect, from persons requesting advice and assistance, the costs incurred by the agency in providing such advice and assistance. The costs may include travel costs and expenses associated with review of reports and preparation of written opinions and conclusions. Funds from cost reimbursement must be deposited in the heating oil pollution liability trust account. The state of Washington, the pollution liability insurance agency, and its officers and employees are immune from all liability, and no cause of action arises from any act or omission in providing, or failing to provide, such advice, opinion, conclusion, or assistance; and

(10) Establish a public information program to provide information regarding liability, technical, and environmental requirements associated with active and abandoned heating oil tanks.

Sec. 2. RCW 70.149.070 and 1995 c 20 s 7 are each amended to read as follows:

(1) The heating oil pollution liability trust account is created in the custody of the state treasurer. All receipts from the pollution liability insurance fee collected under RCW 70.149.080 and reinsurance premiums shall be deposited into the account. Expenditures from the account may be used only for the purposes set out under this chapter. Only the director or the director's designee may authorize expenditures from the account. The account is subject to allotment procedures under chapter 43.88 RCW, but no appropriation is required for expenditures. Any residue in the account shall be transferred at the end of the biennium to the pollution liability insurance ((agency)) program trust account.

(2) Money in the account may be used by the director for the following purposes:

- (a) Corrective action costs;
- (b) Third-party liability claims;
- (c) Costs associated with claims administration;

(d) Purchase of an insurance policy to cover all registered heating oil tanks, and reinsurance of the policy; and

(e) Administrative expenses of the program, including personnel, equipment, ~~((and))~~ supplies, and providing advice and technical assistance.

NEW SECTION. Sec. 3. This act expires June 1, 2001.

Passed the House February 3, 1997.

Passed the Senate April 7, 1997.

Approved by the Governor April 15, 1997.

Filed in Office of Secretary of State April 15, 1997.

CHAPTER 9

[House Bill 1081]

TOBACCO POLICIES FOR SCHOOLS

AN ACT Relating to tobacco policies for schools; amending RCW 28A.210.310; and providing an effective date.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 28A.210.310 and 1989 c 233 s 6 are each amended to read as follows:

(1) To protect children in the public schools of this state from exposure to the addictive substance of nicotine, each school district board of directors shall ~~((adopt))~~ have a written policy mandating a prohibition on the use of all tobacco products on public school property. ~~((A total ban on the use of all tobacco products shall be enforced by September 1, 1991. The policy may allow for exemptions from this prohibition with regard to alternative educational programs.))~~

(2) The policy in subsection (1) of this section shall include, but not be limited to, a requirement that students and school personnel be notified of the prohibition, the posting of signs prohibiting the use of tobacco products, sanctions for students and school personnel who violate the policy, and a requirement that school district personnel enforce the prohibition. Enforcement policies adopted in the school board policy shall be in addition to the enforcement provisions in RCW 70.160.070.

NEW SECTION. Sec. 2. This act takes effect August 1, 1997.

Passed the House February 17, 1997.

Passed the Senate April 8, 1997.

Approved by the Governor April 15, 1997.

Filed in Office of Secretary of State April 15, 1997.

CHAPTER 10

[House Bill 1098]

TEACHERS RETIREMENT SYSTEM PLAN III TRANSFER PAYMENTS

AN ACT Relating to the teachers' retirement system plan III contribution rates; and amending RCW 41.32.8401 and 41.45.061.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 41.32.8401 and 1996 c 39 s 8 are each amended to read as follows:

(1) Anyone who requests to transfer under RCW 41.32.817 before January 1, 1998, and establishes service credit for January 1998, shall have their member account increased by ~~((twenty))~~ forty percent of:

(a) Plan II accumulated contributions as of January 1, 1996, less fifty percent of any payments made pursuant to RCW 41.50.165(2); or

(b) All amounts withdrawn after January 1, 1996, which are completely restored before January 1, 1998.

(2) Substitute teachers shall receive the additional payment provided in subsection (1) of this section if they:

(a) Establish service credit for January 1998; and

(b) Establish any service credit from July 1996 through December 1997; and

(c) Elect to transfer on or before March 1, 1999.

(3) If a member who requests to transfer dies before January 1, 1998, the additional payment provided by this section shall be paid to the member's estate, or the person or persons, trust, or organization the member nominated by written designation duly executed and filed with the department.

(4) The legislature reserves the right to modify or discontinue the right to an incentive payment under this section for any plan II members who have not previously transferred to plan III.

Sec. 2. RCW 41.45.061 and 1995 c 239 s 311 are each amended to read as follows:

(1) The required contribution rate for members of the plan II teachers' retirement system shall be fixed at the rates in effect on July 1, 1996, subject to the following:

(a) Beginning September 1, ~~((1998))~~ 1997, except as provided in (b) of this subsection, the employee contribution rate shall not exceed the employer plan II and III rates adopted under RCW 41.45.060 and 41.45.070 for the teachers' retirement system;

(b) In addition, the employee contribution rate for plan II shall be increased by fifty percent of the contribution rate increase caused by any plan II benefit increase passed after July 1, 1996.

(2) The required plan II and III contribution rates for employers shall be adopted in the manner described in RCW 41.45.060.

Passed the House February 28, 1997.
Passed the Senate April 8, 1997.
Approved by the Governor April 15, 1997.
Filed in Office of Secretary of State April 15, 1997.

CHAPTER 11

[House Bill 1241]

LEGISLATIVE ETHICS BOARD—REQUIREMENTS OF CITIZEN MEMBERS

AN ACT Relating to the citizen members of the legislative ethics board; and amending RCW 42.52.380.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 42.52.380 and 1994 c 154 s 208 are each amended to read as follows:

~~(1) No member of the executive ethics board ((and none of the five citizen members of the legislative ethics board)) may (((+))) (a) hold or campaign for partisan elective office other than the position of precinct committeeperson, or any full-time nonpartisan office; (((2))) (b) be an officer of any political party or political committee as defined in chapter 42.17 RCW other than the position of precinct committeeperson; (((3))) (c) permit his or her name to be used, or make contributions, in support of or in opposition to any state candidate or state ballot measure; or (((4))) (d) lobby or control, direct, or assist a lobbyist except that such member may appear before any committee of the legislature on matters pertaining to this chapter.~~

(2) No citizen member of the legislative ethics board may (a) hold or campaign for partisan elective office other than the position of precinct committeeperson, or any full-time nonpartisan office; (b) be an officer of any political party or political committee as defined in chapter 42.17 RCW, other than the position of precinct committeeperson; (c) permit his or her name to be used, or make contributions, in support of or in opposition to any legislative candidate, any legislative caucus campaign committee that supports or opposes legislative candidates, or any political action committee that supports or opposes legislative candidates; or (d) engage in lobbying in the legislative branch under circumstances not exempt, under RCW 42.17.160, from lobbyist registration and reporting.

(3) No citizen member of the legislative ethics board may hold or campaign for a seat in the state house of representatives or the state senate within two years of serving on the board if the citizen member opposes an incumbent who has been the respondent in a complaint before the board.

Passed the House February 21, 1997.
Passed the Senate April 7, 1997.
Approved by the Governor April 15, 1997.
Filed in Office of Secretary of State April 15, 1997.

CHAPTER 12

[Substitute House Bill 1251]

NAMING CONVENTIONS OF CORPORATIONS AND UNITS OF GOVERNMENT—
CLARIFICATIONS

AN ACT Relating to names of corporations and units of government; adding a new section to chapter 23B.14 RCW; adding a new section to chapter 24.03 RCW; adding a new section to chapter 24.06 RCW; adding a new section to chapter 24.12 RCW; adding a new section to chapter 24.20 RCW; adding a new section to chapter 24.24 RCW; adding a new section to chapter 24.28 RCW; and adding a new section to chapter 23.86 RCW.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. Sec. 1. A new section is added to chapter 23B.14 RCW to read as follows:

(1) Any county, city, town, district, or other political subdivision of the state, or the state of Washington or any department or agency of the state, may apply to the secretary of state for the administrative dissolution, or the revocation of a certificate of authority, of any corporation using a name that is not distinguishable from the name of the applicant for dissolution. The application must state the precise legal name of the governmental entity and its date of formation and the applicant shall mail a copy to the corporation's registered agent. If the name of the corporation is not distinguishable from the name of the applicant, then, except as provided in subsection (4) of this section, the secretary shall commence proceedings for administrative dissolution under RCW 23B.14.210 or revocation of the certificate of authority.

(2) A name may not be considered distinguishable by virtue of:

(a) A variation in any of the following designations, or in the order in which the designation appears with respect to other words in the name: "County"; "city"; "town"; "district"; or "department";

(b) The addition of any of the designations listed in RCW 23B.04.010(1)(a);

(c) The addition or deletion of an article or conjunction such as "the" or "and" from the same name;

(d) Punctuation, capitalization, or special characters or symbols in the same name; or

(e) Use of an abbreviation or the plural form of a word in the same name.

(3)(a) The following are not distinguishable for purposes of this section:

(i) "City of Anytown" and "City of Anytown, Inc."; and

(ii) "City of Anytown" and "Anytown City."

(b) The following are distinguishable for purposes of this section:

(i) "City of Anytown" and "Anytown, Inc."; and

(ii) "City of Anytown" and "The Anytown Company"; and

(iii) "City of Anytown" and "Anytown Cafe, Inc."

(4) If the corporation that is the subject of the application was incorporated or certified before the formation of the applicant as a governmental entity, then this section applies only if the applicant for dissolution provides a certified copy of a

final judgment of a court of competent jurisdiction determining that the applicant holds a superior property right to the name than does the corporation.

(5) The duties of the secretary of state under this section are ministerial.

NEW SECTION. Sec. 2. A new section is added to chapter 24.03 RCW to read as follows:

Section 1 of this act applies to this chapter.

NEW SECTION. Sec. 3. A new section is added to chapter 24.06 RCW to read as follows:

Section 1 of this act applies to this chapter.

NEW SECTION. Sec. 4. A new section is added to chapter 24.12 RCW to read as follows:

Section 1 of this act applies to this chapter.

NEW SECTION. Sec. 5. A new section is added to chapter 24.20 RCW to read as follows:

Section 1 of this act applies to this chapter.

NEW SECTION. Sec. 6. A new section is added to chapter 24.24 RCW to read as follows:

Section 1 of this act applies to this chapter.

NEW SECTION. Sec. 7. A new section is added to chapter 24.28 RCW to read as follows:

Section 1 of this act applies to this chapter.

NEW SECTION. Sec. 8. A new section is added to chapter 23.86 RCW to read as follows:

Section 1 of this act applies to this chapter.

Passed the House February 21, 1997.

Passed the Senate April 7, 1997.

Approved by the Governor April 15, 1997.

Filed in Office of Secretary of State April 15, 1997.

CHAPTER 13

[House Bill 1288]

SCHOOL EMPLOYEES—CHANGING THE NAME OF NONCERTIFICATED EMPLOYEES

AN ACT Relating to changing the name of the noncertificated employee category; amending RCW 28A.150.260, 28A.150.260, 28A.170.050, 28A.235.120, 28A.305.130, 28A.310.240, 28A.310.490, 28A.330.020, 28A.400.210, 28A.400.300, 28A.400.310, 28A.400.380, 28A.405.465, and 41.59.180; and providing a contingent effective date.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 28A.150.260 and 1995 c 77 s 2 are each amended to read as follows:

The basic education allocation for each annual average full time equivalent student shall be determined in accordance with the following procedures:

(1) The governor shall and the superintendent of public instruction may recommend to the legislature a formula based on a ratio of students to staff for the distribution of a basic education allocation for each annual average full time equivalent student enrolled in a common school. The distribution formula shall have the primary objective of equalizing educational opportunities and shall provide appropriate recognition of the following costs among the various districts within the state:

- (a) Certificated instructional staff and their related costs;
- (b) Certificated administrative staff and their related costs;
- (c) Classified staff and their related costs;
- (d) Nonsalary costs;

(e) Extraordinary costs of remote and necessary schools and small high schools, including costs of additional certificated and classified staff; and

(f) The attendance of students pursuant to RCW 28A.335.160 and 28A.225.250 who do not reside within the servicing school district.

(2)(a) This formula for distribution of basic education funds shall be reviewed biennially by the superintendent and governor. The recommended formula shall be subject to approval, amendment or rejection by the legislature. The formula shall be for allocation purposes only. While the legislature intends that the allocations for additional instructional staff be used to increase the ratio of such staff to students, nothing in this section shall require districts to reduce the number of administrative staff below existing levels.

(b) The formula adopted by the legislature shall reflect the following ratios at a minimum: (i) Forty-nine certificated instructional staff to one thousand annual average full time equivalent students enrolled in grades kindergarten through three; (ii) forty-six certificated instructional staff to one thousand annual average full time equivalent students in grades four through twelve; (iii) four certificated administrative staff to one thousand annual average full time equivalent students in grades kindergarten through twelve; and (iv) sixteen and sixty-seven one-hundredths classified personnel to one thousand annual average full time equivalent students enrolled in grades kindergarten through twelve.

(c) In the event the legislature rejects the distribution formula recommended by the governor, without adopting a new distribution formula, the distribution formula for the previous school year shall remain in effect: PROVIDED, That the distribution formula developed pursuant to this section shall be for state apportionment and equalization purposes only and shall not be construed as mandating specific operational functions of local school districts other than those program requirements identified in RCW 28A.150.220 and 28A.150.100. The enrollment of any district shall be the annual average number of full time equivalent students and part time students as provided in RCW 28A.150.350, enrolled on the first school day of each month and shall exclude full time equivalent students with disabilities recognized for the purposes of allocation of state funds for programs under RCW 28A.155.010 through 28A.155.100. The

definition of full time equivalent student shall be determined by rules of the superintendent of public instruction: PROVIDED, That the definition shall be included as part of the superintendent's biennial budget request: PROVIDED, FURTHER, That any revision of the present definition shall not take effect until approved by the house appropriations committee and the senate ways and means committee: PROVIDED, FURTHER, That the office of financial management shall make a monthly review of the superintendent's reported full time equivalent students in the common schools in conjunction with RCW 43.62.050.

(3)(a) Certificated instructional staff shall include those persons employed by a school district who are nonsupervisory employees within the meaning of RCW 41.59.020(8): PROVIDED, That in exceptional cases, people of unusual competence but without certification may teach students so long as a certificated person exercises general supervision: PROVIDED, FURTHER, That the hiring of such (~~noncertificated~~) classified people shall not occur during a labor dispute and such (~~noncertificated~~) classified people shall not be hired to replace certificated employees during a labor dispute.

(b) Certificated administrative staff shall include all those persons who are chief executive officers, chief administrative officers, confidential employees, supervisors, principals, or assistant principals within the meaning of RCW 41.59.020(4).

(4) Each annual average full time equivalent certificated classroom teacher's direct classroom contact hours shall average at least twenty-five hours per week. Direct classroom contact hours shall be exclusive of time required to be spent for preparation, conferences, or any other nonclassroom instruction duties. Up to two hundred minutes per week may be deducted from the twenty-five contact hour requirement, at the discretion of the school district board of directors, to accommodate authorized teacher/parent-guardian conferences, recess, passing time between classes, and informal instructional activity. Implementing rules to be adopted by the state board of education pursuant to RCW 28A.150.220(4) shall provide that compliance with the direct contact hour requirement shall be based upon teachers' normally assigned weekly instructional schedules, as assigned by the district administration. Additional record-keeping by classroom teachers as a means of accounting for contact hours shall not be required. Waivers from contact hours may be requested under RCW 28A.305.140.

Sec. 2. RCW 28A.150.260 and 1995 c 77 s 3 are each amended to read as follows:

The basic education allocation for each annual average full time equivalent student shall be determined in accordance with the following procedures:

(1) The governor shall and the superintendent of public instruction may recommend to the legislature a formula based on a ratio of students to staff for the distribution of a basic education allocation for each annual average full time equivalent student enrolled in a common school. The distribution formula shall have the primary objective of equalizing educational opportunities and shall

provide appropriate recognition of the following costs among the various districts within the state:

- (a) Certificated instructional staff and their related costs;
- (b) Certificated administrative staff and their related costs;
- (c) Classified staff and their related costs;
- (d) Nonsalary costs;
- (e) Extraordinary costs of remote and necessary schools and small high schools, including costs of additional certificated and classified staff; and
- (f) The attendance of students pursuant to RCW 28A.335.160 and 28A.225.250 who do not reside within the servicing school district.

(2)(a) This formula for distribution of basic education funds shall be reviewed biennially by the superintendent and governor. The recommended formula shall be subject to approval, amendment or rejection by the legislature. The formula shall be for allocation purposes only. While the legislature intends that the allocations for additional instructional staff be used to increase the ratio of such staff to students, nothing in this section shall require districts to reduce the number of administrative staff below existing levels.

(b) The formula adopted by the legislature shall reflect the following ratios at a minimum: (i) Forty-nine certificated instructional staff to one thousand annual average full time equivalent students enrolled in grades kindergarten through three; (ii) forty-six certificated instructional staff to one thousand annual average full time equivalent students in grades four through twelve; (iii) four certificated administrative staff to one thousand annual average full time equivalent students in grades kindergarten through twelve; and (iv) sixteen and sixty-seven one-hundredths classified personnel to one thousand annual average full time equivalent students enrolled in grades kindergarten through twelve.

(c) In the event the legislature rejects the distribution formula recommended by the governor, without adopting a new distribution formula, the distribution formula for the previous school year shall remain in effect: PROVIDED, That the distribution formula developed pursuant to this section shall be for state apportionment and equalization purposes only and shall not be construed as mandating specific operational functions of local school districts other than those program requirements identified in RCW 28A.150.220 and 28A.150.100. The enrollment of any district shall be the annual average number of full time equivalent students and part time students as provided in RCW 28A.150.350, enrolled on the first school day of each month and shall exclude full time equivalent students with disabilities recognized for the purposes of allocation of state funds for programs under RCW 28A.155.010 through 28A.155.100. The definition of full time equivalent student shall be determined by rules of the superintendent of public instruction: PROVIDED, That the definition shall be included as part of the superintendent's biennial budget request: PROVIDED, FURTHER, That any revision of the present definition shall not take effect until approved by the house appropriations committee and the senate ways and means

committee: PROVIDED, FURTHER, That the office of financial management shall make a monthly review of the superintendent's reported full time equivalent students in the common schools in conjunction with RCW 43.62.050.

(3)(a) Certificated instructional staff shall include those persons employed by a school district who are nonsupervisory employees within the meaning of RCW 41.59.020(8): PROVIDED, That in exceptional cases, people of unusual competence but without certification may teach students so long as a certificated person exercises general supervision: PROVIDED, FURTHER, That the hiring of such ((~~noncertificated~~)) classified people shall not occur during a labor dispute and such ((~~noncertificated~~)) classified people shall not be hired to replace certificated employees during a labor dispute.

(b) Certificated administrative staff shall include all those persons who are chief executive officers, chief administrative officers, confidential employees, supervisors, principals, or assistant principals within the meaning of RCW 41.59.020(4).

Sec. 3. RCW 28A.170.050 and 1987 c 518 s 209 are each amended to read as follows:

The superintendent of public instruction shall appoint a substance abuse advisory committee comprised of: Representatives of certificated and ((~~noncertificated~~)) classified staff; administrators; parents; students; school directors; the bureau of alcohol and substance abuse within the department of social and health services; the traffic safety commission; and county coordinators of alcohol and drug treatment. The committee shall advise the superintendent on matters of local program development, coordination, and evaluation.

Sec. 4. RCW 28A.235.120 and 1990 c 33 s 247 are each amended to read as follows:

The directors of any school district may establish, equip and operate lunchrooms in school buildings for pupils, certificated and ((~~noncertificated~~)) classified employees, and for school or employee functions: PROVIDED, That the expenditures for food supplies shall not exceed the estimated revenues from the sale of lunches, federal lunch aid, Indian education fund lunch aid, or other anticipated revenue, including donations, to be received for that purpose: PROVIDED FURTHER, That the directors of any school district may provide for the use of kitchens and lunchrooms or other facilities in school buildings to furnish meals to elderly persons at cost as provided in RCW 28A.623.020: PROVIDED, FURTHER, That the directors of any school district may provide for the use of kitchens and lunchrooms or other facilities in school buildings to furnish meals at cost as provided in RCW 28A.623.030 to children who are participating in educational or training or care programs or activities conducted by private, nonprofit organizations and entities and to students who are attending private elementary and secondary schools. Operation for the purposes of this section shall include the employment and discharge for sufficient cause of personnel necessary for preparation of food or supervision of students during lunch periods and fixing

their compensation, payable from the district general fund, or entering into agreement with a private agency for the establishment, management and/or operation of a food service program or any part thereof.

Sec. 5. RCW 28A.305.130 and 1996 c 83 s 1 are each amended to read as follows:

In addition to any other powers and duties as provided by law, the state board of education shall:

(1) Approve or disapprove the program of courses leading to teacher, school administrator, and school specialized personnel certification offered by all institutions of higher education within the state which may be accredited and whose graduates may become entitled to receive such certification.

(2) Conduct every five years a review of the program approval standards, including the minimum standards for teachers, administrators, and educational staff associates, to reflect research findings and assure continued improvement of preparation programs for teachers, administrators, and educational staff associates.

(3) Investigate the character of the work required to be performed as a condition of entrance to and graduation from any institution of higher education in this state relative to such certification as provided for in subsection (1) above, and prepare a list of accredited institutions of higher education of this and other states whose graduates may be awarded such certificates.

(4)(a) The state board of education shall adopt rules to allow a teacher certification candidate to fulfill, in part, teacher preparation program requirements through work experience as a (~~noncertificated~~) classified teacher's aide in a public school or private school meeting the requirements of RCW 28A.195.010. The rules shall include, but are not limited to, limitations based upon the recency of the teacher preparation candidate's teacher aide work experience, and limitations based on the amount of work experience that may apply toward teacher preparation program requirements under this chapter.

(b) The state board of education shall require that at the time of the individual's enrollment in a teacher preparation program, the supervising teacher and the building principal shall jointly provide to the teacher preparation program of the higher education institution at which the teacher candidate is enrolled, a written assessment of the performance of the teacher candidate. The assessment shall contain such information as determined by the state board of education and shall include: Evidence that at least fifty percent of the candidate's work as a (~~noncertificated~~) classified teacher's aide was involved in instructional activities with children under the supervision of a certificated teacher and that the candidate worked a minimum of six hundred thirty hours for one school year; the type of work performed by the candidate; and a recommendation of whether the candidate's work experience as a (~~noncertificated~~) classified teacher's aide should be substituted for teacher preparation program requirements. In compliance with such rules as may be established by the state board of education under this section, the teacher preparation programs of the higher education institution where the

candidate is enrolled shall make the final determination as to what teacher preparation program requirements may be fulfilled by teacher aide work experience.

(5) Supervise the issuance of such certificates as provided for in subsection (1) above and specify the types and kinds of certificates necessary for the several departments of the common schools by rule or regulation in accordance with RCW 28A.410.010.

(6) Accredit, subject to such accreditation standards and procedures as may be established by the state board of education, all schools that apply for accreditation, and approve, subject to the provisions of RCW 28A.195.010, private schools carrying out a program for any or all of the grades kindergarten through twelve: PROVIDED, That no private school may be approved that operates a kindergarten program only: PROVIDED FURTHER, That no public or private schools shall be placed upon the list of accredited schools so long as secret societies are knowingly allowed to exist among its students by school officials: PROVIDED FURTHER, That the state board may elect to require all or certain classifications of the public schools to conduct and participate in such pre-accreditation examination and evaluation processes as may now or hereafter be established by the board.

(7) Make rules and regulations governing the establishment in any existing nonhigh school district of any secondary program or any new grades in grades nine through twelve. Before any such program or any new grades are established the district must obtain prior approval of the state board.

(8) Prepare such outline of study for the common schools as the board shall deem necessary, and prescribe such rules for the general government of the common schools, as shall seek to secure regularity of attendance, prevent truancy, secure efficiency, and promote the true interest of the common schools.

(9) Continuously reevaluate courses and adopt and enforce regulations within the common schools so as to meet the educational needs of students and articulate with the institutions of higher education and unify the work of the public school system.

(10) Carry out board powers and duties relating to the organization and reorganization of school districts under RCW 28A.315.010 through 28A.315.680 and 28A.315.900.

(11) By rule or regulation promulgated upon the advice of the chief of the Washington state patrol, through the director of fire protection, provide for instruction of pupils in the public and private schools carrying out a K through 12 program, or any part thereof, so that in case of sudden emergency they shall be able to leave their particular school building in the shortest possible time or take such other steps as the particular emergency demands, and without confusion or panic; such rules and regulations shall be published and distributed to certificated personnel throughout the state whose duties shall include a familiarization therewith as well as the means of implementation thereof at their particular school.

(12) Hear and decide appeals as otherwise provided by law.

The state board of education is given the authority to promulgate information and rules dealing with the prevention of child abuse for purposes of curriculum use in the common schools.

Sec. 6. RCW 28A.310.240 and 1990 c 33 s 279 are each amended to read as follows:

(1) Every educational service district board shall adopt written policies granting leaves to persons under contracts of employment with the district in positions requiring either certification or (~~noncertification~~) classified qualifications, including but not limited to leaves for attendance at official or private institutes and conferences and sabbatical leaves for employees in positions requiring certification qualification, and leaves for illness, injury, bereavement, and emergencies for both certificated and (~~noncertificated~~) classified employees, with such compensation as the board prescribes. The board shall adopt written policies granting annual leave with compensation for illness, injury, and emergencies as follows:

(a) For persons under contract with the district for a full fiscal year, at least ten days;

(b) For persons under contract with the district as part-time employees, at least that portion of ten days as the total number of days contracted for bears to one hundred eighty days;

(c) For certificated and (~~noncertificated~~) classified employees, annual leave with compensation for illness, injury, and emergencies shall be granted and accrue at a rate not to exceed twelve days per fiscal year. Provisions of any contract in force on July 23, 1989, which conflict with requirements of this subsection shall continue in effect until contract expiration; after expiration, any new contract executed between the parties shall be consistent with this subsection;

(d) Compensation for leave for illness or injury actually taken shall be the same as the compensation the person would have received had the person not taken the leave provided in this section;

(e) Leave provided in this section not taken shall accumulate from fiscal year to fiscal year up to a maximum of one hundred eighty days for the purposes of RCW 28A.310.490, and for leave purposes up to a maximum of the number of contract days agreed to in a given contract, but not greater than one fiscal year. Such accumulated time may be taken at any time during the fiscal year, or up to twelve days per year may be used for the purpose of payments for unused sick leave; and

(f) Accumulated leave under this section shall be transferred to educational service districts, school districts, and the office of the superintendent of public instruction, and from any such district or office to another such district or office. An intervening customary summer break in employment or the performance of employment duties shall not preclude such a transfer.

(2) Leave accumulated by a person in a district prior to leaving the district may, under rules of the board, be granted to the person when the person returns to the employment of the district.

(3) Leave for illness or injury accumulated before July 23, 1989, under the administrative practices of an educational service district, and such leave transferred before July 23, 1989, to or from an educational service district, school district, or the office of the superintendent of public instruction under the administrative practices of the district or office, is declared valid and shall be added to such leave for illness or injury accumulated after July 23, 1989.

Sec. 7. RCW 28A.310.490 and 1991 c 92 s 1 are each amended to read as follows:

Every educational service district board of directors shall establish an attendance incentive program for all certificated and (~~noncertificated~~) classified employees in the following manner.

(1) In January of the year following any year in which a minimum of sixty days of leave for illness or injury is accrued, and each January thereafter, any eligible employee may exercise an option to receive remuneration for unused leave for illness or injury accumulated in the previous year at a rate equal to one day's monetary compensation of the employee for each four full days of accrued leave for illness or injury in excess of sixty days. Leave for illness or injury for which compensation has been received shall be deducted from accrued leave for illness or injury at the rate of four days for every one day's monetary compensation. No employee may receive compensation under this section for any portion of leave for illness or injury accumulated at a rate in excess of one day per month.

(2) At the time of separation from educational service district employment due to retirement or death an eligible employee or the employee's estate shall receive remuneration at a rate equal to one day's current monetary compensation of the employee for each four full days accrued leave for illness or injury.

(3) In lieu of remuneration for unused leave for illness or injury as provided for in subsections (1) and (2) of this section, an educational service district board of directors may, with equivalent funds, provide eligible employees a benefit plan that provides reimbursement for medical expenses. Any benefit plan adopted after July 28, 1991, shall require, as a condition of participation under the plan, that the employee sign an agreement with the district to hold the district harmless should the United States government find that the district or the employee is in debt to the United States as a result of the employee not paying income taxes due on the equivalent funds placed into the plan, or as a result of the district not withholding or deducting any tax, assessment, or other payment on such funds as required under federal law.

Moneys or benefits received under this section shall not be included for the purposes of computing a retirement allowance under any public retirement system in this state.

The superintendent of public instruction in its administration hereof, shall promulgate uniform rules and regulations to carry out the purposes of this section.

Should the legislature revoke any benefits granted under this section, no affected employee shall be entitled thereafter to receive such benefits as a matter of contractual right.

Sec. 8. RCW 28A.330.020 and 1990 c 33 s 342 are each amended to read as follows:

The election of the officers of the board of directors or to fill any vacancy as provided in RCW 28A.315.530, and the selection of the school district superintendent shall be by oral call of the roll of all the members, and no person shall be declared elected or selected unless he or she receives a majority vote of all the members of the board. Selection of other certificated and (~~noncertificated~~) classified personnel shall be made in such manner as the board shall determine.

Sec. 9. RCW 28A.400.210 and 1992 c 234 s 12 are each amended to read as follows:

Every school district board of directors may, in accordance with chapters 41.56 and 41.59 RCW, establish an attendance incentive program for all certificated and (~~noncertificated~~) classified employees in the following manner, including covering persons who were employed during the 1982-'83 school year:

(1) In January of the year following any year in which a minimum of sixty days of leave for illness or injury is accrued, and each January thereafter, any eligible employee may exercise an option to receive remuneration for unused leave for illness or injury accumulated in the previous year at a rate equal to one day's monetary compensation of the employee for each four full days of accrued leave for illness or injury in excess of sixty days. Leave for illness or injury for which compensation has been received shall be deducted from accrued leave for illness or injury at the rate of four days for every one day's monetary compensation. No employee may receive compensation under this section for any portion of leave for illness or injury accumulated at a rate in excess of one day per month.

(2) Except as provided in RCW 28A.400.212, at the time of separation from school district employment due to retirement or death an eligible employee or the employee's estate shall receive remuneration at a rate equal to one day's current monetary compensation of the employee for each four full days accrued leave for illness or injury.

(3) In lieu of remuneration for unused leave for illness or injury as provided in subsections (1) and (2) of this section, a school district board of directors may, with equivalent funds, provide eligible employees a benefit plan that provides reimbursement for medical expenses. Any benefit plan adopted after July 28, 1991, shall require, as a condition of participation under the plan, that the employee sign an agreement with the district to hold the district harmless should the United States government find that the district or the employee is in debt to the United States as a result of the employee not paying income taxes due on the equivalent

funds placed into the plan, or as a result of the district not withholding or deducting any tax, assessment, or other payment on such funds as required under federal law.

Moneys or benefits received under this section shall not be included for the purposes of computing a retirement allowance under any public retirement system in this state.

The superintendent of public instruction in its administration hereof, shall promulgate uniform rules and regulations to carry out the purposes of this section.

Should the legislature revoke any benefits granted under this section, no affected employee shall be entitled thereafter to receive such benefits as a matter of contractual right.

Sec. 10. RCW 28A.400.300 and 1990 c 33 s 382 are each amended to read as follows:

Every board of directors, unless otherwise specially provided by law, shall:

(1) Employ for not more than one year, and for sufficient cause discharge all certificated and (~~noncertificated~~) classified employees;

(2) Adopt written policies granting leaves to persons under contracts of employment with the school district(s) in positions requiring either certification or (~~noncertification~~) classified qualifications, including but not limited to leaves for attendance at official or private institutes and conferences and sabbatical leaves for employees in positions requiring certification qualification, and leaves for illness, injury, bereavement and, emergencies for both certificated and (~~noncertificated~~) classified employees, and with such compensation as the board of directors prescribe: PROVIDED, That the board of directors shall adopt written policies granting to such persons annual leave with compensation for illness, injury and emergencies as follows:

(a) For such persons under contract with the school district for a full year, at least ten days;

(b) For such persons under contract with the school district as part time employees, at least that portion of ten days as the total number of days contracted for bears to one hundred eighty days;

(c) For certificated and (~~noncertificated~~) classified employees, annual leave with compensation for illness, injury, and emergencies shall be granted and accrue at a rate not to exceed twelve days per year; provisions of any contract in force on June 12, 1980, which conflict with requirements of this subsection shall continue in effect until contract expiration; after expiration, any new contract executed between the parties shall be consistent with this subsection;

(d) Compensation for leave for illness or injury actually taken shall be the same as the compensation such person would have received had such person not taken the leave provided in this proviso;

(e) Leave provided in this proviso not taken shall accumulate from year to year up to a maximum of one hundred eighty days for the purposes of RCW 28A.400.210 and 28A.400.220, and for leave purposes up to a maximum of the number of contract days agreed to in a given contract, but not greater than one

year. Such accumulated time may be taken at any time during the school year or up to twelve days per year may be used for the purpose of payments for unused sick leave.

(f) Sick leave heretofore accumulated under section 1, chapter 195, Laws of 1959 (former RCW 28.58.430) and sick leave accumulated under administrative practice of school districts prior to the effective date of section 1, chapter 195, Laws of 1959 (former RCW 28.58.430) is hereby declared valid, and shall be added to leave for illness or injury accumulated under this proviso;

(g) Any leave for injury or illness accumulated up to a maximum of forty-five days shall be creditable as service rendered for the purpose of determining the time at which an employee is eligible to retire, if such leave is taken it may not be compensated under the provisions of RCW 28A.400.210 and 28A.310.490;

(h) Accumulated leave under this proviso shall be transferred to and from one district to another, the office of superintendent of public instruction and offices of educational service district superintendents and boards, to and from such districts and such offices;

(i) Leave accumulated by a person in a district prior to leaving said district may, under rules and regulations of the board, be granted to such person when the person returns to the employment of the district.

When any certificated or classified employee leaves one school district within the state and commences employment with another school district within the state, the employee shall retain the same seniority, leave benefits and other benefits that the employee had in his or her previous position: PROVIDED, That classified employees who transfer between districts after July 28, 1985, shall not retain any seniority rights other than longevity when leaving one school district and beginning employment with another. If the school district to which the person transfers has a different system for computing seniority, leave benefits, and other benefits, then the employee shall be granted the same seniority, leave benefits and other benefits as a person in that district who has similar occupational status and total years of service.

Sec. 11. RCW 28A.400.310 and 1969 ex.s. c 223 s 28A.02.050 are each amended to read as follows:

The provisions of chapter 49.60 RCW as now or hereafter amended shall be applicable to the employment of any certificated or (~~noncertificated~~) classified employee by any school district organized in this state.

Sec. 12. RCW 28A.400.380 and 1990 c 23 s 4 are each amended to read as follows:

Every school district board of directors and educational service district superintendent may, in accordance with RCW 41.04.650 through 41.04.665, establish and administer a leave sharing program for their certificated and (~~noncertificated~~) classified employees. For employees of school districts and educational service districts, the superintendent of public instruction shall adopt standards: (1) Establishing appropriate parameters for the program which are

consistent with the provisions of RCW 41.04.650 through 41.04.665; and (2) establishing procedures to ensure that the program does not significantly increase the cost of providing leave.

Sec. 13. RCW 28A.405.465 and 1991 c 116 s 16 are each amended to read as follows:

Any school district may employ (~~noncertificated~~) classified personnel to supervise school children in noninstructional activities, and in instructional activities while under the supervision of a certificated employee.

Sec. 14. RCW 41.59.180 and 1975 1st ex.s. c 288 s 23 are each amended to read as follows:

Notwithstanding the definition of "employee" in RCW 41.59.020, the commission may exclude from the coverage of this chapter any specialized job category of an employer where a majority of the persons employed in that job category consists of (~~noncertificated~~) classified employees. At such time as a majority of such employees are certificated, the job category may be considered an appropriate unit under this chapter.

NEW SECTION. Sec. 15. Section 2 of this act shall take effect September 1, 2000. However, section 2 of this act shall not take effect if, by September 1, 2000, a law is enacted stating that a school accountability and academic assessment system is not in place.

Passed the House February 21, 1997.
Passed the Senate April 7, 1997.
Approved by the Governor April 15, 1997.
Filed in Office of Secretary of State April 15, 1997.

CHAPTER 14

[House Bill 1452]

TITLE INSURERS—CLARIFICATION OF TERMS

AN ACT Relating to title insurers; and amending RCW 48.29.010.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 48.29.010 and 1947 c 79 s .29.01 are each amended to read as follows:

(1) This chapter relates only to title insurers.

(2) None of the provisions of this code shall be deemed to apply to persons engaged in the business of preparing and issuing abstracts of title to property and certifying to the correctness thereof so long as such persons do not guarantee or insure such titles.

(3) For purposes of this chapter, unless the context clearly requires otherwise:

(a) "Title policy" means any written instrument, contract, or guarantee by means of which title insurance liability is assumed.

(b) "Abstract of title" means a written representation, provided pursuant to contract, whether written or oral, intended to be relied upon by the person who has contracted for the receipt of such representation, listing all recorded conveyances, instruments, or documents which, under the laws of the state of Washington, impart constructive notice with respect to the chain of title to the real property described. An abstract of title is not a title policy as defined in this subsection.

(c) "Preliminary report," "commitment," or "binder" means reports furnished in connection with an application for title insurance and are offers to issue a title policy subject to the stated exceptions set forth in the reports, the conditions and stipulations of the report and the issued policy, and such other matters as may be incorporated by reference. The reports are not abstracts of title, nor are any of the rights, duties, or responsibilities applicable to the preparation and issuance of an abstract of title applicable to the issuance of any report. Any such report shall not be construed as, nor constitute, a representation as to the condition of the title to real property, but shall constitute a statement of terms and conditions upon which the issuer is willing to issue its title policy, if such offer is accepted.

Passed the House March 12, 1997.

Passed the Senate April 8, 1997.

Approved by the Governor April 15, 1997.

Filed in Office of Secretary of State April 15, 1997.

CHAPTER 15

[Substitute House Bill 1658]

SECURITIES ISSUANCE REGULATION—EXEMPTION OF ELECTRICAL AND NATURAL GAS COMPANIES

AN ACT Relating to the regulation of securities issuances by electrical and natural gas companies; and adding a new section to chapter 80.08 RCW.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. Sec. 1. A new section is added to chapter 80.08 RCW to read as follows:

The commission may from time to time by order or rule, and subject to such terms and conditions as may be prescribed in the order or rule, exempt any security or any class of securities for which a filing is required under this chapter or any electrical or natural gas company or class of electrical or natural gas company from the provisions of this chapter if it finds that the application of this chapter to such security, class of securities, electrical or natural gas company, or class of electrical or natural gas company is not required by the public interest.

Passed the House March 11, 1997.

Passed the Senate April 7, 1997.

Approved by the Governor April 15, 1997.

Filed in Office of Secretary of State April 15, 1997.

CHAPTER 16

[Engrossed House Bill 2093]

FAMILY LEAVE—CONSISTENCY WITH FEDERAL REQUIREMENTS

AN ACT Relating to achieving consistency between state and federal family leave requirements; and adding a new section to chapter 49.78 RCW.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. Sec. 1. A new section is added to chapter 49.78 RCW to read as follows:

(1) Except as provided in subsection (2) of this section, the department shall cease to administer and enforce this chapter beginning on the effective date of this section, and until the earlier of the following dates:

(a) The effective date of the repeal of the federal family and medical leave act of 1993 (Act Feb. 5, 1993, P.L. 103-3, 107 Stat. 6); or

(b) July 1st of the year following the year in which amendments to the federal family and medical leave act of 1993 (Act Feb. 5, 1993, P.L. 103-3, 107 Stat. 6) take effect that provide less family leave than is provided under RCW 49.78.030. In determining whether the federal law provides the same or more leave, the department shall only consider whether (i) the total period of leave allowed under the amended federal law is twelve or more workweeks in a twenty-four month period, and (ii) the types of leave authorized under the amended federal law are similar to the types authorized in this chapter.

(2) An employee's right under RCW 49.78.070(1)(b) to be returned to a workplace within twenty miles of the employee's workplace when leave commenced shall remain in effect. The family leave required by U.S.C. 29.2612(a)(1)(A) and (B) of the federal family and medical leave act of 1993 (Act Feb. 5, 1993, P.L. 103-3, 107 Stat. 6) shall be in addition to any leave for sickness or temporary disability because of pregnancy or childbirth. The department shall enforce this subsection under RCW 49.78.140 through 49.78.190, except that an initial notice of infraction shall state that the employer has thirty days in which to take corrective action. No infraction or penalty may be assessed if the employer complies with the requirements of the initial notice of infraction.

Passed the House March 15, 1997.

Passed the Senate April 8, 1997.

Approved by the Governor April 15, 1997.

Filed in Office of Secretary of State April 15, 1997.

CHAPTER 17

[Senate Bill 5085]

CRIMINAL CONSPIRACY—LIMITING DEFENSES

AN ACT Relating to criminal conspiracy; and amending RCW 9A.28.040.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 9A.28.040 and 1975 1st ex.s. c 260 s 9A.28.040 are each amended to read as follows:

(1) A person is guilty of criminal conspiracy when, with intent that conduct constituting a crime be performed, he or she agrees with one or more persons to engage in or cause the performance of such conduct, and any one of them takes a substantial step in pursuance of such agreement.

(2) It shall not be a defense to criminal conspiracy that the person or persons with whom the accused is alleged to have conspired:

- (a) Has not been prosecuted or convicted; or
- (b) Has been convicted of a different offense; or
- (c) Is not amenable to justice; or
- (d) Has been acquitted; or
- (e) Lacked the capacity to commit an offense; or
- (f) Is a law enforcement officer or other government agent who did not intend that a crime be committed.

(3) Criminal conspiracy is a:

- (a) Class A felony when an object of the conspiratorial agreement is murder in the first degree;
- (b) Class B felony when an object of the conspiratorial agreement is a class A felony other than murder in the first degree;
- (c) Class C felony when an object of the conspiratorial agreement is a class B felony;
- (d) Gross misdemeanor when an object of the conspiratorial agreement is a class C felony;
- (e) Misdemeanor when an object of the conspiratorial agreement is a gross misdemeanor or misdemeanor.

Passed the Senate March 6, 1997.

Passed the House April 8, 1997.

Approved by the Governor April 15, 1997.

Filed in Office of Secretary of State April 15, 1997.

CHAPTER 18

[Substitute Senate Bill 5100]

PROFESSIONAL SERVICE CORPORATIONS—TRANSFERS TO QUALIFIED TRUSTS

AN ACT Relating to professional service corporations; and amending RCW 18.100.030, 18.100.090, 18.100.095, 18.100.110, and 18.100.116.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 18.100.030 and 1983 c 51 s 2 are each amended to read as follows:

As used in this chapter the following words shall have the meaning indicated:

(1) The term "professional service" means any type of personal service to the public which requires as a condition precedent to the rendering of such service the obtaining of a license or other legal authorization and which prior to the passage of this chapter and by reason of law could not be performed by a corporation, including, but not by way of limitation, certified public accountants, chiropractors, dentists, osteopaths, physicians, ~~((podiatrists))~~ podiatric physicians and surgeons, chiropodists, architects, veterinarians and attorneys at law.

(2) The term "professional corporation" means a corporation which is organized under this chapter for the purpose of rendering professional service.

(3) The term "ineligible person" means any individual, corporation, partnership, fiduciary, trust, association, government agency, or other entity which for any reason is or becomes ineligible under this chapter to own shares issued by a professional corporation. The term includes a charitable remainder unitrust or charitable remainder annuity trust that is or becomes an ineligible person for failure to comply with subsection (5)(b) of this section.

(4) The term "eligible person" means an individual, corporation, partnership, fiduciary, qualified trust, association, government agency, or other entity, that is eligible under this chapter to own shares issued by a professional corporation.

(5) The term "qualified trust" means one of the following:

(a) A voting trust established under RCW 23B.07.300, if the beneficial owner of any shares on deposit and the trustee of the voting trust are qualified persons;

(b) A charitable remainder unitrust as defined in section 664(d)(1) of the internal revenue code or a charitable remainder annuity trust as defined in section 664(d)(2) or 664(d)(3) of the internal revenue code if the trust complies with each of the following conditions:

(i) Has one or more beneficiaries currently entitled to income, unitrust, or annuity payments, all of whom are eligible persons or spouses of eligible persons;

(ii) Has a trustee who is an eligible person and has exclusive authority over the share of the professional corporation while the shares are held in the trust, except that a cotrustee who is not an eligible person may be given authority over decisions relating to the sale of shares by the trust;

(iii) Has one or more designated charitable remaindermen, all of which must at all times be domiciled or maintain a local chapter in Washington state; and

(iv) When distributing any assets during the term of the trust to charitable organizations, the distributions are made only to charitable organizations described in section 170(c) of the internal revenue code that are domiciled or maintain a local chapter in Washington state.

Sec. 2. RCW 18.100.090 and 1983 c 51 s 4 are each amended to read as follows:

Except as otherwise provided in RCW 18.100.118, no professional corporation organized under the provisions of this chapter may issue any of its capital stock to anyone other than the trustee of a qualified trust or an individual who is duly licensed or otherwise legally authorized to render the same specific professional services within this state as those for which the corporation was incorporated.

Sec. 3. RCW 18.100.095 and 1983 c 51 s 12 are each amended to read as follows:

Except for qualified trusts, a proxy, voting trust, or other voting agreement with respect to shares of a professional corporation shall not be valid unless all holders thereof, all trustees and beneficiaries thereof, or all parties thereto, as the case may be, are eligible to be shareholders of the corporation.

Sec. 4. RCW 18.100.110 and 1983 c 51 s 5 are each amended to read as follows:

No shareholder of a corporation organized as a professional corporation may sell or transfer his or her shares in such corporation except to the trustee of a qualified trust or another individual who is eligible to be a shareholder of such corporation. Any transfer of shares in violation of this section shall be void. However, nothing in this section prohibits the transfer of shares of a professional corporation by operation of law or court decree.

Sec. 5. RCW 18.100.116 and 1991 c 72 s 4 are each amended to read as follows:

(1) If:

(a)(i) A shareholder of a professional corporation dies(~~(-or-)~~if);

(ii) A shareholder of a professional corporation becomes an ineligible person;

(iii) Shares of a professional corporation are transferred by operation of law or court decree to an ineligible person(~~(-and-)~~if); or

(iv) A charitable remainder unitrust or charitable remainder annuity trust that holds shares of a professional corporation becomes an ineligible person; and

(b) The shares held by the deceased shareholder or by such ineligible person are less than all of the outstanding shares of the corporation(~~(-or-)~~), then

((+)) the shares held by the deceased shareholder or by the ineligible person may be transferred to remaining shareholders of the corporation or may be redeemed by the corporation pursuant to terms stated in the articles of incorporation or by laws of the corporation, or in a private agreement. In the

absence of any such terms, such shares may be transferred to any individual eligible to be a shareholder of the corporation.

(2) If such a redemption or transfer of the shares held by a deceased shareholder or an ineligible person is not completed within twelve months after the death of the deceased shareholder or the transfer, as the case may be, such shares shall be deemed to be shares with respect to which the holder has elected to exercise the right of dissent described in chapter 23B.13 RCW and has made written demand on the corporation for payment of the fair value of such shares. The corporation shall forthwith cancel the shares on its books and the deceased shareholder or ineligible person shall have no further interest in the corporation other than the right to payment for the shares as is provided in RCW 23B.13.250. For purposes of the application of RCW 23B.13.250, the date of the corporate action and the date of the shareholder's written demand shall be deemed to be one day after the date on which the twelve-month period from the death of the deceased shareholder, or from the transfer, expires.

Passed the Senate February 14, 1997.

Passed the House April 8, 1997.

Approved by the Governor April 15, 1997.

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CHAPTER 19

[Substitute Senate Bill 5107]

CORPORATIONS—CONSENT

AN ACT Relating to consent provisions under the Washington business corporation act; and amending RCW 23B.02.020, 23B.07.040, and 23B.19.040.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 23B.02.020 and 1996 c 155 s 5 are each amended to read as follows:

(1) The articles of incorporation must set forth:

(a) A corporate name for the corporation that satisfies the requirements of RCW 23B.04.010;

(b) The number of shares the corporation is authorized to issue in accordance with RCW 23B.06.010 and 23B.06.020;

(c) The street address of the corporation's initial registered office and the name of its initial registered agent at that office in accordance with RCW 23B.05.010; and

(d) The name and address of each incorporator in accordance with RCW 23B.02.010.

(2) The articles of incorporation or bylaws must either specify the number of directors or specify the process by which the number of directors will be fixed, unless the articles of incorporation dispense with a board of directors pursuant to RCW 23B.08.010.

(3) Unless its articles of incorporation provide otherwise, a corporation is governed by the following provisions:

(a) The board of directors may adopt bylaws to be effective only in an emergency as provided by RCW 23B.02.070;

(b) A corporation has the purpose of engaging in any lawful business under RCW 23B.03.010;

(c) A corporation has perpetual existence and succession in its corporate name under RCW 23B.03.020;

(d) A corporation has the same powers as an individual to do all things necessary or convenient to carry out its business and affairs, including itemized powers under RCW 23B.03.020;

(e) All shares are of one class and one series, have unlimited voting rights, and are entitled to receive the net assets of the corporation upon dissolution under RCW 23B.06.010 and 23B.06.020;

(f) If more than one class of shares is authorized, all shares of a class must have preferences, limitations, and relative rights identical to those of other shares of the same class under RCW 23B.06.010;

(g) If the board of directors is authorized to designate the number of shares in a series, the board may, after the issuance of shares in that series, reduce the number of authorized shares of that series under RCW 23B.06.020;

(h) The board of directors must authorize any issuance of shares under RCW 23B.06.210;

(i) Shares may be issued pro rata and without consideration to shareholders under RCW 23B.06.230;

(j) Shares of one class or series may not be issued as a share dividend with respect to another class or series, unless there are no outstanding shares of the class or series to be issued, or a majority of votes entitled to be cast by such class or series approve as provided in RCW 23B.06.230;

(k) A corporation may issue rights, options, or warrants for the purchase of shares of the corporation under RCW 23B.06.240;

(l) A shareholder has, and may waive, a preemptive right to acquire the corporation's unissued shares as provided in RCW 23B.06.300;

(m) Shares of a corporation acquired by it may be reissued under RCW 23B.06.310;

(n) The board may authorize and the corporation may make distributions not prohibited by statute under RCW 23B.06.400;

(o) The preferential rights upon dissolution of certain shareholders will be considered a liability for purposes of determining the validity of a distribution under RCW 23B.06.400;

(p) Action may be taken by shareholders by unanimous written consent of all shareholders entitled to vote on the action, unless the approval of a lesser number of shareholders is permitted as provided in RCW 23B.07.040;

~~(q)~~ Unless this title requires otherwise, the corporation is required to give notice only to shareholders entitled to vote at a meeting and the notice for an annual meeting need not include the purpose for which the meeting is called under RCW 23B.07.050;

~~((e))~~ ~~(r)~~ A corporation that is a public company shall hold a special meeting of shareholders if the holders of at least ten percent of the votes entitled to be cast on any issue proposed to be considered at the meeting demand a meeting under RCW 23B.07.020;

~~((f))~~ ~~(s)~~ Subject to statutory exceptions, each outstanding share, regardless of class, is entitled to one vote on each matter voted on at a shareholders' meeting under RCW 23B.07.210;

~~((g))~~ ~~(t)~~ A majority of the votes entitled to be cast on a matter by a voting group constitutes a quorum, unless the title provides otherwise under RCW 23B.07.250 and 23B.07.270;

~~((h))~~ ~~(u)~~ Action on a matter, other than election of directors, by a voting group is approved if the votes cast within the voting group favoring the action exceed the votes cast opposing the action, unless this title requires a greater number of affirmative votes under RCW 23B.07.250;

~~((i))~~ ~~(v)~~ All shares of one or more classes or series that are entitled to vote will be counted together collectively on any matter at a meeting of shareholders under RCW 23B.07.260;

~~((j))~~ ~~(w)~~ Directors are elected by cumulative voting under RCW 23B.07.280;

~~((k))~~ ~~(x)~~ Directors are elected by a plurality of votes cast by shares entitled to vote under RCW 23B.07.280;

~~((l))~~ ~~(y)~~ A corporation must have a board of directors under RCW 23B.08.010;

~~((m))~~ ~~(z)~~ All corporate powers must be exercised by or under the authority of, and the business and affairs of the corporation managed under the direction of, its board of directors under RCW 23B.08.010;

~~((n))~~ ~~(aa)~~ The shareholders may remove one or more directors with or without cause under RCW 23B.08.080;

~~((o))~~ ~~(bb)~~ A vacancy on the board of directors may be filled by the shareholders or the board of directors under RCW 23B.08.100;

~~((p))~~ ~~(cc)~~ A corporation shall indemnify a director who was wholly successful in the defense of any proceeding to which the director was a party because the director is or was a director of the corporation against reasonable expenses incurred by the director in connection with the proceeding under RCW 23B.08.520;

~~((q))~~ ~~(dd)~~ A director of a corporation who is a party to a proceeding may apply for indemnification of reasonable expenses incurred by the director in connection with the proceeding to the court conducting the proceeding or to another court of competent jurisdiction under RCW 23B.08.540;

~~((dd))~~ (ee) An officer of the corporation who is not a director is entitled to mandatory indemnification under RCW 23B.08.520, and is entitled to apply for court-ordered indemnification under RCW 23B.08.540, in each case to the same extent as a director under RCW 23B.08.570;

~~((ee))~~ (ff) The corporation may indemnify and advance expenses to an officer, employee, or agent of the corporation who is not a director to the same extent as to a director under RCW 23B.08.570;

~~((ff))~~ (gg) A corporation may indemnify and advance expenses to an officer, employee, or agent who is not a director to the extent, consistent with law, that may be provided by its articles of incorporation, bylaws, general or specific action of its board of directors, or contract under RCW 23B.08.570;

~~((gg))~~ (hh) A corporation's board of directors may adopt certain amendments to the corporation's articles of incorporation without shareholder action under RCW 23B.10.020;

~~((hh))~~ (ii) Unless ~~((the))~~ this title or the board of directors requires a greater vote or a vote by voting groups, an amendment to the corporation's articles of incorporation must be approved by each voting group entitled to vote on the proposed amendment by two-thirds, or, in the case of a public company, a majority, of all the votes entitled to be cast by that voting group under RCW 23B.10.030;

~~((ii))~~ (jj) A corporation's board of directors may amend or repeal the corporation's bylaws unless this title reserves this power exclusively to the shareholders in whole or in part, or unless the shareholders in amending or repealing a bylaw provide expressly that the board of directors may not amend or repeal that bylaw under RCW 23B.10.200;

~~((jj))~~ (kk) Unless this title or the board of directors require a greater vote or a vote by voting groups, a plan of merger or share exchange must be approved by each voting group entitled to vote on the merger or share exchange by two-thirds of all the votes entitled to be cast by that voting group under RCW 23B.11.030;

~~((kk))~~ (ll) Approval by the shareholders of the sale, lease, exchange, or other disposition of all, or substantially all, the corporation's property in the usual and regular course of business is not required under RCW 23B.12.010;

~~((ll))~~ (mm) Approval by the shareholders of the mortgage, pledge, dedication to the repayment of indebtedness, or other encumbrance of any or all of the corporation's property, whether or not in the usual and regular course of business, is not required under RCW 23B.12.010;

~~((mm))~~ (nn) Unless the board of directors requires a greater vote or a vote by voting groups, a sale, lease, exchange, or other disposition of all or substantially all of the corporation's property, other than in the usual and regular course of business, must be approved by each voting group entitled to vote on such transaction by two-thirds of all votes entitled to be cast by that voting group under RCW 23B.12.020; and

~~((nm))~~ (oo) Unless the board of directors requires a greater vote or a vote by voting groups, a proposal to dissolve must be approved by each voting group entitled to vote on the dissolution by two-thirds of all votes entitled to be cast by that voting group under RCW 23B.14.020.

(4) Unless its articles of incorporation or its bylaws provide otherwise, a corporation is governed by the following provisions:

(a) The board of directors may authorize the issuance of some or all of the shares of any or all of the corporation's classes or series without certificates under RCW 23B.06.260;

(b) A corporation that is not a public company shall hold a special meeting of shareholders if the holders of at least ten percent of the votes entitled to be cast on any issue proposed to be considered at the meeting demand a meeting under RCW 23B.07.020;

(c) A director need not be a resident of this state or a shareholder of the corporation under RCW 23B.08.020;

(d) The board of directors may fix the compensation of directors under RCW 23B.08.110;

(e) Members of the board of directors may participate in a meeting of the board by any means of similar communication by which all directors participating can hear each other during the meeting under RCW 23B.08.200;

(f) Action permitted or required by this title to be taken at a board of directors' meeting may be taken without a meeting if action is taken by all members of the board under RCW 23B.08.210;

(g) Regular meetings of the board of directors may be held without notice of the date, time, place, or purpose of the meeting under RCW 23B.08.220;

(h) Special meetings of the board of directors must be preceded by at least two days' notice of the date, time, and place of the meeting, and the notice need not describe the purpose of the special meeting under RCW 23B.08.220;

(i) A quorum of a board of directors consists of a majority of the number of directors under RCW 23B.08.240;

(j) If a quorum is present when a vote is taken, the affirmative vote of a majority of directors present is the act of the board of directors under RCW 23B.08.240;

(k) A board of directors may create one or more committees and appoint members of the board of directors to serve on them under RCW 23B.08.250; and

(l) Unless approved by the shareholders, a corporation may indemnify, or make advances to, a director for reasonable expenses incurred in the defense of any proceeding to which the director was a party because of being a director only to the extent such action is consistent with RCW 23B.08.500 through 23B.08.580.

(5) The articles of incorporation may contain the following provisions:

(a) The names and addresses of the individuals who are to serve as initial directors;

(b) The par value of any authorized shares or classes of shares;

(c) Provisions not inconsistent with law related to the management of the business and the regulation of the affairs of the corporation;

(d) Any provision that under this title is required or permitted to be set forth in the bylaws;

(e) Provisions not inconsistent with law defining, limiting, and regulating the powers of the corporation, its board of directors, and shareholders;

(f) Provisions authorizing shareholder action to be taken by written consent of less than all of the shareholders entitled to vote on the action, in accordance with RCW 23B.07.040:

(g) If the articles of incorporation authorize dividing shares into classes, the election of all or a specified number of directors may be effected by the holders of one or more authorized classes of shares under RCW 23B.08.040;

~~((g))~~ (h) The terms of directors may be staggered under RCW 23B.08.060;

~~((h))~~ (i) Shares may be redeemable or convertible (i) at the option of the corporation, the shareholder, or another person, or upon the occurrence of a designated event; (ii) for cash, indebtedness, securities, or other property; or (iii) in a designated amount or in an amount determined in accordance with a designated formula or by reference to extrinsic data or events under RCW 23B.06.010; and

~~((i))~~ (j) A director's personal liability to the corporation or its shareholders for monetary damages for conduct as a director may be eliminated or limited under RCW 23B.08.320.

(6) The articles of incorporation or the bylaws may contain the following provisions:

(a) A restriction on the transfer or registration of transfer of the corporation's shares under RCW 23B.06.270;

(b) Shareholders may participate in a meeting of shareholders by any means of communication by which all persons participating in the meeting can hear each other under RCW 23B.07.080;

(c) A quorum of the board of directors may consist of as few as one-third of the number of directors under RCW 23B.08.240;

(d) If the corporation is registered as an investment company under the investment company act of 1940, a provision limiting the requirement to hold an annual meeting of shareholders as provided in RCW 23B.07.010(2); and

(e) If the corporation is registered as an investment company under the investment company act of 1940, a provision establishing terms of directors which terms may be longer than one year as provided in RCW 23B.05.050.

(7) The articles of incorporation need not set forth any of the corporate powers enumerated in this title.

Sec. 2. RCW 23B.07.040 and 1991 c 72 s 33 are each amended to read as follows:

(1)(a) Action required or permitted by this title to be taken at a shareholders' meeting may be taken without a meeting or a vote if either:

(i) The action is taken by all ((the)) shareholders entitled to vote on the action;
or

(ii) The action is taken by shareholders holding of record or otherwise entitled to vote in the aggregate not less than the minimum number of votes that would be necessary to authorize or take such action at a meeting at which all shares entitled to vote on the action were present and voted, and at the time the action is taken the corporation is not a public company and is authorized to take such action under this subsection (1)(a)(ii) by a general or limited authorization contained in its articles of incorporation.

(b) The taking of action by shareholders without a meeting or vote must be evidenced by one or more written consents describing the action taken, signed by ((all the)) shareholders holding of record or otherwise entitled to vote ((on the)) in the aggregate not less than the minimum number of votes necessary in order to take such action by written consent under (a)(i) or (ii) of this subsection, and delivered to the corporation for inclusion in the minutes or filing with the corporate records.

(2) If not otherwise fixed under RCW 23B.07.030 or 23B.07.070, the record date for determining shareholders entitled to take action without a meeting is the date on which the first shareholder ((signs the)) consent is signed under subsection (1) of this section. Every written consent shall bear the date of signature of each shareholder who signs the consent. A written consent is not effective to take the action referred to in the consent unless, within sixty days of the earliest dated consent delivered to the corporation, written consents signed by a sufficient number of shareholders to take action are delivered to the corporation.

(3) A shareholder may withdraw consent only by delivering a written notice of withdrawal to the corporation prior to the time when ((all)) consents sufficient to authorize taking the action have been delivered to the corporation.

(4) Unless the written shareholder consent specifies a later effective date, action taken under this section is effective when ((all)); (a) Consents sufficient to authorize taking the action have been delivered to the corporation((, unless the consent specifies a later effective date)); and (b) the period of advance notice required by the corporation's articles of incorporation, to be given to any nonconsenting shareholders has been satisfied.

(5) A consent signed under this section has the effect of a meeting vote and may be described as such in any document, except that, if the action requires the filing of a certificate under any other section of this title, the certificate so filed shall state, in lieu of any statement required by that section concerning any vote of shareholders, that written consent has been obtained in accordance with this section and that written notice to any nonconsenting shareholders has been given as provided in this section.

(6) ((If this title requires that)) Notice of ((proposed)) the taking of action by shareholders without a meeting by less than unanimous written consent of all shareholders entitled to vote on the action shall be given, before the date on which the action becomes effective, to those shareholders entitled to vote on the action

who have not consented in writing and, if this title would otherwise require that notice of a meeting of shareholders to consider the action be given to nonvoting shareholders ((and the action is to be taken by unanimous consent of the voting shareholders, the corporation must give its)), to all nonvoting shareholders ((written notice of the proposed action at least ten days before the action is taken)) of the corporation. The general or limited, authorization in the corporation's articles of incorporation authorizing shareholder action by less than unanimous written consent shall specify the amount and form of notice required to be given to nonconsenting shareholders before the effective date of the action. In the case of action of a type that would constitute a significant business transaction under RCW 23B.19.020(15), the notice shall be given no fewer than twenty days before the effective date of the action. The notice ((must)) shall be in writing and shall contain or be accompanied by the same material that, under this title, would have been required to be sent to nonconsenting or nonvoting shareholders in a notice of meeting at which the proposed action would have been submitted ((to such shareholders)) for shareholder action. If the action taken is of a type that would entitle shareholders to exercise dissenters' rights under RCW 23B.13.020(1), then the notice must comply with RCW 23B.13.220(2), RCW 23B.13.210 shall not apply, and all shareholders who have not signed the consent taking the action are entitled to receive the notice, demand payment under RCW 23B.13.230, and assert other dissenters' rights as prescribed in chapter 23B.13 RCW.

See. 3. RCW 23B.19.040 and 1996 c 155 s 3 are each amended to read as follows:

(1)(a) Notwithstanding anything to the contrary contained in this title, ((except under subsection (2) of this section and RCW 23B.19.030,)) a target corporation shall not ((engage in any significant business transaction)) for a period of five years following the acquiring person's share acquisition time engage in a significant business transaction unless it is exempted by RCW 23B.19.030 or unless the significant business transaction or the purchase of shares made by the acquiring person is approved prior to the acquiring person's share acquisition time by a majority of the members of the board of directors of the target corporation.

(b) If a good faith proposal for a significant business transaction is made in writing to the board of directors of the target corporation prior to the significant business transaction or prior to the share acquisition time, the board of directors shall respond in writing, within thirty days or such shorter period, if any, as may be required by the exchange act setting forth its reasons for its decision regarding the proposal. If a good faith proposal to purchase shares is made in writing to the board of directors of the target corporation, the board of directors, unless it responds affirmatively in writing within thirty days or a shorter period, if any, as may be required by the exchange act shall be deemed to have disapproved such share purchase.

(2) ((Notwithstanding anything to the contrary contained in this title, except under subsection (1) of this section and RCW 23B.19.030), Except for a significant

business transaction approved under subsection (1) of this section or exempted by RCW 23B.19.030, in addition to any other requirement, a target corporation shall not engage at any time in any significant business transaction described in RCW 23B.19.020(15) (a) or (e) with any acquiring person of such a corporation other than a significant business transaction that either meets all of the ((following)) conditions of (a), (b), and (c) of this subsection or meets the conditions of (d) of this subsection:

(a) The aggregate amount of the cash and the market value as of the consummation date of consideration other than cash to be received per share by holders of outstanding common shares of such a target corporation in a significant business transaction is at least equal to the higher of the following:

(i) The highest per share price paid by such an acquiring person at a time when the person was the beneficial owner, directly or indirectly, of five percent or more of the outstanding voting shares of a target corporation, for any shares of common shares of the same class or series acquired by it: (A) Within the five-year period immediately prior to the announcement date with respect to a significant business transaction; or (B) within the five-year period immediately prior to, or in, the transaction in which the acquiring person became an acquiring person, whichever is higher plus, in either case, interest compounded annually from the earliest date on which the highest per share acquisition price was paid through the consummation date at the rate for one-year United States treasury obligations from time to time in effect; less the aggregate amount of any cash dividends paid, and the market value of any dividends paid other than in cash, per share of common shares since the earliest date, up to the amount of the interest; and

(ii) The market value per share of common shares on the announcement date with respect to a significant business transaction or on the date of the acquiring person's share acquisition time, whichever is higher; plus interest compounded annually from such a date through the consummation date at the rate for one-year United States treasury obligations from time to time in effect; less the aggregate amount of any cash dividends paid, and the market value of any dividends paid other than in cash, per share of common shares since the date, up to the amount of the interest.

(b) The aggregate amount of the cash and the market value as of the consummation date of consideration other than cash to be received per share by holders of outstanding shares of any class or series of shares, other than common shares, of the target corporation is at least equal to the highest of the following, whether or not the acquiring person has previously acquired any shares of such a class or series of shares:

(i) The highest per share price paid by an acquiring person at a time when the person was the beneficial owner, directly or indirectly, of five percent or more of the outstanding voting shares of a resident domestic corporation, for any shares of the same class or series of shares acquired by it: (A) Within the five-year period immediately prior to the announcement date with respect to a significant business

transaction; or (B) within the five-year period immediately prior to, or in, the transaction in which the acquiring person became an acquiring person, whichever is higher; plus, in either case, interest compounded annually from the earliest date on which the highest per share acquisition price was paid through the consummation date at the rate for one-year United States treasury obligations from time to time in effect; less the aggregate amount of any cash dividends paid, and the market value of any dividends paid other than in cash, per share of the same class or series of shares since the earliest date, up to the amount of the interest;

(ii) The highest preferential amount per share to which the holders of shares of the same class or series of shares are entitled in the event of any voluntary liquidation, dissolution, or winding up of the target corporation, plus the aggregate amount of any dividends declared or due as to which the holders are entitled prior to payment of dividends on some other class or series of shares, unless the aggregate amount of the dividends is included in the preferential amount; and

(iii) The market value per share of the same class or series of shares on the announcement date with respect to a significant business transaction or on the date of the acquiring person's share acquisition time, whichever is higher; plus interest compounded annually from such a date through the consummation date at the rate for one-year United States treasury obligations from time to time in effect; less the aggregate amount of any cash dividends paid and the market value of any dividends paid other than in cash, per share of the same class or series of shares since the date, up to the amount of the interest.

(c) The consideration to be received by holders of a particular class or series of outstanding shares, including common shares, of the target corporation in a significant business ((combination)) transaction is in cash or in the same form as the acquiring person has used to acquire the largest number of shares of the same class or series of shares previously acquired by the person, and the consideration shall be distributed promptly.

(d) The significant business transaction is approved at an annual meeting of shareholders, or special meeting of shareholders called for such a purpose, no earlier than five years after the acquiring person's share acquisition time, by a majority of the votes entitled to be counted within each voting group entitled to vote separately on the transaction. The votes of all outstanding shares entitled to vote under this title or the articles of incorporation shall be entitled to be counted under this subsection except that the votes of shares as to which an acquiring person has beneficial ownership or voting control may not be counted to determine whether shareholders have approved a transaction for purposes of this subsection. The votes of shares as to which an acquiring person has beneficial ownership or voting control shall, however, be counted in determining whether a transaction is approved under other sections of this title and for purposes of determining a quorum.

(3) Subsection (2) of this section does not apply to a target corporation that on June 6, 1996, had a provision in its articles of incorporation, adopted under RCW

23B.17.020(3)(d), expressly electing not to be covered under RCW 23B.17.020, which is repealed by section 6, chapter 155, Laws of 1996.

(4) A significant business transaction that is made in violation of subsection (1) or (2) of this section and that is not exempt under RCW 23B.19.030 is void.

Passed the Senate March 10, 1997.

Passed the House April 8, 1997.

Approved by the Governor April 15, 1997.

Filed in Office of Secretary of State April 15, 1997.

CHAPTER 20

[Senate Bill 5108]

TRANSFER OF COMMUNITY PROPERTY INTERESTS IN INDIVIDUAL RETIREMENT ACCOUNTS AT DEATH

AN ACT Relating to the transfer of a community property interest in an individual retirement account at death; and amending RCW 6.15.020.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 6.15.020 and 1990 c 237 s 1 are each amended to read as follows:

(1) It is the policy of the state of Washington to ensure the well-being of its citizens by protecting retirement income to which they are or may become entitled. For that purpose generally and pursuant to the authority granted to the state of Washington under 11 U.S.C. Sec. 522(b)(2), the exemptions in this section relating to retirement benefits are provided.

(2) Unless otherwise provided by federal law, any money received by any citizen of the state of Washington as a pension from the government of the United States, whether the same be in the actual possession of such person or be deposited or loaned, shall be exempt from execution, attachment, garnishment, or seizure by or under any legal process whatever, and when a debtor dies, or absconds, and leaves his or her family any money exempted by this subsection, the same shall be exempt to the family as provided in this subsection. This subsection shall not apply to child support collection actions issued under chapter 26.18, 26.23, or 74.20A RCW, if otherwise permitted by federal law.

(3) The right of a person to a pension, annuity, or retirement allowance or disability allowance, or death benefits, or any optional benefit, or any other right accrued or accruing to any citizen of the state of Washington under any employee benefit plan, and any fund created by such a plan or arrangement, shall be exempt from execution, attachment, garnishment, or seizure by or under any legal process whatever. This subsection shall not apply to child support collection actions issued under chapter 26.18, 26.23, or 74.20A RCW if otherwise permitted by federal law. This subsection shall permit benefits under any such plan or arrangement to be payable to a spouse, former spouse, child, or other dependent of a participant in such plan to the extent expressly provided for in a qualified domestic relations order that meets the requirements for such orders under the plan, or, in the case of

benefits payable under a plan described in sections 403(b) or 408 of the internal revenue code of 1986, as amended, or section 409 of such code as in effect before January 1, 1984, to the extent provided in any order issued by a court of competent jurisdiction that provides for maintenance or support. This subsection shall not prohibit actions against an employee benefit plan, or fund for valid obligations incurred by the plan or fund for the benefit of the plan or fund.

(4) For the purposes of this section, the term "employee benefit plan" means any plan or arrangement that is described in RCW 49.64.020, including any Keogh plan, whether funded by a trust or by an annuity contract, and in sections 401(a) or 403(a) of the internal revenue code of 1986, as amended; or that is described in sections 403(b) or 408 of the internal revenue code of 1986, as amended, or section 409 of such code as in effect before January 1, 1984. The term "employee benefit plan" shall not include any employee benefit plan that is established or maintained for its employees by the government of the United States, by the state of Washington or any political subdivision thereof, or by any agency or instrumentality of any of the foregoing.

(5) An employee benefit plan shall be deemed to be a spendthrift trust, regardless of the source of funds, the relationship between the trustee or custodian of the plan and the beneficiary, or the ability of the debtor to withdraw or borrow or otherwise become entitled to benefits from the plan before retirement. This subsection shall not apply to child support collection actions issued under chapter 26.18, 26.23, or 74.20A RCW, if otherwise permitted by federal law. This subsection shall permit benefits under any such plan or arrangement to be payable to a spouse, former spouse, child, or other dependent of a participant in such plan to the extent expressly provided for in a qualified domestic relations order that meets the requirements for such orders under the plan, or, in the case of benefits payable under a plan described in sections 403(b) or 408 of the internal revenue code of 1986, as amended, or section 409 of such code as in effect before January 1, 1984, to the extent provided in any order issued by a court of competent jurisdiction that provides for maintenance or support.

(6) Unless contrary to applicable federal law, nothing contained in subsection (3), (4), or (5) of this section shall be construed as a termination or limitation of a spouse's community property interest in an individual retirement account held in the name of or on account of the other spouse, the account holder spouse. At the death of the nonaccount holder spouse, the nonaccount holder spouse may transfer or distribute the community property interest of the nonaccount holder spouse in the account holder spouse's individual retirement account to the nonaccount holder spouse's estate, testamentary trust, inter vivos trust, or other successor or successors pursuant to the last will of the nonaccount holder spouse or the law of intestate succession, and that distributee may, but shall not be required to, obtain an order of a court of competent jurisdiction, including any order entered under chapter 11.96 RCW, to confirm the distribution. For purposes of subsection (3) of this section, the distributee of the nonaccount holder spouse's community property

interest in an individual retirement account shall be considered a person entitled to the full protection of subsection (3) of this section. The nonaccount holder spouse's consent to a beneficiary designation by the account holder spouse with respect to an individual retirement account shall not, absent clear and convincing evidence to the contrary, be deemed a release, gift, relinquishment, termination, limitation, or transfer of the nonaccount holder spouse's community property interest in an individual retirement account. For purposes of this subsection, the term "nonaccount holder spouse" means the spouse of the person in whose name the individual retirement account is maintained. The term "individual retirement account" includes an individual retirement account and an individual retirement annuity both as described in section 408 of the internal revenue code of 1986, as amended, and an individual retirement bond as described in section 409 of the internal revenue code as in effect before January 1, 1984. As used in this subsection, an order of a court of competent jurisdiction includes an agreement, as that term is used under RCW 11.96.170.

Passed the Senate February 28, 1997.

Passed the House April 8, 1997.

Approved by the Governor April 15, 1997.

Filed in Office of Secretary of State April 15, 1997.

CHAPTER 21

[Senate Bill 5109]

LIMITED LIABILITY COMPANIES—AUTHORIZATION OF ONE-MEMBER COMPANIES

AN ACT Relating to the dissolution of limited liability companies caused by the loss of members; and amending RCW 25.15.270.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 25.15.270 and 1996 c 231 s 9 are each amended to read as follows:

A limited liability company is dissolved and its affairs shall be wound up upon the first to occur of the following:

(1) The dissolution date, if any, specified in a limited liability company agreement. If a date is not specified in the agreement or the agreement does not specify perpetual existence, then the dissolution date is thirty years after the date of formation. If a dissolution date is specified in the agreement, it is renewable by consent of all the members;

(2) The happening of events specified in a limited liability company agreement;

(3) The written consent of all members;

(4) An event of dissociation of a member, unless the business of the limited liability company is continued either by the consent of all the remaining members within ninety days following the occurrence of any such event or pursuant to a right to continue stated in the limited liability company agreement;

- (5) The entry of a decree of judicial dissolution under RCW 25.15.275; or
 (6) ~~((At any time there are fewer than two members unless, within ninety days following the event of dissociation upon which the number of members is reduced below two, one or more additional members are admitted so that there are at least two members; or~~
 —(7)) The expiration of two years after the effective date of dissolution under RCW 25.15.285 without the reinstatement of the limited liability company.

Passed the Senate February 21, 1997.

Passed the House April 8, 1997.

Approved by the Governor April 15, 1997.

Filed in Office of Secretary of State April 15, 1997.

CHAPTER 22

[Senate Bill 5113]

VEHICLE LICENSE FEES—REFUNDS FOR SOLD VEHICLES

AN ACT Relating to license fees; and amending RCW 46.68.010 and 88.02.055.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 46.68.010 and 1996 c 31 s 1 are each amended to read as follows:

Whenever any license fee, paid under the provisions of this title, has been erroneously paid, either wholly or in part, the payor is entitled to have refunded the amount so erroneously paid. A license fee is refundable in one or more of the following circumstances: (1) If the vehicle for which the renewal license was purchased was destroyed before the beginning date of the registration period for which the renewal fee was paid; (2) if the vehicle for which the renewal license was purchased was permanently removed from the state before the beginning date of the registration period for which the renewal fee was paid; (3) if the vehicle license was purchased after the owner has sold the vehicle; ~~((or))~~ (4) if the vehicle is currently licensed in Washington and is subsequently licensed in another jurisdiction, in which case any full months of Washington fees between the date of license application in the other jurisdiction and the expiration of the Washington license are refundable; or (5) if the vehicle for which the renewal license was purchased is sold before the beginning date of the registration period for which the renewal fee was paid, and the payor returns the new, unused, never affixed license renewal tabs to the department before the beginning of the registration period for which the registration was purchased. Upon ~~((such))~~ the refund being certified to the state treasurer by the director as correct and being claimed in the time required by law the state treasurer shall mail or deliver the amount of each refund to the person entitled thereto. No claim for refund shall be allowed for such erroneous payments unless filed with the director within three years after such claimed erroneous payment was made.

If due to error a person has been required to pay a vehicle license fee under this title and an excise tax under Title 82 RCW that amounts to an overpayment of ten dollars or more, that person shall be entitled to a refund of the entire amount of the overpayment, regardless of whether a refund of the overpayment has been requested. If due to error the department or its agent has failed to collect the full amount of the license fee and excise tax due and the underpayment is in the amount of ten dollars or more, the department shall charge and collect such additional amount as will constitute full payment of the tax and fees.

Any person who makes a false statement under which he or she obtains a refund to which he or she is not entitled under this section is guilty of a gross misdemeanor.

Sec. 2. RCW 88.02.055 and 1996 c 31 s 2 are each amended to read as follows:

Whenever any license fee paid under this chapter has been erroneously paid, in whole or in part, the person paying the fee, upon satisfactory proof to the director of licensing, is entitled to a refund of the amount erroneously paid. A license fee is refundable in one or more of the following circumstances: (1) If the vessel for which the renewal license was purchased was destroyed before the beginning date of the registration period for which the renewal fee was paid; (2) if the vessel for which the renewal license was purchased was permanently removed from the state before the beginning date of the registration period for which the renewal fee was paid; (3) if the vessel license was purchased after the owner has sold the vessel; ~~((or))~~ (4) if the vessel is currently licensed in Washington and is subsequently licensed in another jurisdiction, in which case any full months of Washington fees between the date of license application in the other jurisdiction and the expiration of the Washington license are refundable; or (5) if the vessel for which the renewal license was purchased is sold before the beginning date of the registration period for which the renewal fee was paid, and the payor returns the new, unused, never affixed license renewal decal to the department before the beginning of the registration period for which the registration was purchased. Upon the refund being certified as correct to the state treasurer by the director and being claimed in the time required by law, the state treasurer shall mail or deliver the amount of each refund to the person entitled to the refund. A claim for refund shall not be allowed for erroneous payments unless the claim is filed with the director within three years after such payment was made.

If due to error a person has been required to pay a license fee under this chapter and excise tax which amounts to an overpayment of ten dollars or more, ~~((such))~~ the person ~~((shall be))~~ is entitled to a refund of the entire amount of ~~((such))~~ the overpayment, regardless of whether a refund of the overpayment has been requested. If due to error the department or its agents has failed to collect the full amount of the license fee and excise tax due, which underpayment is in the amount of ten dollars or more, the department shall charge and collect ~~((such))~~ the additional amount as will constitute full payment of the tax and fees.

Any person who makes a false statement under which he or she obtains a refund to which he or she is not entitled under this section is guilty of a gross misdemeanor.

Passed the Senate March 11, 1997.

Passed the House April 8, 1997.

Approved by the Governor April 15, 1997.

Filed in Office of Secretary of State April 15, 1997.

CHAPTER 23

[Senate Bill 5132]

SCHOOL BUS ROUTE STOPS AS DRUG-FREE ZONES—DESIGNATION BY SCHOOL DISTRICTS

AN ACT Relating to school bus route stops as drug-free zones; and amending RCW 69.50.435.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 69.50.435 and 1996 c 14 s 2 are each amended to read as follows:

(a) Any person who violates RCW 69.50.401(a) by manufacturing, selling, delivering, or possessing with the intent to manufacture, sell, or deliver a controlled substance listed under that subsection or who violates RCW 69.50.410 by selling for profit any controlled substance or counterfeit substance classified in schedule 1, RCW 69.50.204, except leaves and flowering tops of marihuana to a person:

- (1) In a school;
- (2) On a school bus;
- (3) Within one thousand feet of a school bus route stop designated by the school district;
- (4) Within one thousand feet of the perimeter of the school grounds;
- (5) In a public park;
- (6) On a public transit vehicle;
- (7) In a public transit stop shelter;
- (8) At a civic center designated as a drug-free zone by the local governing authority; or
- (9) Within one thousand feet of the perimeter of a facility designated under (8) of this subsection, if the local governing authority specifically designates the one thousand foot perimeter

may be punished by a fine of up to twice the fine otherwise authorized by this chapter, but not including twice the fine authorized by RCW 69.50.406, or by imprisonment of up to twice the imprisonment otherwise authorized by this chapter, but not including twice the imprisonment authorized by RCW 69.50.406, or by both such fine and imprisonment. The provisions of this section shall not operate to more than double the fine or imprisonment otherwise authorized by this chapter for an offense.

(b) It is not a defense to a prosecution for a violation of this section that the person was unaware that the prohibited conduct took place while in a school or school bus or within one thousand feet of the school or school bus route stop, in a public park, on a public transit vehicle, in a public transit stop shelter, at a civic center designated as a drug-free zone by the local governing authority, or within one thousand feet of the perimeter of a facility designated under subsection (a)(8) of this section, if the local governing authority specifically designates the one thousand foot perimeter.

(c) It is not a defense to a prosecution for a violation of this section or any other prosecution under this chapter that persons under the age of eighteen were not present in the school, the school bus, the public park, or the public transit vehicle, or at the school bus route stop, the public transit vehicle stop shelter, at a civic center designated as a drug-free zone by the local governing authority, or within one thousand feet of the perimeter of a facility designated under subsection (a)(8) of this section, if the local governing authority specifically designates the one thousand foot perimeter at the time of the offense or that school was not in session.

(d) It is an affirmative defense to a prosecution for a violation of this section that the prohibited conduct took place entirely within a private residence, that no person under eighteen years of age or younger was present in such private residence at any time during the commission of the offense, and that the prohibited conduct did not involve delivering, manufacturing, selling, or possessing with the intent to manufacture, sell, or deliver any controlled substance in RCW 69.50.401(a) for profit. The affirmative defense established in this section shall be proved by the defendant by a preponderance of the evidence. This section shall not be construed to establish an affirmative defense with respect to a prosecution for an offense defined in any other section of this chapter.

(e) In a prosecution under this section, a map produced or reproduced by any municipal, school district, county, or transit authority engineer for the purpose of depicting the location and boundaries of the area on or within one thousand feet of any property used for a school, school bus route stop, public park, public transit vehicle stop shelter, or a civic center designated as a drug-free zone by a local governing authority, or a true copy of such a map, shall under proper authentication, be admissible and shall constitute prima facie evidence of the location and boundaries of those areas if the governing body of the municipality, school district, county, or transit authority has adopted a resolution or ordinance approving the map as the official location and record of the location and boundaries of the area on or within one thousand feet of the school, school bus route stop, public park, public transit vehicle stop shelter, or civic center designated as a drug-free zone by a local governing authority. Any map approved under this section or a true copy of the map shall be filed with the clerk of the municipality or county, and shall be maintained as an official record of the municipality or county. This section shall not be construed as precluding the prosecution from

introducing or relying upon any other evidence or testimony to establish any element of the offense. This section shall not be construed as precluding the use or admissibility of any map or diagram other than the one which has been approved by the governing body of a municipality, school district, county, or transit authority if the map or diagram is otherwise admissible under court rule.

(f) As used in this section the following terms have the meanings indicated unless the context clearly requires otherwise:

(1) "School" has the meaning under RCW 28A.150.010 or 28A.150.020. The term "school" also includes a private school approved under RCW 28A.195.010;

(2) "School bus" means a school bus as defined by the superintendent of public instruction by rule which is owned and operated by any school district and all school buses which are privately owned and operated under contract or otherwise with any school district in the state for the transportation of students. The term does not include buses operated by common carriers in the urban transportation of students such as transportation of students through a municipal transportation system;

(3) "School bus route stop" means a school bus stop as designated (~~on maps submitted~~) by a school district (~~to the office of the superintendent of public instruction~~);

(4) "Public park" means land, including any facilities or improvements on the land, that is operated as a park by the state or a local government;

(5) "Public transit vehicle" means any motor vehicle, street car, train, trolley vehicle, or any other device, vessel, or vehicle which is owned or operated by a transit authority and which is used for the purpose of carrying passengers on a regular schedule;

(6) "Transit authority" means a city, county, or state transportation system, transportation authority, public transportation benefit area, public transit authority, or metropolitan municipal corporation within the state that operates public transit vehicles;

(7) "Stop shelter" means a passenger shelter designated by a transit authority;

(8) "Civic center" means a publicly owned or publicly operated place or facility used for recreational, educational, or cultural activities.

Passed the Senate March 6, 1997.

Passed the House April 8, 1997.

Approved by the Governor April 15, 1997.

Filed in Office of Secretary of State April 15, 1997.

CHAPTER 24

[Substitute Senate Bill 5142]

COLLECTION OF JUDGMENTS BY COURT AND COUNTY CLERKS

AN ACT Relating to the collection of judgments; and reenacting and amending RCW 36.18.190.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 36.18.190 and 1995 c 291 s 8 and 1995 c 262 s 1 are each reenacted and amended to read as follows:

Superior court clerks may contract with collection agencies under chapter 19.16 RCW or may use county collection services for the collection of unpaid court-ordered legal financial obligations as enumerated in RCW 9.94A.030 that are ordered pursuant to a felony or misdemeanor conviction and of unpaid financial obligations imposed under Title 13 RCW. The costs for the agencies or county services shall be paid by the debtor. The superior court may, at sentencing or at any time within ten years, assess as court costs the moneys paid for remuneration for services or charges paid to collection agencies or for collection services. By agreement, clerks may authorize collection agencies to retain all or any portion of the interest collected on these accounts. Collection may not be initiated with respect to a criminal offender who is under the supervision of the department of corrections without the prior agreement of the department. Superior court clerks are encouraged to initiate collection action with respect to a criminal offender who is under the supervision of the department of corrections, with the department's approval.

Any contract with a collection agency shall be awarded only after competitive bidding. Factors that a court clerk shall consider in awarding a collection contract include but are not limited to: (1) A collection agency's history and reputation in the community; and (2) the agency's access to a local data base that may increase the efficiency of its collections. Contracts may specify the scope of work, remuneration for services, and other charges deemed appropriate.

The servicing of an unpaid court obligation does not constitute assignment of a debt, and no contract with a collection agency may remove the court's control over unpaid obligations owed to the court.

The county clerk may collect civil judgments where the county is the creditor.

Passed the Senate March 10, 1997.

Passed the House April 8, 1997.

Approved by the Governor April 15, 1997.

Filed in Office of Secretary of State April 15, 1997.

CHAPTER 25

[Substitute Senate Bill 5183]

JURISDICTION OVER MUNICIPAL COURT DEFENDANTS INCARCERATED OUTSIDE OF CITY LIMITS

AN ACT Relating to a municipal court defendant incarcerated at a jail facility in the county but outside the city limits; amending RCW 35.20.100; and declaring an emergency.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 35.20.100 and 1984 c 258 s 71 are each amended to read as follows:

There shall be three departments of the municipal court, which shall be designated as Department Nos. 1, 2 and 3(~~(-PROVIDED, That))~~. However, when the administration of justice and the accomplishment of the work of the court make additional departments necessary, the legislative body of the city may create additional departments as they are needed. The departments shall be established in such places as may be provided by the legislative body of the city, and each department shall be presided over by a municipal judge. However, notwithstanding the priority of action rule, for a defendant incarcerated at a jail facility outside the city limits but within the county in which the city is located, the city may, pursuant to an interlocal agreement under chapter 39.34 RCW, contract with the county to transfer jurisdiction and venue over the defendant to a district court and to provide all judicial services at the district court as would be provided by a department of the municipal court. The judges shall select, by majority vote, one of their number to act as presiding judge of the municipal court for a term of one year, and he or she shall be responsible for administration of the court and assignment of calendars to all departments. A change of venue from one department of the municipal court to another department shall be allowed in accordance with the provisions of RCW 3.66.090 in all civil and criminal proceedings. The city shall assume the costs of the elections of the municipal judges in accordance with the provisions of RCW 29.13.045.

NEW SECTION. Sec. 2. This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately.

Passed the Senate March 7, 1997.

Passed the House April 8, 1997.

Approved by the Governor April 15, 1997.

Filed in Office of Secretary of State April 15, 1997.

CHAPTER 26

[Substitute Senate Bill 5254]

LIMITING LIABILITY OF LANDOWNERS FOR INJURIES TO RECREATIONAL USERS

AN ACT Relating to the limitation of liability of owners or others in possession of land and water areas for injuries to recreational users; and amending RCW 4.24.210.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 4.24.210 and 1992 c 52 s 1 are each amended to read as follows:

(1) Except as otherwise provided in subsection (3) of this section, any public or private landowners or others in lawful possession and control of any lands whether designated resource, rural, or urban, or water areas or channels and lands adjacent to such areas or channels, who allow members of the public to use them for the purposes of outdoor recreation, which term includes, but is not limited to, the cutting, gathering, and removing of firewood by private persons for their personal use without purchasing the firewood from the landowner, hunting,

fishing, camping, picnicking, swimming, hiking, bicycling, skateboarding or other nonmotorized wheel-based activities, hanggliding, paragliding, the riding of horses or other animals, clam digging, pleasure driving of off-road vehicles, snowmobiles, and other vehicles, boating, nature study, winter or water sports, viewing or enjoying historical, archaeological, scenic, or scientific sites, without charging a fee of any kind therefor, shall not be liable for unintentional injuries to such users.

(2) Except as otherwise provided in subsection (3) of this section, any public or private landowner or others in lawful possession and control of any lands whether rural or urban, or water areas or channels and lands adjacent to such areas or channels, who offer or allow such land to be used for purposes of a fish or wildlife cooperative project, or allow access to such land for cleanup of litter or other solid waste, shall not be liable for unintentional injuries to any volunteer group or to any other users.

(3) Any public or private landowner, or others in lawful possession and control of the land, may charge an administrative fee of up to twenty-five dollars for the cutting, gathering, and removing of firewood from the land. Nothing in this section shall prevent the liability of such a landowner or others in lawful possession and control for injuries sustained to users by reason of a known dangerous artificial latent condition for which warning signs have not been conspicuously posted. Nothing in RCW 4.24.200 and 4.24.210 limits or expands in any way the doctrine of attractive nuisance. Usage by members of the public, volunteer groups, or other users is permissive and does not support any claim of adverse possession.

(4) For purposes of this section, a license or permit issued for state-wide use under authority of chapter 43.51 RCW, Title 75, or Title 77 RCW is not a fee.

Passed the Senate March 12, 1997.

Passed the House April 8, 1997.

Approved by the Governor April 15, 1997.

Filed in Office of Secretary of State April 15, 1997.

CHAPTER 27

[Substitute Senate Bill 5308]
ELECTRONIC SIGNATURES

AN ACT Relating to electronic signatures; amending RCW 19.34.030, 19.34.040, 19.34.100, 19.34.110, 19.34.120, 19.34.200, 19.34.210, 19.34.240, 19.34.250, 19.34.260, 19.34.280, 19.34.300, 19.34.310, 19.34.320, 19.34.340, 19.34.350, 19.34.400, 19.34.500, 19.34.901, 19.34.020, 19.34.220, and 19.34.410; adding new sections to chapter 19.34 RCW; adding a new section to chapter 43.105 RCW; prescribing penalties; and providing an effective date.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 19.34.030 and 1996 c 250 s 104 are each amended to read as follows:

(1) ~~((If six months elapse during which time no certification authority is licensed in this state, then the secretary shall be a certification authority, and may~~

~~issue, suspend, and revoke certificates in the manner prescribed for licensed certification authorities. Except for licensing requirements, this chapter applies to the secretary with respect to certificates he or she issues. The secretary must discontinue acting as a certification authority if another certification authority is licensed, in a manner allowing reasonable transition to private enterprise.~~

~~—(2))~~ The secretary must maintain a publicly accessible data base containing a certification authority disclosure record for each licensed certification authority, and a list of all judgments filed with the secretary, within the previous five years, under RCW 19.34.29(f). The secretary must publish the contents of the data base in at least one recognized repository.

~~((3))~~ (2) The secretary ~~(must)~~ may adopt rules consistent with this chapter and in furtherance of its purposes:

(a) To govern licensed certification authorities and recognized repositories, their practice, and the termination of a licensed certification authority's or recognized repository's practice;

(b) To determine an amount reasonably appropriate for a suitable guaranty, in light of the burden a suitable guaranty places upon licensed certification authorities and the assurance of quality and financial responsibility it provides to persons who rely on certificates issued by licensed certification authorities;

(c) To specify reasonable requirements for the form of certificates issued by licensed certification authorities, in accordance with generally accepted standards for digital signature certificates;

(d) To specify reasonable requirements for recordkeeping by licensed certification authorities;

(e) To specify reasonable requirements for the content, form, and sources of information in certification authority disclosure records, the updating and timeliness of the information, and other practices and policies relating to certification authority disclosure records;

(f) To specify the form of certification practice statements; ~~((and))~~

(g) To specify the procedure and manner in which a certificate may be suspended or revoked, as consistent with this chapter; and

(h) Otherwise to give effect to and implement this chapter.

Sec. 2. RCW 19.34.040 and 1996 c 250 s 105 are each amended to read as follows:

The secretary may adopt rules establishing reasonable fees for all services rendered by the secretary under this chapter, in amounts that are reasonably calculated to be sufficient to compensate for the costs of all services under this chapter, but that are not estimated to exceed those costs in the aggregate. All fees recovered by the secretary must be deposited in the state general fund.

Sec. 3. RCW 19.34.100 and 1996 c 250 s 201 are each amended to read as follows:

(1) To obtain or retain a license, a certification authority must:

(a) Be the subscriber of a certificate published in a recognized repository;

(b) Employ as operative personnel only persons who have not been convicted within the past fifteen years of a felony or have ever been convicted of a crime involving fraud, false statement, or deception;

(c) Employ as operative personnel only persons who have demonstrated knowledge and proficiency in following the requirements of this chapter;

(d) File with the secretary a suitable guaranty, unless the certification authority is a ~~((department, office, or official of a state,))~~ city~~((;))~~ or county ~~((governmental entity, provided that:~~

~~—(i) Each of the public entities in (d) of this subsection act through designated officials authorized by rule or ordinance to perform certification authority functions; or~~

~~—(ii) This state or one of the public entities in (d) of this subsection is the subscriber of all certificates issued by the certification authority)) that is self-insured or the department of information services;~~

(e) ~~((Have the right to))~~ Use a trustworthy system, including a secure means for limiting access to its private key;

(f) Present proof to the secretary of having working capital reasonably sufficient, according to rules adopted by the secretary, to enable the applicant to conduct business as a certification authority;

(g) Maintain an office in this state or have established a registered agent for service of process in this state; and

(h) Comply with all further licensing requirements established by rule by the secretary.

(2) The secretary must issue a license to a certification authority that:

(a) Is qualified under subsection (1) of this section;

(b) Applies in writing to the secretary for a license; and

(c) Pays a filing fee adopted by rule by the secretary.

(3) The secretary may by rule classify licenses according to specified limitations, such as a maximum number of outstanding certificates, cumulative maximum of recommended reliance limits in certificates issued by the certification authority, or issuance only within a single firm or organization, and the secretary may issue licenses restricted according to the limits of each classification. ~~((A certification authority acts as an unlicensed certification authority in issuing a certificate exceeding the restrictions of the certification authority's license.))~~ The liability limits of RCW 19.34.280 do not apply to a certificate issued by a certification authority that exceeds the restrictions of the certification authority's license.

(4) The secretary may revoke or suspend a certification authority's license, in accordance with the administrative procedure act, chapter 34.05 RCW, for failure to comply with this chapter or for failure to remain qualified under subsection (1) of this section. The secretary may order the summary suspension of a license pending proceedings for revocation or other action, which must be promptly

instituted and determined, if the secretary includes within a written order a finding that the certification authority has either:

(a) Utilized its license in the commission of a violation of a state or federal criminal statute or of chapter 19.86 RCW; or

(b) Engaged in conduct giving rise to a serious risk of loss to public or private parties if the license is not immediately suspended.

(5) The secretary may recognize by rule the licensing or authorization of certification authorities by other governmental entities, provided that those licensing or authorization requirements are substantially similar to those of this state. If licensing by another government is so recognized:

(a) RCW 19.34.300 through 19.34.350 apply to certificates issued by the certification authorities licensed or authorized by that government in the same manner as it applies to licensed certification authorities of this state; and

(b) The liability limits of RCW 19.34.280 apply to the certification authorities licensed or authorized by that government in the same manner as they apply to licensed certification authorities of this state.

(6) Unless the parties provide otherwise by contract between themselves, the licensing requirements in this section do not affect the effectiveness, enforceability, or validity of any digital signature, except that RCW 19.34.300 through 19.34.350 do not apply ~~((in relation)) to ((a digital signature that cannot be verified by))~~ a certificate, and associated digital signature, issued by an unlicensed certification authority.

(7) A certification authority that has not obtained a license is not subject to the provisions of this chapter, except as specifically provided.

NEW SECTION. Sec. 4. A new section is added to chapter 19.34 RCW, to be codified to follow RCW 19.34.100 immediately, to read as follows:

Licenses issued under this chapter expire one year after issuance, except that the secretary may provide by rule for a longer duration. The secretary shall provide, by rule, for a system of license renewal, which may include requirements for continuing education.

Sec. 5. RCW 19.34.110 and 1996 c 250 s 202 are each amended to read as follows:

~~(1) ((A certified public accountant having expertise in computer security or an accredited computer security professional must audit the operations of each licensed certification authority at least once each year to evaluate compliance with this chapter. The secretary may by rule specify the qualifications of auditors.))~~ A licensed certification authority shall obtain a compliance audit, as may be more fully defined by rule of the secretary, at least once every year. The auditor shall issue an opinion evaluating the degree to which the certification authority conforms to the requirements of this chapter and the administrative rules adopted by the secretary. If the certification authority is also a recognized repository, the audit must include the repository.

(2) ~~((Based on information gathered in the audit, the auditor must categorize the licensed certification authority's compliance as one of the following:~~

~~— (a) Full compliance. The certification authority appears to conform to all applicable statutory and regulatory requirements.~~

~~— (b) Substantial compliance. The certification authority appears generally to conform to applicable statutory and regulatory requirements. However, one or more instances of noncompliance or of inability to demonstrate compliance were found in an audited sample, but were likely to be inconsequential.~~

~~— (c) Partial compliance. The certification authority appears to comply with some statutory and regulatory requirements, but was found not to have complied or not to be able to demonstrate compliance with one or more important safeguards.~~

~~— (d) Noncompliance. The certification authority complies with few or none of the statutory and regulatory requirements, fails to keep adequate records to demonstrate compliance with more than a few requirements, or refused to submit to an audit.)~~

The certification authority shall file a copy of the audit report with the secretary. The secretary may provide by rule for filing of the report in an electronic format. The secretary ((must)) shall publish the report in the certification authority disclosure record it maintains for the certification authority ((the date of the audit and the resulting categorization of the certification authority.

~~(3) The secretary may exempt a licensed certification authority from the requirements of subsection (1) of this section, if:~~

~~— (a) The certification authority to be exempted requests exemption in writing;~~

~~— (b) The most recent performance audit, if any, of the certification authority resulted in a finding of full or substantial compliance; and~~

~~— (c) The certification authority declares under oath, affirmation, or penalty of perjury that one or more of the following is true with respect to the certification authority:~~

~~— (i) The certification authority has issued fewer than six certificates during the past year and the recommended reliance limits of all of the certificates do not exceed ten thousand dollars;~~

~~— (ii) The aggregate lifetime of all certificates issued by the certification authority during the past year is less than thirty days and the recommended reliance limits of all of the certificates do not exceed ten thousand dollars; or~~

~~— (iii) The recommended reliance limits of all certificates outstanding and issued by the certification authority total less than one thousand dollars.~~

~~(4) If the certification authority's declaration under subsection (3) of this section falsely states a material fact, the certification authority has failed to comply with the performance audit requirements of this section.~~

~~(5) If a licensed certification authority is exempt under subsection (3) of this section, the secretary must publish in the certification authority disclosure record it maintains for the certification authority that the certification authority is exempt from the performance audit requirement)).~~

NEW SECTION. Sec. 6. A new section is added to chapter 19.34 RCW, to be codified to follow RCW 19.34.110 immediately, to read as follows:

(1)(a) An auditor signing a report of opinion as to a compliance audit required by RCW 19.34.110 must:

(i) Be a certified public accountant, licensed under chapter 18.04 RCW or equivalent licensing statute of another jurisdiction; or

(ii) Meet such other qualifications as the secretary may establish by rule.

(b) Auditors must either possess such computer security qualifications as are necessary to conduct the audit or employ, contract, or associate with firms or individuals who do. The secretary may adopt rules establishing qualifications as to expertise or experience in computer security.

(2) The compliance audits of state agencies and local governments who are licensed certification authorities, and the secretary, must be performed under the authority of the state auditor. The state auditor may contract with private entities as needed to comply with this chapter.

Sec. 7. RCW 19.34.120 and 1996 c 250 s 203 are each amended to read as follows:

(1) The secretary may investigate the activities of a licensed certification authority material to its compliance with this chapter and issue orders to a certification authority to further its investigation and secure compliance with this chapter.

(2) The secretary may suspend or revoke the license of a certification authority for its failure to comply with an order of the secretary.

(3) The secretary may by order impose and collect a civil monetary penalty against a licensed certification authority for a violation of this chapter in an amount not to exceed ~~((five))~~ ten thousand dollars per incident, or ninety percent of the recommended reliance limit of a material certificate, whichever is less. In case of a violation continuing for more than one day, each day is considered a separate incident. The secretary may adopt rules setting forth the standards governing the exercise of the secretary's discretion as to penalty amounts.

(4) The secretary may order a certification authority, which it has found to be in violation of this chapter, to pay the costs incurred by the secretary in prosecuting and adjudicating proceedings relative to the order, and enforcing it.

(5) The secretary must exercise authority under this section in accordance with the administrative procedure act, chapter 34.05 RCW, and a licensed certification authority may obtain judicial review of the secretary's actions as prescribed by chapter 34.05 RCW. The secretary may also seek injunctive relief to compel compliance with an order.

Sec. 8. RCW 19.34.200 and 1996 c 250 s 301 are each amended to read as follows:

(1) A licensed certification authority or subscriber ~~((may))~~ shall use only a trustworthy system:

(a) To issue, suspend, or revoke a certificate;

(b) To publish or give notice of the issuance, suspension, or revocation of a certificate; or

(c) To create a private key.

(2) A licensed certification authority must disclose any material certification practice statement, and any fact material to either the reliability of a certificate that it has issued or its ability to perform its services. A certification authority may require a signed, written, and reasonably specific inquiry from an identified person, and payment of reasonable compensation, as conditions precedent to effecting a disclosure required in this subsection.

Sec. 9. RCW 19.34.210 and 1996 c 250 s 302 are each amended to read as follows:

(1) A licensed certification authority may issue a certificate to a subscriber only after all of the following conditions are satisfied:

(a) The certification authority has received a request for issuance signed by the prospective subscriber; and

(b) The certification authority has confirmed that:

(i) The prospective subscriber is the person to be listed in the certificate to be issued;

(ii) If the prospective subscriber is acting through one or more agents, the subscriber duly authorized the agent or agents to have custody of the subscriber's private key and to request issuance of a certificate listing the corresponding public key;

(iii) The information in the certificate to be issued is accurate;

(iv) The prospective subscriber rightfully holds the private key corresponding to the public key to be listed in the certificate;

(v) The prospective subscriber holds a private key capable of creating a digital signature; ~~(and)~~

(vi) The public key to be listed in the certificate can be used to verify a digital signature affixed by the private key held by the prospective subscriber; and

(vii) The certificate provides information sufficient to locate or identify one or more repositories in which notification of the revocation or suspension of the certificate will be listed if the certificate is suspended or revoked.

(c) The requirements of this subsection may not be waived or disclaimed by either the licensed certification authority, the subscriber, or both.

(2) If the subscriber accepts the issued certificate, the certification authority must publish a signed copy of the certificate in a recognized repository, as the certification authority and the subscriber named in the certificate may agree, unless a contract between the certification authority and the subscriber provides otherwise. If the subscriber does not accept the certificate, a licensed certification authority must not publish it, or must cancel its publication if the certificate has already been published.

(3) Nothing in this section precludes a licensed certification authority from conforming to standards, certification practice statements, security plans, or

contractual requirements more rigorous than, but nevertheless consistent with, this chapter.

(4) After issuing a certificate, a licensed certification authority must revoke it immediately upon confirming that it was not issued as required by this section. A licensed certification authority may also suspend a certificate that it has issued for a reasonable period not exceeding (~~forty-eight~~) ninety-six hours as needed for an investigation to confirm grounds for revocation under this subsection. The certification authority must give notice to the subscriber as soon as practicable after a decision to revoke or suspend under this subsection.

(5) The secretary may order the licensed certification authority to suspend or revoke a certificate that the certification authority issued, if, after giving any required notice and opportunity for the certification authority and subscriber to be heard in accordance with the administrative procedure act, chapter 34.05 RCW, the secretary determines that:

(a) The certificate was issued without substantial compliance with this section; and

(b) The noncompliance poses a significant risk to persons reasonably relying on the certificate.

Upon determining that an emergency requires an immediate remedy, and in accordance with the administrative procedure act, chapter 34.05 RCW, the secretary may issue an order suspending a certificate for a period not to exceed (~~forty-eight~~) ninety-six hours.

NEW SECTION. Sec. 10. A new section is added to chapter 19.34 RCW, to be codified to follow RCW 19.34.230 immediately, to read as follows:

(1) A unit of state or local government, including its appropriate officers or employees, may become a subscriber to a certificate for purposes of conducting official business, but only if the certificate is issued by a licensed certification authority. A unit of state government, except the secretary and the department of information services, may not act as a certification authority.

(2) A city or county may become a licensed certification authority under RCW 19.34.100 for purposes of providing services to local government, if authorized by ordinance adopted by the city or county legislative authority.

(3) The limitation to licensed certification authorities in subsection (1) of this section does not apply to uses of digital signatures or key pairs limited to internal agency procedures, as to which the signature is not required by statute, administrative rule, court rule, or requirement of the office of financial management.

Sec. II. RCW 19.34.240 and 1996 c 250 s 305 are each amended to read as follows:

(1) By accepting a certificate issued by a licensed certification authority, the subscriber identified in the certificate assumes a duty to exercise reasonable care to retain control of the private key and prevent its disclosure to a person not

authorized to create the subscriber's digital signature. The subscriber is released from this duty if the certificate expires or is revoked.

(2) A private key is the personal property of the subscriber who rightfully holds it.

~~(3) (If a certification authority holds the private key corresponding to a public key listed in a certificate that it has issued, the certification authority holds the private key as a fiduciary of the subscriber named in the certificate, and may use that private key only with the subscriber's prior, written approval, unless the subscriber expressly grants the private key to the certification authority and expressly permits the certification authority to hold the private key according to other terms:))~~ A private key in the possession of a state agency or local agency, as those terms are defined by RCW 42.17.020, is exempt from public inspection and copying under chapter 42.17 RCW.

Sec. 12. RCW 19.34.250 and 1996 c 250 s 306 are each amended to read as follows:

(1) Unless the certification authority and the subscriber agree otherwise, the licensed certification authority that issued a certificate that is not a transactional certificate must suspend the certificate for a period not to exceed ~~((forty-eight))~~ ninety-six hours:

(a) Upon request by a person ~~((identifying himself or herself as))~~ whom the certification authority reasonably believes to be: (i) The subscriber named in the certificate(-); (ii) a person duly authorized to act for that subscriber; or ~~((as a person in a position likely to know of a compromise of the security of a subscriber's private key, such as an agent, business associate, employee, or member of the immediate family of the subscriber))~~ (iii) a person acting on behalf of the unavailable subscriber; or

(b) By order of the secretary under RCW 19.34.210(5).

The certification authority need not confirm the identity or agency of the person requesting suspension. The certification authority may require the person requesting suspension to provide evidence, including a statement under oath or affirmation, regarding the requestor's identity, authorization, or the unavailability of the subscriber. Law enforcement agencies may investigate suspensions for possible wrongdoing by persons requesting suspension.

(2) Unless the certificate provides otherwise or the certificate is a transactional certificate, the secretary ~~((or a county clerk))~~ may suspend a certificate issued by a licensed certification authority for a period ~~((of forty-eight))~~ not to exceed ninety-six hours, if:

(a) A person identifying himself or herself as the subscriber named in the certificate ~~((or as an agent, business associate, employee, or member of the immediate family of the subscriber requests suspension)),~~ a person authorized to act for that subscriber, or a person acting on behalf of that unavailable subscriber; and

(b) The requester represents that the certification authority that issued the certificate is unavailable.

The secretary (~~(or county clerk)~~) may require the person requesting suspension to provide evidence, including a statement under oath or affirmation, regarding his or her identity, authorization, or the unavailability of the issuing certification authority, and may decline to suspend the certificate in its discretion. (~~The secretary or~~) Law enforcement agencies may investigate suspensions by the secretary (~~(or county clerk)~~) for possible wrongdoing by persons requesting suspension.

(3) Immediately upon suspension of a certificate by a licensed certification authority, the licensed certification authority must give notice of the suspension according to the specification in the certificate. If one or more repositories are specified, then the licensed certification authority must publish a signed notice of the suspension in all the repositories. If a repository no longer exists or refuses to accept publication, or if no repository is recognized under RCW 19.34.400, the licensed certification authority must also publish the notice in a recognized repository. If a certificate is suspended by the secretary (~~(or county clerk)~~), the secretary (~~(or clerk)~~) must give notice as required in this subsection for a licensed certification authority, provided that the person requesting suspension pays in advance any fee required by a repository for publication of the notice of suspension.

(4) A certification authority must terminate a suspension initiated by request only:

(a) If the subscriber named in the suspended certificate requests termination of the suspension, the certification authority has confirmed that the person requesting suspension is the subscriber or an agent of the subscriber authorized to terminate the suspension; or

(b) When the certification authority discovers and confirms that the request for the suspension was made without authorization by the subscriber. However, this subsection (4)(b) does not require the certification authority to confirm a request for suspension.

(5) The contract between a subscriber and a licensed certification authority may limit or preclude requested suspension by the certification authority, or may provide otherwise for termination of a requested suspension. However, if the contract limits or precludes suspension by the secretary (~~(or county clerk)~~) when the issuing certification authority is unavailable, the limitation or preclusion is effective only if notice of it is published in the certificate.

(6) No person may knowingly or intentionally misrepresent to a certification authority his or her identity or authorization in requesting suspension of a certificate. Violation of this subsection is a gross misdemeanor.

(7) (~~The subscriber is released from the duty to keep the private key secure under RCW 19.34.240(1) while the certificate is suspended.~~) The secretary may authorize other state or local governmental agencies to perform any of the

functions of the secretary under this section upon a regional basis. The authorization must be formalized by an agreement under chapter 39.34 RCW. The secretary may provide by rule the terms and conditions of the regional services.

(8) A suspension under this section must be completed within twenty-four hours of receipt of all information required in this section.

Sec. 13. RCW 19.34.260 and 1996 c 250 s 307 are each amended to read as follows:

(1) A licensed certification authority must revoke a certificate that it issued but which is not a transactional certificate, after:

(a) Receiving a request for revocation by the subscriber named in the certificate; and

(b) Confirming that the person requesting revocation is the subscriber, or is an agent of the subscriber with authority to request the revocation.

(2) A licensed certification authority must confirm a request for revocation and revoke a certificate within one business day after receiving both a subscriber's written request and evidence reasonably sufficient to confirm the identity and any agency of the person requesting the ~~((suspension))~~ revocation.

(3) A licensed certification authority must revoke a certificate that it issued:

(a) Upon receiving a certified copy of the subscriber's death certificate, or upon confirming by other evidence that the subscriber is dead; or

(b) Upon presentation of documents effecting a dissolution of the subscriber, or upon confirming by other evidence that the subscriber has been dissolved or has ceased to exist, except that if the subscriber is dissolved and is reinstated or restored before revocation is completed, the certification authority is not required to revoke the certificate.

(4) A licensed certification authority may revoke one or more certificates that it issued if the certificates are or become unreliable, regardless of whether the subscriber consents to the revocation and notwithstanding a provision to the contrary in a contract between the subscriber and certification authority.

(5) Immediately upon revocation of a certificate by a licensed certification authority, the licensed certification authority must give notice of the revocation according to the specification in the certificate. If one or more repositories are specified, then the licensed certification authority must publish a signed notice of the revocation in all repositories. If a repository no longer exists or refuses to accept publication, or if no repository is recognized under RCW 19.34.400, then the licensed certification authority must also publish the notice in a recognized repository.

(6) A subscriber ceases to certify, as provided in RCW 19.34.230, and has no further duty to keep the private key secure, as required by RCW 19.34.240, in relation to the certificate whose revocation the subscriber has requested, beginning at the earlier of either:

(a) When notice of the revocation is published as required in subsection (5) of this section; or

(b) One business day after the subscriber requests revocation in writing, supplies to the issuing certification authority information reasonably sufficient to confirm the request, and pays any contractually required fee.

(7) Upon notification as required by subsection (5) of this section, a licensed certification authority is discharged of its warranties based on issuance of the revoked certificate, as to transactions occurring after the notification, and ceases to certify as provided in RCW 19.34.220 (2) and (3) in relation to the revoked certificate.

Sec. 14. RCW 19.34.280 and 1996 c 250 s 309 are each amended to read as follows:

(1) By specifying a recommended reliance limit in a certificate, the issuing certification authority (~~and accepting subscriber~~) recommends that persons rely on the certificate only to the extent that the total amount at risk does not exceed the recommended reliance limit.

(2) Subject to subsection (3) of this section, unless a licensed certification authority waives application of this subsection, a licensed certification authority is:

(a) Not liable for a loss caused by reliance on a false or forged digital signature of a subscriber, if, with respect to the false or forged digital signature, the certification authority complied with all material requirements of this chapter;

(b) Not liable in excess of the amount specified in the certificate as its recommended reliance limit for either:

(i) A loss caused by reliance on a misrepresentation in the certificate of a fact that the licensed certification authority is required to confirm; or

(ii) Failure to comply with RCW 19.34.210 in issuing the certificate;

(c) Not liable (only) for ((direct compensatory damages in an action to recover a loss due to reliance on the certificate. Direct compensatory damages do not include)):

(i) Punitive or exemplary damages. Nothing in this chapter may be interpreted to permit punitive or exemplary damages that would not otherwise be permitted by the law of this state; or

(ii) ~~((Damages for lost profits or opportunity; or~~
 —(iii))) Damages for pain or suffering.

(3) Nothing in subsection (2)(a) of this section relieves a licensed certification authority of its liability for breach of any of the warranties or certifications it gives under RCW 19.34.220 or for its lack of good faith, which warranties and obligation of good faith may not be disclaimed. However, the standards by which the performance of a licensed certification authority's obligation of good faith is to be measured may be determined by agreement or notification complying with subsection (4) of this section if the standards are not manifestly unreasonable. The liability of a licensed certification authority under this subsection is subject to the limitations in subsection (2) (b) and (c) of this section unless the limits are waived by the licensed certification authority.

(4) Consequential or incidental damages may be liquidated, or may otherwise be limited, altered, or excluded unless the limitation, alteration, or exclusion is unconscionable. A licensed certification authority may liquidate, limit, alter, or exclude consequential or incidental damages as provided in this subsection by agreement or by notifying any person who will rely on a certificate of the liquidation, limitation, alteration, or exclusion before the person relies on the certificate.

NEW SECTION. Sec. 15. A new section is added to chapter 19.34 RCW, to be codified to follow RCW 19.34.290 immediately, to read as follows:

(1) A licensed certification authority that discontinues providing certification authority services shall:

(a) Notify all subscribers listed in valid certificates issued by the certification authority, before discontinuing services;

(b) Minimize, to the extent commercially reasonable, disruption to the subscribers of valid certificates and relying parties; and

(c) Make reasonable arrangements for preservation of the certification authority's records.

(2) A suitable guaranty of a licensed certification authority may not be released until the expiration of the term specified in the guaranty.

(3) The secretary may provide by rule for a process by which the secretary may, in any combination, receive, administer, or disburse the records of a licensed certification authority or a recognized repository that discontinues providing services, for the purpose of maintaining access to the records and revoking any previously issued valid certificates in a manner that minimizes disruption to subscribers and relying parties. The secretary's rules may include provisions by which the secretary may recover costs incurred in doing so.

Sec. 16. RCW 19.34.300 and 1996 c 250 s 401 are each amended to read as follows:

(1) Where a rule of law requires a signature, or provides for certain consequences in the absence of a signature, that rule is satisfied by a digital signature, if:

~~((1) No party affected by a digital signature objects to the use of digital signatures in lieu of a signature, and the objection may be evidenced by refusal to provide or accept a digital signature;~~

~~—(2) That)~~ (a) The digital signature is verified by reference to the public key listed in a valid certificate issued by a licensed certification authority;

~~((3) That)~~ (b) The digital signature was affixed by the signer with the intention of signing the message~~(, and after the signer has had an opportunity to review items being signed));~~ and

~~((4))~~ (c) The recipient has no knowledge or notice that the signer either:

~~((a))~~ (i) Breached a duty as a subscriber; or

~~((b))~~ (ii) Does not rightfully hold the private key used to affix the digital signature.

~~((However,))~~ (2) Nothing in this chapter;

(a) Precludes a mark from being valid as a signature under other applicable law;

(b) May be construed to obligate a recipient or any other person asked to rely on a digital signature to accept a digital signature or to respond to an electronic message containing a digital signature except as provided in section 20 of this act; or

(c) Precludes the recipient of a digital signature or an electronic message containing a digital signature from establishing the conditions under which the recipient will accept a digital signature.

Sec. 17. RCW 19.34.310 and 1996 c 250 s 402 are each amended to read as follows:

Unless otherwise provided by law or contract, the recipient of a digital signature assumes the risk that a digital signature is forged, if reliance on the digital signature is not reasonable under the circumstances. ~~((If the recipient determines not to rely on a digital signature under this section, the recipient must promptly notify the signer of any determination not to rely on a digital signature and the grounds for that determination. Nothing in this chapter shall be construed to obligate a person to accept a digital signature or to respond to an electronic message containing a digital signature.))~~

NEW SECTION. Sec. 18. A new section is added to chapter 19.34 RCW, to be codified to follow RCW 19.34.310 immediately, to read as follows:

The following factors, among others, are significant in evaluating the reasonableness of a recipient's reliance upon a certificate and upon the digital signatures verifiable with reference to the public key listed in the certificate:

- (1) Facts which the relying party knows or of which the relying party has notice, including all facts listed in the certificate or incorporated in it by reference;
- (2) The value or importance of the digitally signed message, if known;
- (3) The course of dealing between the relying person and subscriber and the available indicia of reliability or unreliability apart from the digital signature; and
- (4) Usage of trade, particularly trade conducted by trustworthy systems or other computer-based means.

Sec. 19. RCW 19.34.320 and 1996 c 250 s 403 are each amended to read as follows:

A message is as valid, enforceable, and effective as if it had been written on paper, if it:

- (1) Bears in its entirety a digital signature; and
- (2) That digital signature is verified by the public key listed in a certificate that:
 - (a) Was issued by a licensed certification authority; and
 - (b) Was valid at the time the digital signature was created.

Nothing in this chapter shall be construed to eliminate, modify, or condition any other requirements for a contract to be valid, enforceable, and effective. No

digital message shall be deemed to be an instrument under ~~((the provisions of))~~ Title 62A RCW unless all parties to the transaction agree, including financial institutions affected.

NEW SECTION. Sec. 20. A new section is added to chapter 19.34 RCW, to be codified to follow RCW 19.34.320 immediately, to read as follows:

(1) A person may not refuse to honor, accept, or act upon a court order, writ, or warrant upon the basis that it is electronic in form and signed with a digital signature, if the digital signature was certified by a licensed certification authority or otherwise issued under court rule. This section applies to a paper printout of a digitally signed document, if the printout reveals that the digital signature was electronically verified before the printout, and in the absence of a finding that the document has been altered.

(2) Nothing in this chapter shall be construed to limit the authority of the supreme court to adopt rules of pleading, practice, or procedure, or of the court of appeals or superior courts to adopt supplementary local rules, governing the use of electronic messages or documents, including rules governing the use of digital signatures, in judicial proceedings.

Sec. 21. RCW 19.34.340 and 1996 c 250 s 405 are each amended to read as follows:

~~(1) Unless otherwise provided by law or contract, ((a certificate issued by a licensed certification authority is an acknowledgment of a digital signature verified by reference to the public key listed in the certificate, regardless of whether))~~ if so provided in the certificate issued by a licensed certification authority, a digital signature verified by reference to the public key listed in a valid certificate issued by a licensed certification authority satisfies the requirements for an acknowledgment under RCW 42.44.010(4) and for acknowledgment of deeds and other real property conveyances under RCW 64.04.020 if words of an express acknowledgment appear with the digital signature ((and)) regardless of whether the signer ((physically)) personally appeared before either the certification authority or some other person authorized to take acknowledgments of deeds, mortgages, or other conveyance instruments under RCW 64.08.010 when the digital signature was created, if that digital signature is:

~~((+))~~ (a) Verifiable by that certificate; and

~~((=))~~ (b) Affixed when that certificate was valid.

(2) If the digital signature is used as an acknowledgment, then the certification authority is responsible to the same extent as a notary up to the recommended reliance limit for failure to satisfy the requirements for an acknowledgment. The certification authority may not disclaim or limit, other than as provided in RCW 19.34.280, the effect of this section.

Sec. 22. RCW 19.34.350 and 1996 c 250 s 406 are each amended to read as follows:

In adjudicating a dispute involving a digital signature, ~~((a court of this state presumes))~~ it is rebuttably presumed that:

(1) A certificate digitally signed by a licensed certification authority and either published in a recognized repository, or made available by the issuing certification authority or by the subscriber listed in the certificate is issued by the certification authority that digitally signed it and is accepted by the subscriber listed in it.

(2) The information listed in a valid certificate and confirmed by a licensed certification authority issuing the certificate is accurate.

(3) If a digital signature is verified by the public key listed in a valid certificate issued by a licensed certification authority:

(a) That digital signature is the digital signature of the subscriber listed in that certificate;

(b) That digital signature was affixed by that subscriber with the intention of signing the message; ~~(and)~~

(c) The message associated with the digital signature has not been altered since the signature was affixed; and

(d) The recipient of that digital signature has no knowledge or notice that the signer:

(i) Breached a duty as a subscriber; or

(ii) Does not rightfully hold the private key used to affix the digital signature.

(4) A digital signature was created before it was time stamped by a disinterested person utilizing a trustworthy system.

Sec. 23. RCW 19.34.400 and 1996 c 250 s 501 are each amended to read as follows:

(1) The secretary must recognize one or more repositories, after finding that a repository to be recognized:

(a) Is ~~((operated under the direction of))~~ a licensed certification authority;

(b) Includes, or will include, a data base containing:

(i) Certificates published in the repository;

(ii) Notices of suspended or revoked certificates published by licensed certification authorities or other persons suspending or revoking certificates;

(iii) Certification authority disclosure records for licensed certification authorities;

(iv) All orders or advisory statements published by the secretary in regulating certification authorities; and

(v) Other information adopted by rule by the secretary;

(c) Operates by means of a trustworthy system, that may, under administrative rule of the secretary, include additional or different attributes than those applicable to a certification authority; that does not operate as a recognized repository;

(d) Contains no significant amount of information that is known or likely to be untrue, inaccurate, or not reasonably reliable;

(e) Contains certificates published by certification authorities that conform to legally binding requirements that the secretary finds to be substantially similar to, or more stringent toward the certification authorities, than those of this state;

(f) Keeps an archive of certificates that have been suspended or revoked, or that have expired, within at least the past three years; and

(g) Complies with other reasonable requirements adopted by rule by the secretary.

(2) A repository may apply to the secretary for recognition by filing a written request and providing evidence to the secretary sufficient for the secretary to find that the conditions for recognition are satisfied.

(3) A repository may discontinue its recognition by filing thirty days' written notice with the secretary. In addition the secretary may discontinue recognition of a repository in accordance with the administrative procedure act, chapter 34.05 RCW, if ~~((#))~~ the secretary concludes that the repository no longer satisfies the conditions for recognition listed in this section or in rules adopted by the secretary.

Sec. 24. RCW 19.34.500 and 1996 c 250 s 603 are each amended to read as follows:

The secretary of state may adopt rules to implement this chapter beginning ~~((July 1, 1996))~~ July 27, 1997, but the rules may not take effect until January 1, 1998.

NEW SECTION. **Sec. 25.** A new section is added to chapter 19.34 RCW, to be codified to follow RCW 19.34.500 immediately, to read as follows:

This chapter supersedes and preempts all local laws or ordinances regarding the same subject matter.

NEW SECTION. **Sec. 26.** A new section is added to chapter 19.34 RCW, to be codified to follow section 25 of this act immediately, to read as follows:

This chapter does not preclude criminal prosecution under other laws of this state, nor may any provision of this chapter be regarded as an exclusive remedy for a violation. Injunctive relief may not be denied to a party regarding conduct governed by this chapter on the basis that the conduct is also subject to potential criminal prosecution.

NEW SECTION. **Sec. 27.** A new section is added to chapter 19.34 RCW, to be codified to follow section 26 of this act immediately, to read as follows:

Issues regarding jurisdiction, venue, and choice of laws for all actions involving digital signatures must be determined according to the same principles as if all transactions had been performed through paper documents.

Sec. 28. RCW 19.34.901 and 1996 c 250 s 602 are each amended to read as follows:

~~((This act shall))~~ (1) Sections 1 through 601, 604, and 605, chapter 250, Laws of 1996 take effect January 1, 1998.

(2) Sections 602 and 603, chapter 250, Laws of 1996 take effect July 27, 1997.

NEW SECTION. **Sec. 29.** A new section is added to chapter 43.105 RCW to read as follows:

The department of information services may become a licensed certification authority, under chapter 19.34 RCW, for the purpose of providing services to state

and local government. The department is not subject to RCW 19.34.100(1)(a). The department shall only issue certificates, as defined in RCW 19.34.020, in which the subscriber is:

- (1) The state of Washington or a department, office, or agency of the state;
- (2) A city, county, district, or other municipal corporation, or a department, office, or agency of the city, county, district, or municipal corporation;
- (3) An agent or employee of an entity described by subsection (1) or (2) of this section, for purposes of official public business; or
- (4) An applicant for a license as a certification authority for the purpose of compliance with RCW 19.34.100(1)(a).

Sec. 30. RCW 19.34.020 and 1996 c 250 s 103 are each amended to read as follows:

Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter:

(1) "Accept a certificate" means either:

(a) To manifest approval of a certificate, while knowing or having notice of its contents; or

(b) To apply to a licensed certification authority for a certificate, without canceling or revoking the application by delivering notice of the cancellation or revocation to the certification authority and obtaining a signed, written receipt from the certification authority, if the certification authority subsequently issues a certificate based on the application.

(2) "Accept a digital signature" means to verify a digital signature or take an action in reliance on a digital signature.

(3) "Asymmetric cryptosystem" means an algorithm or series of algorithms that provide a secure key pair.

~~((3))~~ (4) "Certificate" means a computer-based record that:

(a) Identifies the certification authority issuing it;

(b) Names or identifies its subscriber;

(c) Contains the subscriber's public key; and

(d) Is digitally signed by the certification authority issuing it.

~~((4))~~ (5) "Certification authority" means a person who issues a certificate.

~~((5))~~ (6) "Certification authority disclosure record" means an on-line, publicly accessible record that concerns a licensed certification authority and is kept by the secretary. A certification authority disclosure record has the contents specified by rule by the secretary under RCW 19.34.030.

~~((6))~~ (7) "Certification practice statement" means a declaration of the practices that a certification authority employs in issuing certificates generally, or employed in issuing a material certificate.

~~((7))~~ (8) "Certify" means to declare with reference to a certificate, with ample opportunity to reflect, and with a duty to apprise oneself of all material facts.

~~((8))~~ (9) "Confirm" means to ascertain through appropriate inquiry and investigation.

~~((9))~~ (10) "Correspond," with reference to keys, means to belong to the same key pair.

~~((10))~~ (11) "Digital signature" means a transformation of a message using an asymmetric cryptosystem such that a person having the initial message and the signer's public key can accurately determine:

(a) Whether the transformation was created using the private key that corresponds to the signer's public key; and

(b) Whether the initial message has been altered since the transformation was made.

~~((11))~~ (12) "Financial institution" means a national or state-chartered commercial bank or trust company, savings bank, savings association, or credit union authorized to do business in the state of Washington and the deposits of which are federally insured.

~~((12))~~ (13) "Forge a digital signature" means either:

(a) To create a digital signature without the authorization of the rightful holder of the private key; or

(b) To create a digital signature verifiable by a certificate listing as subscriber a person who either:

(i) Does not exist; or

(ii) Does not hold the private key corresponding to the public key listed in the certificate.

~~((13))~~ (14) "Hold a private key" means to be authorized to utilize a private key.

~~((14))~~ (15) "Incorporate by reference" means to make one message a part of another message by identifying the message to be incorporated and expressing the intention that it be incorporated.

~~((15))~~ (16) "Issue a certificate" means the acts of a certification authority in creating a certificate and notifying the subscriber listed in the certificate of the contents of the certificate.

~~((16))~~ (17) "Key pair" means a private key and its corresponding public key in an asymmetric cryptosystem, keys which have the property that the public key can verify a digital signature that the private key creates.

~~((17))~~ (18) "Licensed certification authority" means a certification authority to whom a license has been issued by the secretary and whose license is in effect.

~~((18))~~ (19) "Message" means a digital representation of information.

~~((19))~~ (20) "Notify" means to communicate a fact to another person in a manner reasonably likely under the circumstances to impart knowledge of the information to the other person.

~~((20))~~ (21) "Operative personnel" means one or more natural persons acting as a certification authority or its agent, or in the employment of, or under contract with, a certification authority, and who have:

(a) Managerial or policymaking responsibilities for the certification authority; or

(b) Duties directly involving the issuance of certificates, creation of private keys, or administration of a certification authority's computing facilities.

~~((21))~~ (22) "Person" means a human being or an organization capable of signing a document, either legally or as a matter of fact.

~~((22))~~ (23) "Private key" means the key of a key pair used to create a digital signature.

~~((23))~~ (24) "Public key" means the key of a key pair used to verify a digital signature.

~~((24))~~ (25) "Publish" means to record or file in a repository.

~~((25))~~ (26) "Qualified right to payment" means an award of damages against a licensed certification authority by a court having jurisdiction over the certification authority in a civil action for violation of this chapter.

~~((26))~~ (27) "Recipient" means a person who ~~((receives or has a digital signature))~~ has received a certificate and a digital signature verifiable with reference to a public key listed in the certificate and is in a position to rely on it.

~~((27))~~ (28) "Recognized repository" means a repository recognized by the secretary under RCW 19.34.400.

~~((28))~~ (29) "Recommended reliance limit" means the monetary amount recommended for reliance on a certificate under RCW 19.34.280(1).

~~((29))~~ (30) "Repository" means a system for storing and retrieving certificates and other information relevant to digital signatures.

~~((30))~~ (31) "Revoke a certificate" means to make a certificate ineffective permanently from a specified time forward. Revocation is effected by notation or inclusion in a set of revoked certificates, and does not imply that a revoked certificate is destroyed or made illegible.

~~((31))~~ (32) "Rightfully hold a private key" means the authority to utilize a private key:

(a) That the holder or the holder's agents have not disclosed to a person in violation of RCW 19.34.240(1); and

(b) That the holder has not obtained through theft, deceit, eavesdropping, or other unlawful means.

~~((32))~~ (33) "Secretary" means the secretary of state.

~~((33))~~ (34) "Subscriber" means a person who:

(a) Is the subject listed in a certificate;

(b) Accepts the certificate; and

(c) Holds a private key that corresponds to a public key listed in that certificate.

~~((34))~~ (33) "Suitable guaranty" means either a surety bond executed by a surety authorized by the insurance commissioner to do business in this state, or an irrevocable letter of credit issued by a financial institution authorized to do business in this state, which, in either event, satisfies all of the following requirements:

- (a) It is issued payable to the secretary for the benefit of persons holding qualified rights of payment against the licensed certification authority named as the principal of the bond or customer of the letter of credit;
- (b) It is in an amount specified by rule by the secretary under RCW 19.34.030;
- (c) It states that it is issued for filing under this chapter;
- (d) It specifies a term of effectiveness extending at least as long as the term of the license to be issued to the certification authority; and
- (e) It is in a form prescribed or approved by rule by the secretary.

A suitable guaranty may also provide that the total annual liability on the guaranty to all persons making claims based on it may not exceed the face amount of the guaranty.

~~((35))~~ (36) "Suspend a certificate" means to make a certificate ineffective temporarily for a specified time forward.

~~((36))~~ (37) "Time stamp" means either:

- (a) To append or attach to a message, digital signature, or certificate a digitally signed notation indicating at least the date, time, and identity of the person appending or attaching the notation; or
- (b) The notation thus appended or attached.

~~((37))~~ (38) "Transactional certificate" means a valid certificate incorporating by reference one or more digital signatures.

~~((38))~~ (39) "Trustworthy system" means computer hardware and software that:

- (a) Are reasonably secure from intrusion and misuse;
 - (b) Provide a reasonable level of availability, reliability, and correct operation;
- and
- (c) Are reasonably suited to performing their intended functions.

~~((39))~~ (40) "Valid certificate" means a certificate that:

- (a) A licensed certification authority has issued;
- (b) The subscriber listed in it has accepted;
- (c) Has not been revoked or suspended; and
- (d) Has not expired.

However, a transactional certificate is a valid certificate only in relation to the digital signature incorporated in it by reference.

~~((40))~~ (41) "Verify a digital signature" means, in relation to a given digital signature, message, and public key, to determine accurately that:

- (a) The digital signature was created by the private key corresponding to the public key; and
- (b) The message has not been altered since its digital signature was created.

NEW SECTION. Sec. 31. A new section is added to chapter 19.34 RCW to read as follows:

Acceptance of a digital signature may be made in any manner reasonable in the circumstances.

Sec. 32. RCW 19.34.220 and 1996 c 250 s 303 are each amended to read as follows:

(1) By issuing a certificate, a licensed certification authority warrants to the subscriber named in the certificate that:

(a) The certificate contains no information known to the certification authority to be false;

(b) The certificate satisfies all material requirements of this chapter; and

(c) The certification authority has not exceeded any limits of its license in issuing the certificate.

The certification authority may not disclaim or limit the warranties of this subsection.

(2) Unless the subscriber and certification authority otherwise agree, a certification authority, by issuing a certificate, promises to the subscriber:

(a) To act promptly to suspend or revoke a certificate in accordance with RCW 19.34.250 or 19.34.260; and

(b) To notify the subscriber within a reasonable time of any facts known to the certification authority that significantly affect the validity or reliability of the certificate once it is issued.

(3) By issuing a certificate, a licensed certification authority certifies to all who reasonably rely on the information contained in the certificate, or on a digital signature verifiable by the public key listed in the certificate, that:

(a) The information in the certificate and listed as confirmed by the certification authority is accurate;

(b) All information foreseeably material to the reliability of the certificate is stated or incorporated by reference within the certificate;

(c) The subscriber has accepted the certificate; and

(d) The licensed certification authority has complied with all applicable laws of this state governing issuance of the certificate.

(4) By publishing a certificate, a licensed certification authority certifies to the repository in which the certificate is published and to all who reasonably rely on the information contained in the certificate that the certification authority has issued the certificate to the subscriber.

Sec. 33. RCW 19.34.410 and 1996 c 250 s 502 are each amended to read as follows:

(1) Notwithstanding a disclaimer by the repository or a contract to the contrary between the repository, a certification authority, or a subscriber, a repository is liable for a loss incurred by a person reasonably relying on a digital signature verified by the public key listed in a suspended or revoked certificate, if loss was incurred more than one business day after receipt by the repository of a request to publish notice of the suspension or revocation, and the repository had failed to publish the notice when the person relied on the digital signature.

(2) Unless waived, a recognized repository or the owner or operator of a recognized repository is:

(a) Not liable for failure to record publication of a suspension or revocation, unless the repository has received notice of publication and one business day has elapsed since the notice was received;

(b) Not liable under subsection (1) of this section in excess of the amount specified in the certificate as the recommended reliance limit;

(c) Not liable under subsection (1) of this section (~~(only)~~) for (~~direct compensatory damages, which do not include~~):

(i) Punitive or exemplary damages; or

(ii) (~~Damages for lost profits or opportunity; or~~

~~—(iii))~~ Damages for pain or suffering;

(d) Not liable for misrepresentation in a certificate published by a licensed certification authority;

(e) Not liable for accurately recording or reporting information that a licensed certification authority, or court clerk, or the secretary has published as required or permitted in this chapter, including information about suspension or revocation of a certificate;

(f) Not liable for reporting information about a certification authority, a certificate, or a subscriber, if the information is published as required or permitted in this chapter or a rule adopted by the secretary, or is published by order of the secretary in the performance of the licensing and regulatory duties of that office under this chapter.

(3) Consequential or incidental damages may be liquidated, or may otherwise be limited, altered, or excluded unless the limitation, alteration, or exclusion is unconscionable. A recognized repository may liquidate, limit, alter, or exclude damages as provided in this subsection by agreement, or by notifying any person who will rely on a digital signature verified by the public key listed in a suspended or revoked certificate of the liquidation, limitation, alteration, or exclusion before the person relies on the certificate.

NEW SECTION. Sec. 34. A new section is added to chapter 19.34 RCW, to be codified to follow RCW 19.34.350 immediately, to read as follows:

The effect of this chapter may be varied by agreement, except:

(1) A person may not disclaim responsibility for lack of good faith, but parties may by agreement determine the standards by which the duty of good faith is to be measured if the standards are not manifestly unreasonable; and

(2) As otherwise provided in this chapter.

NEW SECTION. Sec. 35. Sections 1 through 23, 25 through 27, and 29 through 34 of this act take effect January 1, 1998.

NEW SECTION. Sec. 36. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

Passed the Senate March 15, 1997.
Passed the House April 8, 1997.
Approved by the Governor April 15, 1997.
Filed in Office of Secretary of State April 15, 1997.

CHAPTER 28

[Substitute Senate Bill 5401]

COMPENSATION FOR PUBLIC UTILITY COMMISSIONERS

AN ACT Relating to compensation for public utility district commissioners; and amending RCW 54.12.080.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 54.12.080 and 1985 c 330 s 4 are each amended to read as follows:

(1) Commissioners of public utility districts are eligible to receive salaries as follows:

(a) Each public utility district commissioner of a district operating utility properties shall receive a salary of one thousand dollars per month during a calendar year ~~((which shall depend upon the total gross revenue of the district from its distribution system and its generating system, if any, for))~~ if the district received total gross revenue of over fifteen million dollars during the fiscal year ending June 30th ((prior to such)) before the calendar year ~~((based upon the following schedule:~~

<u>REVENUE</u>	<u>SALARY</u>
<u>OVER \$15 million</u>	<u>\$500 per month</u>
<u>\$2 to 15 million</u>	<u>\$350 per month</u>

)). However, the board of commissioners of such a public utility district may pass a resolution increasing the rate of salary up to thirteen hundred dollars per month.

(b) Each public utility district commissioner of a district operating utility properties shall receive a salary of seven hundred dollars per month during a calendar year if the district received total gross revenue of from two million dollars to fifteen million dollars during the fiscal year ending June 30th before the calendar year. However, the board of commissioners of such a public utility district may pass a resolution increasing the rate of salary up to nine hundred dollars per month.

(c) Commissioners of other districts shall serve without salary ((unless the district provides by)). However, the board of commissioners of such a public utility district may pass a resolution providing for ((the payment thereof, which however shall)) salaries not ((exceed two)) exceeding four hundred dollars per month for each commissioner.

(2) In addition to salary, all districts may provide by resolution for the payment of per diem compensation to each commissioner at a rate not exceeding fifty dollars for each day or major part thereof devoted to the business of the district, and days upon which he attends meetings of the commission of his district

or meetings attended by one or more commissioners of two or more districts called to consider business common to them, but such compensation paid during any one year to a commissioner shall not exceed seven thousand dollars. Per diem compensation shall not be paid for services of a ministerial or professional nature.

~~((2))~~ (3) Any commissioner may waive all or any portion of his or her compensation payable under this section as to any month or months during his or her term of office, by a written waiver filed with the district as provided in this section. The waiver, to be effective, must be filed any time after the commissioner's election and prior to the date on which the compensation would otherwise be paid. The waiver shall specify the month or period of months for which it is made.

~~((3))~~ (4) Each district commissioner shall be reimbursed for reasonable expenses actually incurred in connection with such business and meetings, including his subsistence and lodging and travel while away from his place of residence.

~~((4))~~ (5) Any district providing group insurance for its employees, covering them, their immediate family and dependents, may provide insurance for its commissioner with the same coverage.

Passed the Senate March 12, 1997.

Passed the House April 8, 1997.

Approved by the Governor April 15, 1997.

Filed in Office of Secretary of State April 15, 1997.

CHAPTER 29

[Senate Bill 5520]

INTIMIDATING WITNESSES

AN ACT Relating to intimidation of witnesses; and amending RCW 9A.72.110.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 9A.72.110 and 1994 c 271 s 204 are each amended to read as follows:

(1) A person is guilty of intimidating a witness if a person ~~((directs a threat to a former witness because of the witness' testimony in any official proceeding, or if)),~~ by use of a threat ~~((directed to))~~ against a current or prospective witness ~~((or a person he or she has reason to believe is about to be called as a witness in any official proceeding or to a person whom he or she has reason to believe may have information relevant to a criminal investigation or the abuse or neglect of a minor child, he or she)),~~ attempts to:

(a) Influence the testimony of that person; ~~((or))~~

(b) Induce that person to elude legal process summoning him or her to testify; ~~((or))~~

(c) Induce that person to absent himself or herself from such proceedings; or

(d) Induce that person not to report the information relevant to a criminal investigation or the abuse or neglect of a minor child, (~~not to prosecute the crime or the abuse or neglect of a minor child;~~) not to have the crime or the abuse or neglect of a minor child prosecuted, or not to give truthful or complete information relevant to a criminal investigation or the abuse or neglect of a minor child.

(2) A person also is guilty of intimidating a witness if the person directs a threat to a former witness because of the witness's role in an official proceeding.

(3) As used in this section:

(a) "Threat" (~~as used in this section~~) means:

~~((a))~~ (i) To communicate, directly or indirectly, the intent immediately to use force against any person who is present at the time; or

~~((b))~~ (ii) Threat~~(s)~~ as defined in RCW 9A.04.110(25).

~~((c))~~ (b) "Current or prospective witness" means:

(i) A person endorsed as a witness in an official proceeding;

(ii) A person whom the actor believes may be called as a witness in any official proceeding; or

(iii) A person whom the actor has reason to believe may have information relevant to a criminal investigation or the abuse or neglect of a minor child.

(c) "Former witness" means:

(i) A person who testified in an official proceeding;

(ii) A person who was endorsed as a witness in an official proceeding;

(iii) A person whom the actor knew or believed may have been called as a witness if a hearing or trial had been held; or

(iv) A person whom the actor knew or believed may have provided information related to a criminal investigation or an investigation into the abuse or neglect of a minor child.

(4) Intimidating a witness is a class B felony.

Passed the Senate March 12, 1997.

Passed the House April 8, 1997.

Approved by the Governor April 15, 1997.

Filed in Office of Secretary of State April 15, 1997.

CHAPTER 30

[Senate Bill 5672]

DESIGNATION OF DRUG-FREE ZONES IN PUBLIC HOUSING PROJECTS

AN ACT Relating to drug-free zones in public housing projects; amending RCW 69.50.435; creating a new section; and prescribing penalties.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. Sec. 1. The legislature finds that a large number of illegal drug transactions occur in or near public housing projects. The legislature also finds that this activity places the families and children residing in these housing projects at risk for drug-related crimes and increases the general level of fear

among the residents of the housing project and the areas surrounding these projects. The intent of the legislature is to allow local governments to designate public housing projects as drug-free zones.

Sec. 2. RCW 69.50.435 and 1996 c 14 s 2 are each amended to read as follows:

(a) Any person who violates RCW 69.50.401(a) by manufacturing, selling, delivering, or possessing with the intent to manufacture, sell, or deliver a controlled substance listed under that subsection or who violates RCW 69.50.410 by selling for profit any controlled substance or counterfeit substance classified in schedule I, RCW 69.50.204, except leaves and flowering tops of marihuana to a person:

(1) In a school;

(2) On a school bus;

(3) Within one thousand feet of a school bus route stop designated by the school district;

(4) Within one thousand feet of the perimeter of the school grounds;

(5) In a public park;

(6) In a public housing project designated by a local governing authority as a drug-free zone;

(7) On a public transit vehicle;

~~((7))~~ (8) In a public transit stop shelter;

~~((8))~~ (9) At a civic center designated as a drug-free zone by the local governing authority; or

~~((9))~~ (10) Within one thousand feet of the perimeter of a facility designated under ~~((8))~~ (9) of this subsection, if the local governing authority specifically designates the one thousand foot perimeter

may be punished by a fine of up to twice the fine otherwise authorized by this chapter, but not including twice the fine authorized by RCW 69.50.406, or by imprisonment of up to twice the imprisonment otherwise authorized by this chapter, but not including twice the imprisonment authorized by RCW 69.50.406, or by both such fine and imprisonment. The provisions of this section shall not operate to more than double the fine or imprisonment otherwise authorized by this chapter for an offense.

(b) It is not a defense to a prosecution for a violation of this section that the person was unaware that the prohibited conduct took place while in a school or school bus or within one thousand feet of the school or school bus route stop, in a public park, in a public housing project designated by a local governing authority as a drug-free zone, on a public transit vehicle, in a public transit stop shelter, at a civic center designated as a drug-free zone by the local governing authority, or within one thousand feet of the perimeter of a facility designated under subsection (a)~~((8))~~ (9) of this section, if the local governing authority specifically designates the one thousand foot perimeter.

(c) It is not a defense to a prosecution for a violation of this section or any other prosecution under this chapter that persons under the age of eighteen were

not present in the school, the school bus, the public park, the public housing project designated by a local governing authority as a drug-free zone, or the public transit vehicle, or at the school bus route stop, the public transit vehicle stop shelter, at a civic center designated as a drug-free zone by the local governing authority, or within one thousand feet of the perimeter of a facility designated under subsection (a)((8)) (9) of this section, if the local governing authority specifically designates the one thousand foot perimeter at the time of the offense or that school was not in session.

(d) It is an affirmative defense to a prosecution for a violation of this section that the prohibited conduct took place entirely within a private residence, that no person under eighteen years of age or younger was present in such private residence at any time during the commission of the offense, and that the prohibited conduct did not involve delivering, manufacturing, selling, or possessing with the intent to manufacture, sell, or deliver any controlled substance in RCW 69.50.401(a) for profit. The affirmative defense established in this section shall be proved by the defendant by a preponderance of the evidence. This section shall not be construed to establish an affirmative defense with respect to a prosecution for an offense defined in any other section of this chapter.

(e) In a prosecution under this section, a map produced or reproduced by any ((municipal)) municipality, school district, county, ((or)) transit authority engineer, or public housing authority for the purpose of depicting the location and boundaries of the area on or within one thousand feet of any property used for a school, school bus route stop, public park, public housing project designated by a local governing authority as a drug-free zone, public transit vehicle stop shelter, or a civic center designated as a drug-free zone by a local governing authority, or a true copy of such a map, shall under proper authentication, be admissible and shall constitute prima facie evidence of the location and boundaries of those areas if the governing body of the municipality, school district, county, or transit authority has adopted a resolution or ordinance approving the map as the official location and record of the location and boundaries of the area on or within one thousand feet of the school, school bus route stop, public park, public housing project designated by a local governing authority as a drug-free zone, public transit vehicle stop shelter, or civic center designated as a drug-free zone by a local governing authority. Any map approved under this section or a true copy of the map shall be filed with the clerk of the municipality or county, and shall be maintained as an official record of the municipality or county. This section shall not be construed as precluding the prosecution from introducing or relying upon any other evidence or testimony to establish any element of the offense. This section shall not be construed as precluding the use or admissibility of any map or diagram other than the one which has been approved by the governing body of a municipality, school district, county, ((or)) transit authority, or public housing authority if the map or diagram is otherwise admissible under court rule.

(f) As used in this section the following terms have the meanings indicated unless the context clearly requires otherwise:

(1) "School" has the meaning under RCW 28A.150.010 or 28A.150.020. The term "school" also includes a private school approved under RCW 28A.195.010;

(2) "School bus" means a school bus as defined by the superintendent of public instruction by rule which is owned and operated by any school district and all school buses which are privately owned and operated under contract or otherwise with any school district in the state for the transportation of students. The term does not include buses operated by common carriers in the urban transportation of students such as transportation of students through a municipal transportation system;

(3) "School bus route stop" means a school bus stop as designated on maps submitted by school districts to the office of the superintendent of public instruction;

(4) "Public park" means land, including any facilities or improvements on the land, that is operated as a park by the state or a local government;

(5) "Public transit vehicle" means any motor vehicle, street car, train, trolley vehicle, or any other device, vessel, or vehicle which is owned or operated by a transit authority and which is used for the purpose of carrying passengers on a regular schedule;

(6) "Transit authority" means a city, county, or state transportation system, transportation authority, public transportation benefit area, public transit authority, or metropolitan municipal corporation within the state that operates public transit vehicles;

(7) "Stop shelter" means a passenger shelter designated by a transit authority;

(8) "Civic center" means a publicly owned or publicly operated place or facility used for recreational, educational, or cultural activities;

(9) "Public housing project" means the same as "housing project" as defined in RCW 35.82.020.

Passed the Senate March 12, 1997.

Passed the House April 8, 1997.

Approved by the Governor April 15, 1997.

Filed in Office of Secretary of State April 15, 1997.

CHAPTER 31

[Substitute Senate Bill 5009]

INTERSTATE AGREEMENTS FOR ADOPTION OF CHILDREN WITH SPECIAL NEEDS

AN ACT Relating to interstate agreements to provide adoption assistance for special needs children; adding new sections to chapter 74.13 RCW; and prescribing penalties.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. **Sec. 1.** The legislature finds that:

(1) Finding adoptive families for children for whom state assistance under RCW 74.13.100 through 74.13.145 is desirable and assuring the protection of the interest of the children affected during the entire assistance period require special measures when the adoptive parents move to other states or are residents of another state.

(2) Provision of medical and other necessary services for children, with state assistance, encounters special difficulties when the provision of services takes place in other states.

NEW SECTION. Sec. 2. The purposes of sections 1 through 8 of this act are to:

(1) Authorize the department to enter into interstate agreements with agencies of other states for the protection of children on behalf of whom adoption assistance is being provided by the department; and

(2) Provide procedures for interstate children's adoption assistance payments, including medical payments.

NEW SECTION. Sec. 3. The definitions in this section apply throughout sections 1 through 8 of this act unless the context clearly indicates otherwise.

(1) "Adoption assistance state" means the state that is signatory to an adoption assistance agreement in a particular case.

(2) "Residence state" means the state where the child is living.

(3) "State" means a state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, the Commonwealth of the Northern Mariana Islands, or a territory or possession of or administered by the United States.

NEW SECTION. Sec. 4. The department is authorized to develop, participate in the development of, negotiate, and enter into one or more interstate compacts on behalf of this state with other states to implement one or more of the purposes set forth in sections 1 through 8 of this act. When entered into, and for so long as it remains in force, such a compact has the force and effect of law.

NEW SECTION. Sec. 5. A compact entered into pursuant to the authority conferred by sections 1 through 8 of this act must have the following content:

(1) A provision making it available for joinder by all states;

(2) A provision for withdrawal from the compact upon written notice to the parties, but with a period of one year between the date of the notice and the effective date of the withdrawal;

(3) A requirement that the protections afforded by or pursuant to the compact continue in force for the duration of the adoption assistance and be applicable to all children and their adoptive parents who, on the effective date of the withdrawal, are receiving adoption assistance from a party state other than the one in which they are resident and have their principal place of abode;

(4) A requirement that each instance of adoption assistance to which the compact applies be covered by an adoption assistance agreement that is (a) in

writing between the adoptive parents and the state child welfare agency of the state that undertakes to provide the adoption assistance, and (b) expressly for the benefit of the adopted child and enforceable by the adoptive parents and the state agency providing the adoption assistance; and

(5) Such other provisions as are appropriate to implement the proper administration of the compact.

NEW SECTION. Sec. 6. A compact entered into pursuant to the authority conferred by sections 1 through 8 of this act may contain provisions in addition to those required under section 5 of this act, as follows:

(1) Provisions establishing procedures and entitlement to medical and other necessary social services for the child in accordance with applicable laws, even though the child and the adoptive parents are in a state other than the one responsible for or providing the services or the funds to defray part or all of the costs of the services; and

(2) Such other provisions as are appropriate or incidental to the proper administration of the compact.

NEW SECTION. Sec. 7. (1) A child with special needs who resides in this state and is the subject of an adoption assistance agreement with another state is entitled to receive a medical assistance identification card from this state upon the filing with the department of a certified copy of the adoption assistance agreement obtained from the adoption assistance state. In accordance with regulations of the medical assistance administration, the adoptive parents are required at least annually to show that the agreement is still in force or has been renewed.

(2) The medical assistance administration shall consider the holder of a medical assistance identification under this section as any other holder of a medical assistance identification under the laws of this state and shall process and make payment on claims in the same manner and under the same conditions and procedures as for other recipients of medical assistance.

(3) The medical assistance administration shall provide coverage and benefits for a child who is in another state and is covered by an adoption assistance agreement made by the department for the coverage or benefits, if any, not provided by the residence state. Adoptive parents acting for the child may submit evidence of payment for services or benefit amounts not payable in the residence state for reimbursement. No reimbursement may be made for services or benefit amounts covered under any insurance or other third party medical contract or arrangement held by the child or the adoptive parents. The department shall adopt rules implementing this subsection. The additional coverage and benefit amounts provided under this subsection must be for services to the cost of which there is no federal contribution, or which, if federally aided, are not provided by the residence state. The rules must include procedures to be followed in obtaining prior approval for services if required for the assistance.

(4) The submission of any claim for payment or reimbursement for services or benefits under this section or the making of any statement that the person knows

or should know to be false, misleading, or fraudulent is punishable as perjury under chapter 9A.72 RCW.

(5) This section applies only to medical assistance for children under adoption assistance agreements from states that have entered into a compact with this state under which the other state provided medical assistance to children with special needs under adoption assistance agreements made by this state. All other children entitled to medical assistance under an adoption assistance agreement entered into by this state are eligible to receive assistance in accordance with the applicable laws and procedures.

NEW SECTION. Sec. 8. Consistent with federal law, the department, in connection with the administration of sections 1 through 7 of this act and any pursuant compact shall include in any state plan made pursuant to the adoption assistance and child welfare act of 1980 (P.L. 96-272), Titles IV(e) and XIX of the social security act, and any other applicable federal laws, the provision of adoption assistance and medical assistance for which the federal government pays some or all of the cost. The department shall apply for and administer all relevant federal aid in accordance with law.

NEW SECTION. Sec. 9. Sections 1 through 8 of this act are each added to chapter 74.13 RCW.

Passed the Senate February 19, 1997.

Passed the House April 8, 1997.

Approved by the Governor April 16, 1997.

Filed in Office of Secretary of State April 16, 1997.

CHAPTER 32

[Senate Bill 5029]

ELIMINATING OBSOLETE PROVISIONS IN THE WATER CODE

AN ACT Relating to obsolete provisions in the water code; amending RCW 90.54.030, 90.54.040, 90.54.050, 90.22.010, and 90.54.100; and repealing RCW 43.21A.460, 90.54.190, and 90.54.200.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 90.54.030 and 1990 c 295 s 2 are each amended to read as follows:

For the purpose of ensuring that the department is fully advised in relation to the performance of the water resources program provided in RCW 90.54.040, ~~((and to provide information and support to the joint select committee established in RCW 90.54.024,))~~ the department is directed to become informed with regard to all phases of water and related resources of the state. To accomplish this objective the department shall:

(1) Develop a comprehensive water resource data program that provides the information necessary for effective planning and management on a regional and state-wide basis. The data program shall include an information management plan

describing the data requirements for effective water resource planning, and a system for collecting and providing access to water resource data on a regional and state-wide basis(~~(—The water resource data program shall also include a resource inventory and needs assessment pursuant to subsection (5) of this section);~~);

(2) Collect, organize and catalog existing information and studies available to it from all sources, both public and private, pertaining to water and related resources of the state;

(3) Develop such additional data and studies pertaining to water and related resources as are necessary to accomplish the objectives of this chapter; and

(4) Develop alternate courses of action to solve existing and foreseeable problems of water and related resources and include therein, to the extent feasible, the economic and social consequences of each such course, and the impact on the natural environment(~~(;~~

~~(5) Establish a water resources data management task force to evaluate data management needs, advise the joint select committee on water resource policy, the legislature, and the department in developing an information management plan, and conduct a water resource inventory and needs assessment. The task force shall include representatives of appropriate state agencies, Indian tribes, local governments, and interested parties. The task force shall include expertise in both water resources and resource data management. The task force shall make recommendations to the department on developing a data base for water resource planning throughout the state. In conducting the water resource inventory and needs assessment, the task force shall oversee the inventory of existing data and determine what additional data is needed for effective water resource planning and management. The task force shall otherwise provide continuing guidance to the joint select committee on water resource policy, the legislature, and the department in developing and maintaining an effective information management plan. The department shall coordinate the water resource data program to provide water resource information that meets the needs of the comprehensive water resources program and planning process provided for in RCW 90.54.040;~~

~~(6) Prior to September 1, 1990, provide a report to the chairs of the appropriate legislative committees based on the preliminary findings and recommendations of the water resources data management task force. The report shall document the current information flows and data collection processes for state water resources data, and shall include an analysis of task force recommendations for developing additional information to meet water resource data needs. The report shall further include an estimate of funding requirements to implement the water resources data program for consideration in future biennial budget decisions;~~

~~(7) Prior to implementation of any preliminary findings and recommendations pursuant to subsection (6) of this section, and contingent on legislative appropriation, develop a five-year plan for data collection and information management approved by the department of information services. Commencing July 1, 1991, the department shall provide annual reports to the chairs of the~~

~~appropriate legislative committees on the development and implementation of the five-year plan and progress toward completion of the water resource inventory and needs assessment; and~~

~~—(8) Establish pursuant to task force recommendations a process to resolve technical issues in the development and implementation of the water resource inventory and needs assessment)).~~

All the foregoing shall be included in a "water resources information system" established and maintained by the department. The department shall develop a system of cataloging, storing and retrieving the information and studies of the information system so that they may be made readily available to and effectively used not only by the department but by the public generally.

Sec. 2. RCW 90.54.040 and 1988 c 47 s 5 are each amended to read as follows:

(1) The department, through the adoption of appropriate rules, is directed, as a matter of high priority to insure that the waters of the state are utilized for the best interests of the people, to develop and implement in accordance with the policies of this chapter a comprehensive state water resources program which will provide a process for making decisions on future water resource allocation and use. The department may develop the program in segments so that immediate attention may be given to waters of a given physioeconomic region of the state or to specific critical problems of water allocation and use.

~~((The current guidelines, standards, or criteria governing the elements of the water resource program established pursuant to this subsection shall not be altered or amended after March 15, 1988, in accordance with RCW 90.54.022(5).))~~

(2) In relation to the management and regulatory programs relating to water resources vested in it, the department is further directed to modify existing regulations and adopt new regulations, when needed and possible, to insure that existing regulatory programs are in accord with the water resource policy of this chapter and the program established in subsection (1) of this section. ~~((The current guidelines, standards, or criteria governing the department's implementation of this subsection shall not be altered or amended after March 15, 1988, in accordance with subsection (1) of this section.))~~

(3) The department is directed to review all statutes relating to water resources which it is responsible for implementing. When any of the same appear to the department to be ambiguous, unclear, unworkable, unnecessary, or otherwise deficient, it shall make recommendations to the legislature including appropriate proposals for statutory modifications or additions. Whenever it appears that the policies of any such statutes are in conflict with the policies of this chapter, and the department is unable to fully perform as provided in subsection (2) of this section, the department is directed to submit statutory modifications to the legislature which, if enacted, would allow the department to carry out such statutes in harmony with this chapter.

Sec. 3. RCW 90.54.050 and 1988 c 47 s 7 are each amended to read as follows:

In conjunction with the programs provided for in RCW 90.54.040(1), whenever it appears necessary to the director in carrying out the policy of this chapter, the department may by rule adopted pursuant to chapter 34.05 RCW:

- (1) Reserve and set aside waters for beneficial utilization in the future, and
- (2) When sufficient information and data are lacking to allow for the making of sound decisions, withdraw various waters of the state from additional appropriations until such data and information are available.

Prior to the adoption of a rule under this section, the department shall conduct a public hearing in each county in which waters relating to the rule are located. The public hearing shall be preceded by a notice placed in a newspaper of general circulation published within each of said counties. Rules adopted hereunder shall be subject to review in accordance with the provisions of RCW ((34.05.538 or)) 34.05.240.

~~((No new rules or changes to existing rules to reserve or set aside water may be adopted pursuant to this section, as provided in RCW 90.54.022(5).))~~

Sec. 4. RCW 90.22.010 and 1994 c 264 s 86 are each amended to read as follows:

The department of ecology may establish minimum water flows or levels for streams, lakes or other public waters for the purposes of protecting fish, game, birds or other wildlife resources, or recreational or aesthetic values of said public waters whenever it appears to be in the public interest to establish the same. In addition, the department of ecology shall, when requested by the department of fish and wildlife to protect fish, game or other wildlife resources under the jurisdiction of the requesting state agency, or if the department of ecology finds it necessary to preserve water quality, establish such minimum flows or levels as are required to protect the resource or preserve the water quality described in the request or determination. Any request submitted by the department of fish and wildlife shall include a statement setting forth the need for establishing a minimum flow or level. When the department acts to preserve water quality, it shall include a similar statement with the proposed rule filed with the code reviser. This section shall not apply to waters artificially stored in reservoirs, provided that in the granting of storage permits by the department of ecology in the future, full recognition shall be given to downstream minimum flows, if any there may be, which have theretofore been established hereunder.

~~((The current guidelines, standards, or criteria governing the instream flow programs established pursuant to this chapter shall not be altered or amended after March 15, 1988, in accordance with RCW 90.54.022(5).))~~

Sec. 5. RCW 90.54.100 and 1971 ex.s. c 225 s 11 are each amended to read as follows:

The department of ecology shall as a matter of high priority evaluate the needs for water resource development projects and the alternative methods of financing

of the same by public and private agencies, including financing by federal, state and local governments and combinations thereof. Such evaluations shall be broadly based and be included as a part of the comprehensive state water resources program relating to uses and management as defined in RCW 90.54.030. (~~A report of the department relating to such evaluations, including any recommendations, shall be submitted to the legislature in accordance with RCW 90.54.070.~~)

NEW SECTION. Sec. 6. The following acts or parts of acts are each repealed:

- (1) RCW 43.21A.460 and 1983 1st ex.s. c 18 s 1;
- (2) RCW 90.54.190 and 1994 sp.s. c 9 s 856 & 1989 c 348 s 11; and
- (3) RCW 90.54.200 and 1993 sp.s. c 4 s 11.

Passed the Senate February 12, 1997.

Passed the House April 8, 1997.

Approved by the Governor April 16, 1997.

Filed in Office of Secretary of State April 16, 1997.

CHAPTER 33

[Substitute Senate Bill 5049]

AUTHORIZING FURNISHING ELECTRONIC LISTS OF VEHICLE OWNERS TO COMMERCIAL PARKING COMPANIES FOR NOTIFICATION PURPOSES

AN ACT Relating to lists of registered and legal owners of vehicles; and amending RCW 46.12.370.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 46.12.370 and 1982 c 215 s 1 are each amended to read as follows:

In addition to any other authority which it may have, the department of licensing may furnish lists of registered and legal owners of motor vehicles only for the purposes specified in this section to:

(1) The manufacturers of motor vehicles, or their authorized agents, to be used to enable those manufacturers to carry out the provisions of the National Traffic and Motor Vehicle Safety Act of 1966 (15 U.S.C. sec. 1382-1418), including amendments or additions thereto, respecting safety-related defects in motor vehicles;

(2) Any governmental agency of the United States or Canada, or political subdivisions thereof, to be used by it or by its authorized commercial agents or contractors only in connection with the enforcement of motor vehicle or traffic laws by, or programs related to traffic safety of, that government agency. Only such parts of the list as are required for completion of the work required of the agent or contractor shall be provided to such agent or contractor; ((or))

(3) A commercial parking company requiring the names and addresses of registered owners to notify them of outstanding parking violations. Subject to the

disclosure agreement provisions of RCW 46.12.380 and the requirements of Executive Order 97-01, the department may provide only the parts of the list that are required for completion of the work required of the company; or

(4) Any business regularly making loans to other persons to finance the purchase of motor vehicles, to be used to assist the person requesting the list to determine ownership of specific vehicles for the purpose of determining whether or not to provide such financing.

In the event a list of registered and legal owners of motor vehicles is used for any purpose other than that authorized in ((subsections (1), (2) and (3) of)) this section, the manufacturer, governmental agency, commercial parking company, financial institution, or their authorized agents or contractors responsible for the unauthorized disclosure or use will be denied further access to such information by the department of licensing.

Passed the Senate February 10, 1997.

Passed the House April 8, 1997.

Approved by the Governor April 16, 1997.

Filed in Office of Secretary of State April 16, 1997.

CHAPTER 34

[Substitute Senate Bill 5125]

MEDICAL ASSISTANCE MANAGED CARE—AUTHORIZING REVISIONS UNDER FEDERAL DEMONSTRATION WAIVERS

AN ACT Relating to statutory authority to revise medical assistance managed care contracting under federal demonstration waivers granted under section 1115; amending RCW 74.09.522; repealing RCW 48.46.150; and declaring an emergency.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 74.09.522 and 1989 c 260 s 2 are each amended to read as follows:

(1) For the purposes of this section, "managed health care system" means any health care organization, including health care providers, insurers, health care service contractors, health maintenance organizations, health insuring organizations, or any combination thereof, that provides directly or by contract health care services covered under RCW 74.09.520 and rendered by licensed providers, on a prepaid capitated (~~case management~~) basis and that meets the requirements of section 1903(m)(1)(A) of Title XIX of the federal social security act or federal demonstration waivers granted under section 1115(a) of Title XI of the federal social security act.

(2) (~~No later than July 1, 1991,~~) The department of social and health services shall enter into agreements with managed health care systems to provide health care services to recipients of aid to families with dependent children under the following conditions:

(a) Agreements shall be made for at least thirty thousand recipients state-wide;

(b) Agreements in at least one county shall include enrollment of all recipients of aid to families with dependent children;

(c) To the extent that this provision is consistent with section 1903(m) of Title XIX of the federal social security act or federal demonstration waivers granted under section 1115(a) of Title XI of the federal social security act, recipients shall have a choice of systems in which to enroll and shall have the right to terminate their enrollment in a system: PROVIDED, That the department may limit recipient termination of enrollment without cause to the first month of a period of enrollment, which period shall not exceed ~~((six))~~ twelve months: AND PROVIDED FURTHER, That the department shall not restrict a recipient's right to terminate enrollment in a system for good cause as established by the department by rule;

(d) To the extent that this provision is consistent with section 1903(m) of Title XIX of the federal social security act, participating managed health care systems shall not enroll a disproportionate number of medical assistance recipients within the total numbers of persons served by the managed health care systems, except ~~((that this subsection (d) shall not apply to entities described in subparagraph (B) of section 1903(m)))~~ as authorized by the department under federal demonstration waivers granted under section 1115(a) of Title ((XIX)) XI of the federal social security act;

~~((Prior to negotiating with any managed health care system, the department shall estimate, on an actuarially sound basis, the expected cost of providing the health care services expressed in terms of upper and lower limits, and recognizing variations in the cost of providing the services through the various systems and in different project areas.))~~ In negotiating with managed health care systems the department shall adopt a uniform procedure to negotiate and enter into contractual arrangements, including standards regarding the quality of services to be provided; and financial integrity of the responding system;

(f) The department shall seek waivers from federal requirements as necessary to implement this chapter;

(g) The department shall, wherever possible, enter into prepaid capitation contracts that include inpatient care. However, if this is not possible or feasible, the department may enter into prepaid capitation contracts that do not include inpatient care;

(h) The department shall define those circumstances under which a managed health care system is responsible for ~~((out-of-system))~~ out-of-plan services and assure that recipients shall not be charged for such services; and

(i) Nothing in this section prevents the department from entering into similar agreements for other groups of people eligible to receive services under this chapter ~~((74.09 RCW))~~.

(3) ~~((The department shall seek to obtain a large number of contracts with providers of health services to medicaid recipients.))~~ The department shall ensure that publicly supported community health centers and providers in rural areas, who

show serious intent and apparent capability to participate (~~(in the project)~~) as managed health care systems are seriously considered as (~~(providers in the project)~~) contractors. The department shall coordinate (~~(these projects with the plans developed)~~) its managed care activities with activities under chapter 70.47 RCW.

(4) The department shall work jointly with the state of Oregon and other states in this geographical region in order to develop recommendations to be presented to the appropriate federal agencies and the United States congress for improving health care of the poor, while controlling related costs.

(5) The legislature finds that competition in the managed health care marketplace is enhanced, in the long term, by the existence of a large number of managed health care system options for medicaid clients. In a managed care delivery system, whose goal is to focus on prevention, primary care, and improved enrollee health status, continuity in care relationships is of substantial importance, and disruption to clients and health care providers should be minimized. To help ensure these goals are met, the following principles shall guide the department in its healthy options managed health care purchasing efforts:

(a) All managed health care systems should have an opportunity to contract with the department to the extent that minimum contracting requirements defined by the department are met, at payment rates that enable the department to operate as far below appropriated spending levels as possible, consistent with the principles established in this section.

(b) Managed health care systems should compete for the award of contracts and assignment of medicaid beneficiaries who do not voluntarily select a contracting system, based upon:

(i) Demonstrated commitment to or experience in serving low-income populations;

(ii) Quality of services provided to enrollees;

(iii) Accessibility, including appropriate utilization, of services offered to enrollees;

(iv) Demonstrated capability to perform contracted services, including ability to supply an adequate provider network;

(v) Payment rates; and

(vi) The ability to meet other specifically defined contract requirements established by the department, including consideration of past and current performance and participation in other state or federal health programs as a contractor.

(c) Consideration should be given to using multiple year contracting periods.

(d) Quality, accessibility, and demonstrated commitment to serving low-income populations shall be given significant weight in the contracting, evaluation, and assignment process.

(e) All contractors that are regulated health carriers must meet state minimum net worth requirements as defined in applicable state laws. The department shall

adopt rules establishing the minimum net worth requirements for contractors that are not regulated health carriers. This subsection does not limit the authority of the department to take action under a contract upon finding that a contractor's financial status seriously jeopardizes the contractor's ability to meet its contract obligations.

(f) Procedures for resolution of disputes between the department and contract bidders or the department and contracting carriers related to the award of, or failure to award, a managed care contract must be clearly set out in the procurement document. In designing such procedures, the department shall give strong consideration to the negotiation and dispute resolution processes used by the Washington state health care authority in its managed health care contracting activities.

(6) The department may apply the principles set forth in subsection (5) of this section to its managed health care purchasing efforts on behalf of clients receiving supplemental security income benefits to the extent appropriate.

NEW SECTION. Sec. 2. RCW 48.46.150 and 1975 1st ex.s. c 290 s 16 are each repealed.

NEW SECTION. Sec. 3. This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately.

Passed the Senate March 11, 1997.

Passed the House April 8, 1997.

Approved by the Governor April 16, 1997.

Filed in Office of Secretary of State April 16, 1997.

CHAPTER 35

[Senate Bill 5211]

PUBLIC HOSPITAL DISTRICTS AS SELF-INSURERS

AN ACT Relating to including public hospital districts as authorized self-insurers; and amending RCW 51.14.150.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 51.14.150 and 1993 c 158 s 1 are each amended to read as follows:

(1) For the purposes of this section, "hospital" means a hospital as defined in RCW 70.41.020(2) or a psychiatric hospital regulated under chapter 71.12 RCW, but does not include beds utilized by a comprehensive cancer center for cancer research.

(2)(a) Any two or more employers which are school districts or educational service districts, or (b) any two or more employers which are public hospital districts or hospitals, and are owned or operated by a state agency or municipal corporation of this state, or (c) any two or more employers which are hospitals, no one of which is owned or operated by a state agency or municipal corporation of

this state, may enter into agreements to form self-insurance groups for the purposes of this chapter.

(3) No more than one group may be formed under subsection (2)(b) of this section and no more than one group may be formed under subsection (2)(c) of this section.

(4) The self-insurance groups shall be organized and operated under rules promulgated by the director under RCW 51.14.160. Such a self-insurance group shall be deemed an employer for the purposes of this chapter, and may qualify as a self-insurer if it meets all the other requirements of this chapter.

Passed the Senate March 17, 1997.

Passed the House April 8, 1997.

Approved by the Governor April 16, 1997.

Filed in Office of Secretary of State April 16, 1997.

CHAPTER 36

[Senate Bill 5287]

TOWNSHIPS—REPEALED

AN ACT Relating to townships; and repealing RCW 45.04.010, 45.04.020, 45.04.030, 45.08.010, 45.08.020, 45.08.060, 45.08.070, 45.08.080, 45.08.090, 45.12.010, 45.12.020, 45.12.021, 45.12.030, 45.12.040, 45.12.050, 45.12.060, 45.12.070, 45.12.080, 45.12.090, 45.12.100, 45.12.110, 45.12.120, 45.12.130, 45.12.140, 45.12.150, 45.12.160, 45.12.170, 45.12.180, 45.12.190, 45.12.200, 45.12.210, 45.12.220, 45.12.230, 45.12.240, 45.16.010, 45.16.020, 45.16.030, 45.16.035, 45.16.040, 45.16.060, 45.16.070, 45.16.080, 45.16.090, 45.16.100, 45.16.110, 45.16.120, 45.20.010, 45.20.020, 45.24.010, 45.24.040, 45.24.050, 45.24.060, 45.28.010, 45.28.020, 45.28.030, 45.28.040, 45.28.050, 45.28.060, 45.28.070, 45.28.100, 45.32.010, 45.32.020, 45.32.030, 45.32.050, 45.32.060, 45.32.070, 45.32.080, 45.32.090, 45.36.010, 45.36.020, 45.36.030, 45.40.010, 45.40.030, 45.44.010, 45.48.010, 45.48.020, 45.48.030, 45.48.040, 45.52.010, 45.52.020, 45.52.030, 45.52.040, 45.52.050, 45.52.060, 45.52.070, 45.52.080, 45.52.090, 45.54.010, 45.54.020, 45.56.010, 45.56.040, 45.56.050, 45.56.070, 45.56.080, 45.64.010, 45.64.020, 45.64.030, 45.64.040, 45.64.050, 45.64.060, 45.64.070, 45.64.080, 45.72.010, 45.72.020, 45.72.030, 45.72.040, 45.72.050, 45.72.060, 45.72.070, 45.76.020, 45.76.030, 45.76.040, 45.76.050, 45.76.060, 45.76.070, 45.76.080, 45.76.090, 45.76.100, 45.80.010, 45.80.020, 45.80.030, 45.80.040, 45.80.050, 45.80.060, 45.80.070, 45.80.080, 45.80.100, 45.82.010, and 45.82.020.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. Sec. 1. The following acts or parts of acts are each repealed:

- (1) RCW 45.04.010 and 1895 c 175 s 1;
- (2) RCW 45.04.020 and 1895 c 175 s 2;
- (3) RCW 45.04.030 and 1895 c 175 s 3;
- (4) RCW 45.08.010 and 1927 c 74 s 1 & 1895 c 175 s 4;
- (5) RCW 45.08.020 and 1895 c 175 s 5;
- (6) RCW 45.08.060 and 1895 c 175 s 6;
- (7) RCW 45.08.070 and 1895 c 175 s 7;
- (8) RCW 45.08.080 and 1895 c 175 s 8;
- (9) RCW 45.08.090 and 1895 c 175 s 9;
- (10) RCW 45.12.010 and 1923 c 13 s 1 & 1895 c 175 s 10;
- (11) RCW 45.12.020 and 1953 c 167 s 1, 1909 c 47 s 1, & 1895 c 175 s 11;

- (12) RCW 45.12.021 and 1965 c 119 s 1;
- (13) RCW 45.12.030 and 1895 c 175 s 12;
- (14) RCW 45.12.040 and 1895 c 175 s 13;
- (15) RCW 45.12.050 and 1895 c 175 s 14;
- (16) RCW 45.12.060 and 1895 c 175 s 15;
- (17) RCW 45.12.070 and 1923 c 13 s 2 & 1895 c 175 s 16;
- (18) RCW 45.12.080 and 1923 c 13 s 3, 1915 c 90 s 1, 1909 c 47 s 2, & 1895 c 175 s 17;
- (19) RCW 45.12.090 and 1959 c 16 s 5;
- (20) RCW 45.12.100 and 1984 c 189 s 4, 1969 ex.s. c 243 s 4, 1959 c 16 s 2, & 1953 c 165 s 1;
- (21) RCW 45.12.110 and 1895 c 175 s 20;
- (22) RCW 45.12.120 and 1895 c 175 s 21;
- (23) RCW 45.12.130 and 1895 c 175 s 22;
- (24) RCW 45.12.140 and 1895 c 175 s 23;
- (25) RCW 45.12.150 and 1895 c 175 s 24;
- (26) RCW 45.12.160 and 1895 c 175 s 25;
- (27) RCW 45.12.170 and 1895 c 175 s 26;
- (28) RCW 45.12.180 and 1895 c 175 s 27;
- (29) RCW 45.12.190 and 1895 c 175 s 28;
- (30) RCW 45.12.200 and 1895 c 175 s 29;
- (31) RCW 45.12.210 and 1895 c 175 s 30;
- (32) RCW 45.12.220 and 1895 c 175 s 31;
- (33) RCW 45.12.230 and 1895 c 175 s 32;
- (34) RCW 45.12.240 and 1895 c 175 s 33;
- (35) RCW 45.16.010 and 1895 c 175 s 34;
- (36) RCW 45.16.020 and 1895 c 175 s 35;
- (37) RCW 45.16.030 and 1895 c 175 s 36;
- (38) RCW 45.16.035 and 1913 c 142 s 4 & 1895 c 175 s 42;
- (39) RCW 45.16.040 and 1913 c 142 s 2 & 1895 c 175 s 37;
- (40) RCW 45.16.060 and 1913 c 142 s 3 & 1895 c 175 s 38;
- (41) RCW 45.16.070 and 1895 c 175 s 39;
- (42) RCW 45.16.080 and 1895 c 175 s 40;
- (43) RCW 45.16.090 and 1895 c 175 s 41;
- (44) RCW 45.16.100 and 1895 c 175 s 43;
- (45) RCW 45.16.110 and 1913 c 142 s 5 & 1895 c 175 s 44;
- (46) RCW 45.16.120 and 1923 c 13 s 5 & 1895 c 175 s 45;
- (47) RCW 45.20.010 and 1913 c 142 s 6 & 1895 c 175 s 46;
- (48) RCW 45.20.020 and 1895 c 175 s 47;
- (49) RCW 45.24.010 and 1977 c 15 s 1, 1919 c 108 s 2, 1911 c 34 s 1, 1909 c 47 s 4, & 1895 c 175 s 48;
- (50) RCW 45.24.040 and 1895 c 175 s 51;
- (51) RCW 45.24.050 and 1895 c 175 s 52;

- (52) RCW 45.24.060 and 1895 c 175 s 49;
- (53) RCW 45.28.010 and 1895 c 175 s 53;
- (54) RCW 45.28.020 and 1911 c 34 s 2;
- (55) RCW 45.28.030 and 1911 c 34 s 3;
- (56) RCW 45.28.040 and 1895 c 175 s 54;
- (57) RCW 45.28.050 and 1895 c 175 s 55;
- (58) RCW 45.28.060 and 1895 c 175 s 56;
- (59) RCW 45.28.070 and 1895 c 175 s 57;
- (60) RCW 45.28.100 and 1895 c 175 s 60;
- (61) RCW 45.32.010 and 1895 c 175 s 70;
- (62) RCW 45.32.020 and 1895 c 175 s 71;
- (63) RCW 45.32.030 and 1923 c 13 s 6, 1913 c 142 s 7, & 1895 c 175 s 72;
- (64) RCW 45.32.050 and 1895 c 175 s 73;
- (65) RCW 45.32.060 and 1895 c 175 s 74;
- (66) RCW 45.32.070 and 1895 c 175 s 75;
- (67) RCW 45.32.080 and 1895 c 175 s 76;
- (68) RCW 45.32.090 and 1913 c 142 s 9;
- (69) RCW 45.36.010 and 1895 c 175 s 95;
- (70) RCW 45.36.020 and 1895 c 175 s 96;
- (71) RCW 45.36.030 and 1911 c 34 s 1 & 1895 c 175 s 94;
- (72) RCW 45.40.010 and 1895 c 175 s 77;
- (73) RCW 45.40.030 and 1895 c 175 s 78;
- (74) RCW 45.44.010 and 1923 c 13 s 9, 1915 c 90 s 2, 1909 c 47 s 9, & 1895 c 175 s 93;
- (75) RCW 45.48.010 and 1895 c 175 s 111;
- (76) RCW 45.48.020 and 1895 c 175 s 112;
- (77) RCW 45.48.030 and 1895 c 175 s 113;
- (78) RCW 45.48.040 and 1895 c 175 s 114;
- (79) RCW 45.52.010 and 1895 c 175 s 61;
- (80) RCW 45.52.020 and 1895 c 175 s 62;
- (81) RCW 45.52.030 and 1895 c 175 s 63;
- (82) RCW 45.52.040 and 1895 c 175 s 64;
- (83) RCW 45.52.050 and 1895 c 175 s 65;
- (84) RCW 45.52.060 and 1895 c 175 s 66;
- (85) RCW 45.52.070 and 1895 c 175 s 67;
- (86) RCW 45.52.080 and 1895 c 175 s 68;
- (87) RCW 45.52.090 and 1895 c 175 s 69;
- (88) RCW 45.54.010 and 1937 c 81 s 1;
- (89) RCW 45.54.020 and 1937 c 81 s 2;
- (90) RCW 45.56.010 and 1959 c 16 s 3;
- (91) RCW 45.56.040 and 1969 ex.s. c 243 s 5 & 1895 c 175 s 86;
- (92) RCW 45.56.050 and 1913 c 142 s 10;
- (93) RCW 45.56.070 and 1895 c 175 s 90;

- (94) RCW 45.56.080 and 1895 c 175 s 92;
- (95) RCW 45.64.010 and 1895 c 175 s 97;
- (96) RCW 45.64.020 and 1895 c 175 s 98;
- (97) RCW 45.64.030 and 1895 c 175 s 99;
- (98) RCW 45.64.040 and 1895 c 175 s 100;
- (99) RCW 45.64.050 and 1895 c 175 s 101;
- (100) RCW 45.64.060 and 1895 c 175 s 102;
- (101) RCW 45.64.070 and 1895 c 175 s 103;
- (102) RCW 45.64.080 and 1895 c 175 s 104;
- (103) RCW 45.72.010 and 1895 c 175 s 110;
- (104) RCW 45.72.020 and 1909 c 47 s 11;
- (105) RCW 45.72.030 and 1895 c 175 s 116;
- (106) RCW 45.72.040 and 1911 c 13 s 1;
- (107) RCW 45.72.050 and 1973 1st ex.s. c 195 s 45 & 1911 c 13 s 2;
- (108) RCW 45.72.060 and 1911 c 13 s 3;
- (109) RCW 45.72.070 and 1969 ex.s. c 243 s 6, 1909 c 47 s 10, & 1895 c 175 s 115;
- (110) RCW 45.76.020 and 1951 c 173 s 1;
- (111) RCW 45.76.030 and 1951 c 173 s 2;
- (112) RCW 45.76.040 and 1951 c 173 s 3;
- (113) RCW 45.76.050 and 1951 c 173 s 4;
- (114) RCW 45.76.060 and 1951 c 173 s 5;
- (115) RCW 45.76.070 and 1951 c 173 s 6;
- (116) RCW 45.76.080 and 1951 c 173 s 7;
- (117) RCW 45.76.090 and 1951 c 173 s 8;
- (118) RCW 45.76.100 and 1957 c 65 s 1 & 1951 c 173 s 9;
- (119) RCW 45.80.010 and 1961 c 53 s 1;
- (120) RCW 45.80.020 and 1961 c 53 s 2;
- (121) RCW 45.80.030 and 1961 c 53 s 3;
- (122) RCW 45.80.040 and 1961 c 53 s 4;
- (123) RCW 45.80.050 and 1961 c 53 s 5;
- (124) RCW 45.80.060 and 1961 c 53 s 6;
- (125) RCW 45.80.070 and 1971 c 19 s 3 & 1961 c 53 s 7;
- (126) RCW 45.80.080 and 1971 c 19 s 4 & 1961 c 53 s 8;
- (127) RCW 45.80.100 and 1961 c 53 s 10;
- (128) RCW 45.82.010 and 1969 ex.s. c 243 s 1; and
- (129) RCW 45.82.020 and 1973 1st ex.s. c 195 s 46 & 1969 ex.s. c 243 s 3.

Passed the Senate March 12, 1997.

Passed the House April 8, 1997.

Approved by the Governor April 16, 1997.

Filed in Office of Secretary of State April 16, 1997.

CHAPTER 37

[Substitute Senate Bill 5322]

DENTAL HYGIENISTS—ELIMINATION OF REGULATORY RESTRICTIONS

AN ACT Relating to removing regulatory barriers to the provision of oral health care services to rural, remote, and underserved populations; amending RCW 18.29.050 and 18.29.056; and repealing 1993 c 323 s 6 (uncodified).

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 18.29.050 and 1971 ex.s. c 235 s 1 are each amended to read as follows:

Any person licensed as a dental hygienist in this state may remove deposits and stains from the surfaces of the teeth, may apply topical preventive or prophylactic agents, may polish and smooth restorations, may perform root planing and soft-tissue curettage, and may perform other dental operations and services delegated to them by a licensed dentist: **PROVIDED HOWEVER,** That licensed dental hygienists shall in no event perform the following dental operations or services:

- (1) Any surgical removal of tissue of the oral cavity;
- (2) Any prescription of drugs or medications requiring the written order or prescription of a licensed dentist or physician;
- (3) Any diagnosis for treatment or treatment planning; or
- (4) The taking of any impression of the teeth or jaw, or the relationships of the teeth or jaws, for the purpose of fabricating any intra-oral restoration, appliance, or prosthesis.

Such licensed dental hygienists may perform dental operations and services only under the supervision of a licensed dentist, and under such supervision may be employed by hospitals, boards of education of public or private schools, county boards, boards of health, or public or charitable institutions, or in dental offices(~~PROVIDED, That the number of hygienists so employed in any dental office shall not exceed twice in number the licensed dentists practicing therein~~)).

Sec. 2. RCW 18.29.056 and 1984 c 279 s 63 are each amended to read as follows:

(1) Dental hygienists licensed under this chapter with two years' practical clinical experience with a licensed dentist within the preceding five years may be employed or retained by health care facilities to perform authorized dental hygiene operations and services without dental supervision, limited to removal of deposits and stains from the surfaces of the teeth, application of topical preventive or prophylactic agents, polishing and smoothing restorations, and performance of root planing and soft-tissue curettage, but shall not perform injections of anesthetic agents, administration of nitrous oxide, or diagnosis for dental treatment. The performance of dental hygiene operations and services in health care facilities shall be limited to patients, students, and residents of the facilities. For dental planning and dental treatment, dental hygienists shall refer patients to licensed dentists.

(2) For the purposes of this section, "health care facilities" are limited to hospitals; nursing homes; home health agencies; group homes serving the elderly, handicapped, and juveniles; state-operated institutions under the jurisdiction of the department of social and health services or the department of corrections; and federal, state, and local public health facilities, state or federally funded community and migrant health centers, and tribal clinics.

NEW SECTION. Sec. 3. 1993 c 323 s 6 (uncodified) is repealed.

Passed the Senate March 15, 1997.

Passed the House April 8, 1997.

Approved by the Governor April 16, 1997.

Filed in Office of Secretary of State April 16, 1997.

CHAPTER 38

[Senate Bill 5330]

AUTHORIZING GOLFING SWEEPSTAKES CHARITABLE EVENTS

AN ACT Relating to golfing sweepstakes; and amending RCW 9.46.0341.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 9.46.0341 and 1987 c 4 s 32 are each amended to read as follows:

The legislature hereby authorizes bona fide charitable or nonprofit organizations to conduct, without the necessity of obtaining a permit or license to do so from the commission, golfing sweepstakes permitting wagers of money, and the same shall not constitute such gambling or lottery as otherwise prohibited in this chapter, or be subject to civil or criminal penalties thereunder, but this only when the outcome of such golfing sweepstakes is dependent upon the score, or scores, or the playing ability, or abilities, of a golfing contest between individual players or teams of such players, conducted in the following manner:

(1) Wagers are placed by buying tickets on any players in a golfing contest to "win," "place," or "show" and those holding tickets on the three winners may receive a payoff similar to the system of betting identified as parimutuel, such moneys placed as wagers to be used primarily as winners' proceeds, except moneys used to defray the expenses of such golfing sweepstakes or otherwise used to carry out the purposes of such organization; or

(2) Participants in any golfing contest(s) pay a like sum of money into a common fund on the basis of attaining a stated number of points ascertainable from the score of such participants, and those participants attaining such stated number of points share equally in the moneys in the common fund, without any percentage of such moneys going to the sponsoring organization; ~~(and)~~ or

(3) An auction is held in which persons may bid on the players or teams of players in the golfing contest, and the person placing the highest bid on the player or team that wins the golfing contest receives the proceeds of the auction, except

moneys used to defray the expenses of the golfing sweepstakes or otherwise used to carry out the purposes of the organizations; and

(4) Participation is limited to members of the sponsoring organization and their bona fide guests.

Passed the Senate February 28, 1997.

Passed the House April ., 1997.

Approved by the Governor April 16, 1997.

Filed in Office of Secretary of State April 16, 1997.

CHAPTER 39

[Senate Bill 5338]

FURNISHING LIQUORS AT NO CHARGE—AUTHORIZED USES

AN ACT Relating to the restricted use of spirituous liquor at no charge; and amending RCW 66.28.040, 66.28.150, and 66.28.155.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 66.28.040 and 1987 c 452 s 15 are each amended to read as follows:

Except as permitted by the board under RCW 66.20.010, no brewer, wholesaler, distiller, winery, importer, rectifier, or other manufacturer of liquor shall, within the state, by himself(~~(-his)~~) or herself, a clerk, servant, or agent, give to any person any liquor; but nothing in this section nor in RCW 66.28.010 shall prevent a brewer, wholesaler, winery, distiller, or importer from furnishing samples of beer (~~(or)~~), wine, or spirituous liquor to authorized licensees for the purpose of negotiating a sale, in accordance with regulations adopted by the liquor control board, provided that the samples are subject to taxes imposed by RCW 66.24.290 and 66.24.210, and in the case of spirituous liquor, any product used for samples must be purchased at retail from the board; nothing in this section shall prevent the furnishing of samples of liquor to the board for the purpose of negotiating the sale of liquor to the state liquor control board; nothing in this section shall prevent a brewery, winery, distillery, or wholesaler from furnishing beer (~~(or)~~), wine, or spirituous liquor for instructional purposes under RCW 66.28.150 and 66.28.155; nothing in this section shall prevent a winery or wholesaler from furnishing wine without charge to a not-for-profit group organized and operated solely for the purpose of enology or the study of viticulture which has been in existence for at least six months and any wine so furnished shall be used solely for such educational purposes, provided that the wine furnished shall be subject to the taxes imposed by RCW 66.24.210; nothing in this section shall prevent a brewer from serving beer without charge, on the brewery premises; nothing in this section shall prevent donations of wine for the purposes of RCW 66.12.180; and nothing in this section shall prevent a domestic winery from serving wine without charge, on the winery premises.

Sec. 2. RCW 66.28.150 and 1982 1st ex.s. c 26 s 1 are each amended to read as follows:

A brewery, winery, ~~((or)) distillery, wholesaler, or its licensed agent~~ may, without charge, instruct licensees and their employees, or conduct courses of instruction for licensees and their employees, on the subject of beer ~~((or)), wine, or spirituous liquor,~~ including but not limited to, the history, nature, values, and characteristics of beer ~~((or)), wine, or spirituous liquor,~~ the use of wine lists, and the methods of presenting, serving, storing, and handling beer ~~((or)), wine, or spirituous liquor.~~ The brewery, winery, ~~((or)) distillery, wholesaler, or its licensed agent~~ may furnish beer ~~((or)), wine, or spirituous liquor~~ and such other equipment, materials, and utensils as may be required for use in connection with the instruction or courses of instruction. The instruction or courses of instruction may be given at the premises of the brewery, winery, ~~distillery,~~ or wholesaler, at the premises of a retail licensee, or elsewhere.

Sec. 3. RCW 66.28.155 and 1984 c 196 s 1 are each amended to read as follows:

A brewery, winery, ~~distillery,~~ wholesaler, or its licensed agent may conduct educational activities or provide product information to the consumer on the licensed premises of a retailer. Information on the subject of wine ~~((or)), beer, or spirituous liquor,~~ including but not limited to, the history, nature, quality, and characteristics of a wine ~~((or)), beer, or spirituous liquor,~~ methods of harvest, production, storage, handling, and distribution of a wine ~~((or)), beer, or spirituous liquor,~~ and the general development of the wine ~~((and)), beer, and spirituous liquor~~ industry may be provided by a brewery, winery, ~~distillery,~~ wholesaler, or its licensed agent to the public on the licensed premises of a retailer. The retailer requesting such activity shall attempt to schedule a series of brewery, winery, ~~or distillery~~ and wholesaler appearances in an effort to equitably represent the industries. Nothing in this section permits a brewery, winery, ~~distillery,~~ wholesaler, or its licensed agent to receive compensation or financial benefit from the educational activities or product information presented on the licensed premises of a retailer. The promotional value of such educational activities or product information shall not be considered advancement of moneys or of moneys' worth within the meaning of RCW 66.28.010.

Passed the Senate March 13, 1997.

Passed the House April 8, 1997.

Approved by the Governor April 16, 1997.

Filed in Office of Secretary of State April 16, 1997.

CHAPTER 40

[Substitute Senate Bill 5375]

PUBLIC HEALTH AGENCIES AS DISTRIBUTORS OF CHARITABLE DONATIONS FOR CHILDREN

AN ACT Relating to charitable donations for children; and amending RCW 70.200.010.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 70.200.010 and 1994 c 25 s 1 are each amended to read as follows:

Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter.

(1) "Distributing organization" means a charitable nonprofit organization under 26 U.S.C. Sec. 501(c) of the federal internal revenue code, or a public health agency acting on behalf of or in conjunction with a charitable nonprofit organization, which distributes children's items to needy persons free of charge and includes any nonprofit organization that distributes children's items free of charge to other nonprofit organizations or the public. A public health agency shall not otherwise be considered a distributing organization for purposes of this chapter when it is carrying out other functions and responsibilities under Title 70 RCW.

(2) "Donor" means a person, corporation, association, or other organization that donates children's items to a distributing organization or a person, corporation, association, or other organization that repairs or updates such donated items to current standards. Donor also includes any person, corporation, association, or other organization which donates any space in which storage or distribution of children's items takes place.

(3) "Children's items" include, but are not limited to, clothes, diapers, food, baby formula, cribs, playpens, car seat restraints, toys, high chairs, and books.

Passed the Senate March 10, 1997.

Passed the House April 8, 1997.

Approved by the Governor April 16, 1997.

Filed in Office of Secretary of State April 16, 1997.

CHAPTER 41

[Senate Bill 5426]

DELETING REFERENCES TO THE JUDICIAL COUNCIL

AN ACT Relating to making technical changes by deleting references to the former judicial council; amending RCW 1.08.025, 2.56.030, 3.34.020, 7.75.020, 10.101.020, 13.34.102, 26.12.177, and 36.22.210; reenacting and amending RCW 43.10.067; and repealing RCW 2.56.035 and 13.70.005.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 1.08.025 and 1983 c 52 s 2 are each amended to read as follows:

The committee, or the reviser with the approval of the committee, shall from time to time make written recommendations to the legislature concerning deficiencies, conflicts, or obsolete provisions in, and need for reorganization or revision of, the statutes, and shall prepare for submission to the legislature, legislation for the correction or removal of such deficiencies, conflicts or obsolete provisions, or to otherwise improve the form or substance of any portion of the statute law of this state as the public interest or the administration of the subject may require.

Such or similar projects may also be undertaken at the request of the legislature(~~(:)~~) and legislative interim bodies(~~(, and the judicial council)~~) and if such undertaking will not impede the other functions of the committee.

All such proposed legislation shall be annotated so as to show the purposes, reasons, and history thereof.

Sec. 2. RCW 2.56.030 and 1996 c 249 s 2 are each amended to read as follows:

The administrator for the courts shall, under the supervision and direction of the chief justice:

(1) Examine the administrative methods and systems employed in the offices of the judges, clerks, stenographers, and employees of the courts and make recommendations, through the chief justice, for the improvement of the same;

(2) Examine the state of the dockets of the courts and determine the need for assistance by any court;

(3) Make recommendations to the chief justice relating to the assignment of judges where courts are in need of assistance and carry out the direction of the chief justice as to the assignments of judges to counties and districts where the courts are in need of assistance;

(4) Collect and compile statistical and other data and make reports of the business transacted by the courts and transmit the same to the chief justice to the end that proper action may be taken in respect thereto;

(5) Prepare and submit budget estimates of state appropriations necessary for the maintenance and operation of the judicial system and make recommendations in respect thereto;

(6) Collect statistical and other data and make reports relating to the expenditure of public moneys, state and local, for the maintenance and operation of the judicial system and the offices connected therewith;

(7) Obtain reports from clerks of courts in accordance with law or rules adopted by the supreme court of this state on cases and other judicial business in which action has been delayed beyond periods of time specified by law or rules of court and make report thereof to supreme court of this state;

(8) Act as secretary of the judicial conference referred to in RCW 2.56.060;

(9) ~~((Formulate and submit to the judicial council of this state recommendations of policies for the improvement of the judicial system;~~

~~—(10))~~ Submit annually, as of February 1st, to the chief justice ~~((and the judicial council))~~, a report of the activities of the administrator's office for the preceding calendar year including activities related to courthouse security;

~~((+1))~~ (10) Administer programs and standards for the training and education of judicial personnel;

~~((+2))~~ (11) Examine the need for new superior court and district judge positions under a weighted caseload analysis that takes into account the time required to hear all the cases in a particular court and the amount of time existing judges have available to hear cases in that court. The results of the weighted

caseload analysis shall be reviewed by the board for judicial administration (~~and the judicial council, both of~~) which shall make recommendations to the legislature. It is the intent of the legislature that weighted caseload analysis become the basis for creating additional district court positions, and recommendations should address that objective;

~~((13))~~ (12) Provide staff to the judicial retirement account plan under chapter 2.14 RCW;

~~((14))~~ (13) Attend to such other matters as may be assigned by the supreme court of this state;

~~((15))~~ (14) Within available funds, develop a curriculum for a general understanding of child development, placement, and treatment resources, as well as specific legal skills and knowledge of relevant statutes including chapters 13.32A, 13.34, and 13.40 RCW, cases, court rules, interviewing skills, and special needs of the abused or neglected child. This curriculum shall be completed and made available to all juvenile court judges, court personnel, and service providers and be updated yearly to reflect changes in statutes, court rules, or case law;

~~((16))~~ (15) Develop, in consultation with the entities set forth in RCW 2.56.150(3), a comprehensive state-wide curriculum for persons who act as guardians ad litem under Title 13 or 26 RCW. The curriculum shall be made available July 1, 1997, and include specialty sections on child development, child sexual abuse, child physical abuse, child neglect, clinical and forensic investigative and interviewing techniques, family reconciliation and mediation services, and relevant statutory and legal requirements. The curriculum shall be made available to all superior court judges, court personnel, and all persons who act as guardians ad litem;

~~((17))~~ (16) Develop a curriculum for a general understanding of crimes of malicious harassment, as well as specific legal skills and knowledge of RCW 9A.36.080, relevant cases, court rules, and the special needs of malicious harassment victims. This curriculum shall be made available to all superior court and court of appeals judges and to all justices of the supreme court;

~~((18))~~ (17) Develop, in consultation with the criminal justice training commission and the commissions established under chapters 43.113, 43.115, and 43.117 RCW, a curriculum for a general understanding of ethnic and cultural diversity and its implications for working with youth of color and their families. The curriculum shall be available to all superior court judges and court commissioners assigned to juvenile court, and other court personnel. Ethnic and cultural diversity training shall be provided annually so as to incorporate cultural sensitivity and awareness into the daily operation of juvenile courts state-wide;

~~((19))~~ (18) Authorize the use of closed circuit television and other electronic equipment in judicial proceedings. The administrator shall promulgate necessary standards and procedures and shall provide technical assistance to courts as required.

Sec. 3. RCW 3.34.020 and 1991 c 313 s 2 are each amended to read as follows:

(1) Any change in the number of full and part-time district judges after January 1, 1992, shall be determined by the legislature after receiving a recommendation from the supreme court. The supreme court shall make its recommendations to the legislature based on a weighted caseload analysis that takes into account the following:

(a) The extent of time that existing judges have available to hear cases in that court;

(b) A measurement of the judicial time needed to process various types of cases;

(c) A determination of the time required to process each type of case to the individual court workload;

(d) A determination of the amount of a judge's annual work time that can be devoted exclusively to processing cases; and

(e) An assessment of judicial resource needs, including annual case filings, and case weights and the judge year value determined under the weighted caseload method.

(2) The administrator for the courts, under the supervision of the supreme court, may consult with the board of judicial administration(~~(the judicial council;)~~) and the district and municipal court judge's association in developing the procedures and methods of applying the weighted caseload analysis.

(3) For each recommended change from the number of full and part-time district judges in any county as of January 1, 1992, the administrator for the courts, under the supervision of the supreme court, shall complete a judicial impact note detailing any local or state cost associated with such recommended change.

(4) If the legislature approves an increase in the base number of district judges in any county as of January 1, 1992, such increase in the base number of district judges and all related costs may be paid for by the county from moneys provided under RCW 82.14.310, and any such costs shall be deemed to be expended for criminal justice purposes as provided in RCW 82.14.315, and such expenses shall not constitute a supplanting of existing funding.

(5)(a) A county legislative authority that desires to change the number of full or part-time district judges from the base number on January 1, 1992, must first request the assistance of the supreme court. The administrator for the courts, under the supervision of the supreme court, shall conduct a weighted caseload analysis and make a recommendation of its findings to the legislature for consideration as provided in this section.

(b) The legislative authority of any county may change a part-time district judge position to a full-time position.

Sec. 4. RCW 7.75.020 and 1984 c 258 s 502 are each amended to read as follows:

(1) A dispute resolution center may be created and operated by a municipality, county, or by a corporation organized exclusively for the resolution of disputes or for charitable or educational purposes. The corporation shall not be organized for profit, and no part of the net earnings may inure to the benefit of any private shareholders or individuals. The majority of the directors of such a corporation shall not consist of members of any single profession.

(2) A dispute resolution center may not begin operation under this chapter until a plan for establishing a center for the mediation and settlement of disputes has been approved by the legislative authority of the municipality or county creating the center or, in the case of a center operated by a nonprofit corporation, by the legislative authority of the municipality or county within which the center will be located. A plan for a dispute resolution center shall not be approved and the center shall not begin operation until the legislative authority finds that the plan adequately prescribes:

(a) Procedures for filing requests for dispute resolution services with the center and for scheduling mediation sessions participated in by the parties to the dispute;

(b) Procedures to ensure that each dispute mediated by the center meets the criteria for appropriateness for mediation set by the legislative authority and for rejecting disputes which do not meet the criteria;

(c) Procedures for giving notice of the time, place, and nature of the mediation session to the parties, and for conducting mediation sessions that comply with the provisions of this chapter;

(d) Procedures which ensure that participation by all parties is voluntary;

(e) Procedures for obtaining referrals from public and private bodies;

(f) Procedures for meeting the particular needs of the participants, including, but not limited to, providing services at times convenient to the participants, in sign language, and in languages other than English;

(g) Procedures for providing trained and certified mediators who, during the dispute resolution process, shall make no decisions or determinations of the issues involved, but who shall facilitate negotiations by the participants themselves to achieve a voluntary resolution of the issues; and

(h) Procedures for informing and educating the community about the dispute resolution center and encouraging the use of the center's services in appropriate cases.

~~((3) A dispute resolution center established under this chapter annually shall provide to the administrator for the courts such data regarding its operation as the administrator requires. The administrator shall report annually beginning January 1, 1986, to the governor, the supreme court, and the legislature regarding the operation of centers established under this chapter.))~~

Sec. 5. RCW 10.101.020 and 1989 c 409 s 3 are each amended to read as follows:

(1) A determination of indigency shall be made for all persons wishing the appointment of counsel in criminal, juvenile, involuntary commitment, and dependency cases, and any other case where the right to counsel attaches. The court or its designee shall determine whether the person is indigent pursuant to the standards set forth in this chapter.

(2) In making the determination of indigency, the court shall also consider the anticipated length and complexity of the proceedings and the usual and customary charges of an attorney in the community for rendering services, and any other circumstances presented to the court which are relevant to the issue of indigency. The appointment of counsel shall not be denied to the person because the person's friends or relatives, other than a spouse who was not the victim of any offense or offenses allegedly committed by the person, have resources adequate to retain counsel, or because the person has posted or is capable of posting bond.

(3) The determination of indigency shall be made upon the defendant's initial contact with the court or at the earliest time circumstances permit. The court or its designee shall keep a written record of the determination of indigency. Any information given by the accused under this section or sections shall be confidential and shall not be available for use by the prosecution in the pending case.

(4) If a determination of eligibility cannot be made before the time when the first services are to be rendered, the court shall appoint an attorney on a provisional basis. If the court subsequently determines that the person receiving the services is ineligible, the court shall notify the person of the termination of services, subject to court-ordered reinstatement.

(5) All persons determined to be indigent and able to contribute, shall be required to execute a promissory note at the time counsel is appointed. The person shall be informed whether payment shall be made in the form of a lump sum payment or periodic payments. The payment and payment schedule must be set forth in writing. The person receiving the appointment of counsel shall also sign an affidavit swearing under penalty of perjury that all income and assets reported are complete and accurate. In addition, the person must swear in the affidavit to immediately report any change in financial status to the court.

(6) The office or individual charged by the court to make the determination of indigency shall provide a written report and opinion as to indigency on a form prescribed by the office of ~~((the administrator for the courts))~~ public defense, based on information obtained from the defendant and subject to verification. The form shall include information necessary to provide a basis for making a determination with respect to indigency as provided by this chapter.

Sec. 6. RCW 13.34.102 and 1996 c 249 s 17 are each amended to read as follows:

(1) All guardians ad litem, who have not previously served or been trained as a guardian ad litem in this state, who are appointed after January 1, 1998, must complete the curriculum developed by the office of the administrator for the courts

under RCW 2.56.030(~~((+6))~~) (15), prior to their appointment in cases under Title 13 RCW except that volunteer guardians ad litem or court-appointed special advocates accepted into a volunteer program after January 1, 1998, may complete an alternative curriculum approved by the office of the administrator for the courts that meets or exceeds the state-wide curriculum.

(2)(a) Each guardian ad litem program for compensated guardians ad litem shall establish a rotational registry system for the appointment of guardians ad litem. If a judicial district does not have a program the court shall establish the rotational registry system. Guardians ad litem shall be selected from the registry except in exceptional circumstances as determined and documented by the court. The parties may make a joint recommendation for the appointment of a guardian ad litem from the registry.

(b) In judicial districts with a population over one hundred thousand, a list of three names shall be selected from the registry and given to the parties along with the background information as specified in RCW 13.34.100(3), including their hourly rate for services. Each party may, within three judicial days, strike one name from the list. If more than one name remains on the list, the court shall make the appointment from the names on the list. In the event all three names are stricken the person whose name appears next on the registry shall be appointed.

(c) If a party reasonably believes that the appointed guardian ad litem lacks the necessary expertise for the proceeding, charges an hourly rate higher than what is reasonable for the particular proceeding, or has a conflict of interest, the party may, within three judicial days from the appointment, move for substitution of the appointed guardian ad litem by filing a motion with the court.

(3) The rotational registry system shall not apply to court-appointed special advocate programs.

Sec. 7. RCW 26.12.177 and 1996 c 249 s 18 are each amended to read as follows:

(1) All guardians ad litem, who have not previously served or been trained as a guardian ad litem in this state, who are appointed after January 1, 1998, must complete the curriculum developed by the office of the administrator for the courts under RCW 2.56.030(~~((+6))~~) (15), prior to their appointment in cases under Title 26 RCW except that volunteer guardians ad litem or court-appointed special advocates accepted into a volunteer program after January 1, 1998, may complete an alternative curriculum approved by the office of the administrator for the courts that meets or exceeds the state-wide curriculum.

(2)(a) Each guardian ad litem program for compensated guardians ad litem shall establish a rotational registry system for the appointment of guardians ad litem. If a judicial district does not have a program the court shall establish the rotational registry system. Guardians ad litem shall be selected from the registry except in exceptional circumstances as determined and documented by the court. The parties may make a joint recommendation for the appointment of a guardian ad litem from the registry.

(b) In judicial districts with a population over one hundred thousand, a list of three names shall be selected from the registry and given to the parties along with the background information as specified in RCW 26.12.175(3), including their hourly rate for services. Each party may, within three judicial days, strike one name from the list. If more than one name remains on the list, the court shall make the appointment from the names on the list. In the event all three names are stricken the person whose name appears next on the registry shall be appointed.

(c) If a party reasonably believes that the appointed guardian ad litem lacks the necessary expertise for the proceeding, charges an hourly rate higher than what is reasonable for the particular proceeding, or has a conflict of interest, the party may, within three judicial days from the appointment, move for substitution of the appointed guardian ad litem by filing a motion with the court.

(3) The rotational registry system shall not apply to court-appointed special advocate programs.

Sec. 8. RCW 36.22.210 and 1992 c 125 s 2 are each amended to read as follows:

(1) Each county auditor shall develop a registration process to register process servers required to register under RCW 18.180.010.

(2) The county auditor may collect an annual registration fee from the process server not to exceed ten dollars.

(3) The ~~((office of the administrator for the courts shall develop a registration form for the))~~ county auditor ~~((s to))~~ shall use a form in the registration process for the purpose of identifying and locating the registrant, including the process server's name, birthdate, and social security number, and the process server's business name, business address, and business telephone number.

(4) The county auditor shall maintain a register of process servers and assign a number to each registrant. Upon renewal of the registration as required in RCW 18.180.020, the auditor shall continue to assign the same registration number. A successor entity composed of one or more registrants shall be permitted to transfer one or more registration numbers to the new entity.

Sec. 9. RCW 43.10.067 and 1987 c 364 s 1 and 1987 c 186 s 7 are each reenacted and amended to read as follows:

No officer, director, administrative agency, board, or commission of the state, other than the attorney general, shall employ, appoint or retain in employment any attorney for any administrative body, department, commission, agency, or tribunal or any other person to act as attorney in any legal or quasi legal capacity in the exercise of any of the powers or performance of any of the duties specified by law to be performed by the attorney general, except where it is provided by law to be the duty of the judge of any court or the prosecuting attorney of any county to employ or appoint such persons: PROVIDED, That RCW 43.10.040, and 43.10.065 through 43.10.080 shall not apply to the administration of ~~((the judicial council;))~~ the commission on judicial conduct, the state law library, the law school of the state university, the administration of the state bar act by the Washington

State Bar Association, or the representation of an estate administered by the director of the department of revenue or the director's designee pursuant to chapter 11.28 RCW.

The authority granted by chapter 1.08 RCW, RCW ((44.28.140)) 44.28.065, and 47.01.061 shall not be affected hereby.

NEW SECTION. **Sec. 10.** The following acts or parts of acts are each repealed:

- (1) RCW 2.56.035 and 1982 1st ex.s. c 8 s 6; and
- (2) RCW 13.70.005 and 1993 c 505 s 1.

Passed the Senate March 12, 1997.

Passed the House April 8, 1997.

Approved by the Governor April 16, 1997.

Filed in Office of Secretary of State April 16, 1997.

CHAPTER 42

[Senate Bill 5647]

BUILDING FEES OF COMMUNITY AND TECHNICAL COLLEGES—PAYMENTS TO STATE TREASURY

AN ACT Relating to building fee payments by community and technical colleges; and amending RCW 28B.50.360.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 28B.50.360 and 1991 sp.s. c 13 ss 47, 48 are each amended to read as follows:

Within thirty-five days from the date of start of each quarter all collected building fees of each such community and technical college shall be paid into the state treasury, and shall be credited as follows:

(1) On or before June 30th of each year the college board if issuing bonds payable out of building fees shall certify to the state treasurer the amounts required in the ensuing twelve-month period to pay and secure the payment of the principal of and interest on such bonds. The state treasurer shall thereupon deposit the amounts so certified in the community and technical college capital projects account. Such amounts of the funds deposited in the community and technical college capital projects account as are necessary to pay and secure the payment of the principal of and interest on the building bonds issued by the college board as authorized by this chapter shall be exclusively devoted to that purpose. If in any twelve-month period it shall appear that the amount certified by the college board is insufficient to pay and secure the payment of the principal of and interest on the outstanding building bonds, the state treasurer shall notify the college board and such board shall adjust its certificate so that all requirements of moneys to pay and secure the payment of the principal and interest on all such bonds then outstanding shall be fully met at all times.

(2) The community and technical college capital projects account is hereby created in the state treasury. The sums deposited in the capital projects account shall be appropriated and expended exclusively to pay and secure the payment of the principal of and interest on bonds payable out of the building fees paid for the construction, reconstruction, erection, equipping, maintenance, demolition and major alteration of buildings and other capital assets owned by the state board for community and technical colleges in the name of the state of Washington, and the acquisition of sites, rights-of-way, easements, improvements or appurtenances in relation thereto, and for the payment of principal of and interest on any bonds issued for such purposes.

(3) Notwithstanding the provisions of subsections (1) and (2) of this section, at such time as all outstanding building bonds of the college board payable from the community and technical college capital projects account have been paid, redeemed, and retired, or at such time as ample provision has been made by the state for full payment, from some source other than the community and technical college capital projects account, of the principal of and the interest on and call premium, if applicable, of such bonds as they mature and/or upon their call prior to their maturity, through refunding or otherwise, that portion of all building fees of the community and technical colleges equal to the amount required to pay yearly debt service on any general obligation bonds issued by the state in accordance with Article VIII, section 1, Washington state Constitution, for community and technical college purposes, shall be paid into the general fund of the state treasury. The state finance committee shall determine whether ample provision has been made for payment of such bonds payable from the community and technical college capital projects account and shall determine the amount required to pay yearly debt service on such general obligation bonds of the state. Nothing in this subsection shall be construed as obligating the legislature or the state to provide for payment of such college building bonds from some source other than the community and technical college capital projects account or as pledging the general credit of the state to the payment of such bonds.

Passed the Senate March 14, 1997.

Passed the House April 8, 1997.

Approved by the Governor April 16, 1997.

Filed in Office of Secretary of State April 16, 1997.

CHAPTER 43

[Substitute Senate Bill 5684]

PROCEDURES FOR DECREASING FIRE PROTECTION DISTRICT COMMISSIONERS

AN ACT Relating to prescribing procedures for decreasing fire protection district commissioners; and adding a new section to chapter 52.14 RCW.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. Sec. 1. A new section is added to chapter 52.14 RCW to read as follows:

Except as provided in RCW 52.14.020, in the event a five-member board of commissioners of any fire protection district determines by resolution that it would be in the best interest of the fire district to decrease the number of commissioners from five to three, or in the event the board is presented with a petition signed by ten percent of the registered voters resident within the district who voted in the last general municipal election calling for such a decrease in the number of commissioners of the district, the board shall submit a resolution to the county legislative authority or authorities of the county or counties in which the district is located requesting that an election be held. Upon receipt of the resolution, the legislative authority or authorities of the county or counties shall call a special election to be held within the fire protection district at which election the following proposition shall be submitted to the voters substantially as follows:

Shall the board of commissioners of county fire protection district no. be decreased from five members to three members?

Yes . . .

No . . .

If the fire protection district has commissioner districts, the commissioners of the district must pass a resolution, before the submission of the proposition to the voters, to either redistrict from five commissioner districts to three commissioner districts or eliminate the commissioner districts. The resolution takes effect upon approval of the proposition by the voters.

If the fire protection district is located in more than a single county, this proposition shall indicate the name of the district.

If the proposition receives a majority approval at the election, the board of commissioners of the fire protection district shall be decreased to three members. The two members shall be decreased in accordance with RCW 52.06.085.

Passed the Senate March 12, 1997.

Passed the House April 8, 1997.

Approved by the Governor April 16, 1997.

Filed in Office of Secretary of State April 16, 1997.

CHAPTER 44

[Senate Bill 5713]

NONPROFIT ORGANIZATIONS—EXPANSION OF DEFINITION FOR WASHINGTON STATE HOUSING FINANCE COMMISSION PURPOSES

AN ACT Relating to defining nonprofit corporation for purposes of the Washington state housing finance commission; and amending RCW 43.180.300.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 43.180.300 and 1990 c 167 s 2 are each amended to read as follows:

As used in RCW 43.180.310 through 43.180.360, the following terms have the meanings indicated unless the context clearly requires otherwise.

(1) "Construction" or "construct" means construction and acquisition, whether by device, purchase, gift, lease, or otherwise.

(2) "Facilities" means land, rights in land, buildings, structures, equipment, landscaping, utilities, approaches, roadways and parking, handling and storage areas, and similar ancillary facilities.

(3) "Financing document" means a lease, sublease, installment sale agreement, conditional sale agreement, loan agreement, mortgage, deed of trust guaranty agreement, or other agreement for the purpose of providing funds to pay or secure debt service on revenue bonds.

(4) "Improvement" means reconstruction, remodeling, rehabilitation, extension, and enlargement. "To improve" means to reconstruct, to remodel, to rehabilitate, to extend, and to enlarge.

(5) "Nonprofit corporation" means a nonprofit (~~corporation~~) organization described under section 501(c)(3) of the Internal Revenue Code, or similar successor provisions.

(6) "Nonprofit facilities" means facilities owned or used by a nonprofit corporation for any nonprofit activity described under section 501(c)(3) of the Internal Revenue Code that qualifies such a corporation for an exemption from federal income taxes under section 501(a) of the Internal Revenue Code, or similar successor provisions provided that facilities which may be funded pursuant to chapter 28B.07, 35.82, 43.180, or 70.37 RCW shall not be included in this definition.

(7) "Project costs" means costs of (a) acquisition, construction, and improvement of any facilities included in a nonprofit facility; (b) architectural, engineering, consulting, accounting, and legal costs related directly to the development, financing, and construction of a nonprofit facility, including costs of studies assessing the feasibility of a nonprofit facility; (c) finance costs, including discounts, if any, the costs of issuing revenue bonds, and costs incurred in carrying out any trust agreement; (d) interest during construction and during the six months after estimated completion of construction, and capitalized debt service or repair and replacement or other appropriate reserves; (e) the refunding of any outstanding obligations incurred for any of the costs outlined in this subsection; and (f) other costs incidental to any of the costs listed in this section.

(8) "Revenue bond" means a taxable or tax-exempt nonrecourse revenue bond, nonrecourse revenue note, or other nonrecourse revenue obligation issued for the purpose of providing financing to a nonprofit corporation on an interim or permanent basis.

(9) "User" means one or more persons acting as lessee, purchaser, mortgagor, or borrower under a financing document and may include a party who transfers the right of use and occupancy to another party by lease, sublease, or otherwise.

Passed the Senate March 12, 1997.

Passed the House April 8, 1997.

Approved by the Governor April 16, 1997.

Filed in Office of Secretary of State April 16, 1997.

CHAPTER 45

[Substitute House Bill 1016]

TRANSFERRING LIND PROPERTY TO WASHINGTON STATE UNIVERSITY

AN ACT Relating to transferring Lind property to Washington State University; and creating a new section.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. Sec. 1. (1) The Washington state treasury has been named a devisee of certain property pursuant to a will executed by Cleora Neare on July 14, 1982. Under RCW 79.01.612, property that has been devised to the state is to be managed and controlled by the department of natural resources. The legislature hereby finds that it is in the best interest of the state to transfer part of the real property devised to the state under the will to Washington State University for use in conjunction with the Washington State University Lind dryland research unit located in Adams county and sell the remaining property for the benefit of the common schools.

(2) Washington State University is hereby granted ownership, management, and control of the real property legally described as all of Section 6, and the west half of Section 5, Township 17, Range 34 East E.W.M., Adams county, Washington, upon close of probate, or sooner if the property can be transferred without cost, other than costs properly allocated to the state as devisee under probate, to Washington State University.

Upon transfer of this property, the parcel shall become part of the Washington State University Lind dryland research unit. Any and all lease income derived from current leases on the property shall be deposited in a dedicated Washington State University local account for the benefit of the Lind dryland research unit.

(3) The department of natural resources shall sell the real property legally described as lots 28 and 29, block 10, Neilson Brothers plat, City of Lind, Adams county and the proceeds of the sale shall be deposited into the permanent common school fund.

Passed the House February 3, 1997.

Passed the Senate April 7, 1997.

Approved by the Governor April 16, 1997.

Filed in Office of Secretary of State April 16, 1997.

CHAPTER 46

[Substitute House Bill 1060]

CAPITAL BUDGET—INCLUDING ADDITIONAL WASHINGTON WILDLIFE AND RECREATION PROJECTS

AN ACT Relating to including additional projects contained in LEAP CAPITAL DOCUMENT NO. 5 in the list of Washington wildlife and recreation program projects authorized in section 327, chapter 16, Laws of 1995 2nd sp. sess.; amending 1995 2nd sp.s. c 16 s 327 (uncodified); creating a new section; authorizing expenditures; and declaring an emergency.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. Sec. 1. The sole object of this act is to include additional projects contained in LEAP CAPITAL DOCUMENT NO. 5 in the list of Washington wildlife and recreation program projects authorized in section 327, chapter 16, Laws of 1995 2nd sp. sess. No new funds are appropriated.

Sec. 2. 1995 2nd sp.s. c 16 s 327 (uncodified) is amended to read as follows:
FOR THE INTERAGENCY COMMITTEE FOR OUTDOOR RECREATION

Washington wildlife and recreation program (96-2-003)

The appropriations in this section for the Washington wildlife and recreation program under chapter 43.98A RCW are subject to the following conditions and limitations:

(1) The new appropriations in this section are provided solely for the approved list of projects included in LEAP CAPITAL DOCUMENT NO. 4 as developed on May 24, 1995, at 3:00 p.m. and LEAP CAPITAL DOCUMENT NO. 5 as developed on January 17, 1997, at 6:00 p.m.

(2) All land acquired by a state agency with moneys from these appropriations shall comply with class A, B, and C weed control provisions of chapter 17.10 RCW.

(3) No moneys from the appropriations in this section shall be spent for the Lewis and Clark equestrian area project (project number 92-502A).

(4) The entire appropriation from the wildlife account is provided solely for the critical habitat project category.

Reappropriation:

ORA—State	\$ 13,943,479
Habitat Conservation Acct—State	\$ 9,134,101
Aquatic Lands Acct—State	\$ 33,335
St Bldg Constr Acct—State	\$ 48,691,974
Subtotal Reappropriation	\$ 71,802,889

Appropriation:

Wildlife Acct--State	\$ 1,400,000
Habitat Conservation Acct—State	\$ 21,100,000
ORA—State	\$ 22,500,000

Subtotal Appropriation	\$ 45,000,000
Prior Biennia (Expenditures)	\$ 118,234,493
Future Biennia (Projected Costs)	\$ 200,000,000
TOTAL	\$ 435,037,382

NEW SECTION. Sec. 3. This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately.

- Passed the House February 3, 1997.
- Passed the Senate April 8, 1997.
- Approved by the Governor April 16, 1997.
- Filed in Office of Secretary of State April 16, 1997.

CHAPTER 47

[Substitute House Bill 1120]

TRANSFER OF ANNEXED PROPERTY OF SCHOOL DISTRICTS

AN ACT Relating to school district territory included in city and town boundary extensions; amending RCW 28A.315.250; and declaring an emergency.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 28A.315.250 and 1985 c 385 s 19 are each amended to read as follows:

Each incorporated city or town in the state shall be comprised in one school district: PROVIDED, That nothing in this section shall be construed: (1) To prevent the extension of the boundaries of a school district beyond the limits of the city or town contained therein, or (2) to prevent the inclusion of two or more incorporated cities or towns in a single school district, or (3) to change or disturb the boundaries of any school district organized prior to the incorporation of any city or town, except as hereafter in this section provided.

In case all or any part of a school district that operates a school or schools on one site only or operates elementary schools only on two or more sites is included in an incorporated city or town through the extension of the limits of such city or town in the manner provided by law, the ~~((educational service district superintendent shall: (1) Declare))~~ regional committee may, in its discretion, prepare a proposal for transfer of any part or all of the territory so included to ((be a part of)) the school district containing the city or town and ~~((2))~~, whenever a part of a district so included contains a school building of the district, ~~((present to the regional committee a proposal))~~ for the disposition of any part or all of the remaining territory of the district.

In case of the extension of the limits of a town to include territory lying in a school district that operates on more than one site one or more elementary schools and one or more junior high schools or high schools, the regional committee ~~((shall))~~ may, in its discretion, prepare a proposal or proposals for annexation to

the school district in which the town is located any part or all of the territory aforesaid which has been included in the town and for annexation to the school district in which the town is located or to some other school district or districts any part or all of the remaining territory of the school district affected by extension of the limits of the town: PROVIDED, That where no school or school site is located within the territory annexed to the town and not less than seventy-five percent of the registered voters residing within the annexed territory present a petition in writing for annexation and transfer of said territory to the school district in which the town is located, the educational service district superintendent shall declare the territory so included to be a part of the school district containing said town: PROVIDED FURTHER, That territory approved for annexation to a city or town by vote of the electors residing therein prior to January 12, 1953, shall not be subject to the provisions herein respecting annexation to a school district or school districts: AND PROVIDED FURTHER, That the provisions and procedural requirements of this chapter as now or hereafter amended not in conflict with or inconsistent with the provisions hereinabove in this section stated shall apply in the case of any proposal or proposals (1) for the alteration of the boundaries of school districts through and by means of annexation of territory as aforesaid, and (2) for the adjustment of the assets and liabilities of the school districts involved or affected thereby.

In case of the incorporation of a city or town containing territory lying in two or more school districts or of the uniting of two or more cities or towns not located in the same school district, the educational service district superintendent, except where the incorporation or consolidation would affect a district or districts of the first class, shall: (1) Order and declare to be established in each such case a single school district comprising all of the school districts involved, and (2) designate each such district by name and by a number different from that of any other district in existence in the county.

The educational service district superintendent shall fix as the effective date of any declaration or order required under this section a date no later than the first day of September next succeeding the date of the issuance of such declaration or order.

NEW SECTION. Sec. 2. This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately.

Passed the House February 21, 1997.

Passed the Senate April 8, 1997.

Approved by the Governor April 16, 1997.

Filed in Office of Secretary of State April 16, 1997.

CHAPTER 48

[Substitute House Bill 1124]

DISCLOSURE OF STATE SUPPORT TO HIGHER EDUCATION STUDENTS

AN ACT Relating to disclosure of state support received by higher education students; and amending RCW 28B.10.044.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 28B.10.044 and 1993 c 250 s 1 are each amended to read as follows:

(1) The higher education coordinating board shall annually develop information on the approximate amount of state support that students receive. For students at state-supported colleges and universities, the information shall include the approximate level of support received by students in each tuition category. That information may include consideration of the following: Expenditures included in the educational cost formula, revenue forgiven from waived tuition and fees, state-funded financial aid awarded to students at public institutions, and all or a portion of appropriated amounts not reflected in the educational cost formula for institutional programs and services that may affect or enhance the educational experience of students at a particular institution. For students attending a private college, university, or proprietary school, the information shall include the amount of state-funded financial aid awarded to students attending the institution.

(2) Beginning July 30, 1993, the board shall annually provide information appropriate to each institution's student body to each state-supported four-year institution of higher education and to the state board for community and technical colleges for distribution to community colleges and technical colleges.

(3) Beginning July 30, 1993, the board shall annually provide information on the level of financial aid received by students at that institution to each private university, college, or proprietary school, that enrolls students receiving state-funded financial aid.

(4) ~~((At least annually,))~~ Beginning with the ~~((1993))~~ 1997 fall academic term, each institution of higher education described in subsection (2) or (3) of this section shall provide to students at the institution information on the approximate amount that the state is contributing to the support of their education. Information provided to students at each state-supported college and university shall include the approximate amount of state support received by students in each tuition category at that institution. The amount of state support shall be based on the information provided by the higher education coordinating board under subsections (1) through (3) of this section. ~~((Institutions may use any informational format that is appropriate for their students, including, but not limited to, posters, handouts, and information in students' registration packets.))~~ The information shall be provided to students at the beginning of each academic term through one or more of the following: Registration materials, class schedules, tuition and fee billing packets, student newspapers, or via e-mail or kiosk.

Passed the House March 7, 1997.

Passed the Senate April 7, 1997.

Approved by the Governor April 16, 1997.

Filed in Office of Secretary of State April 16, 1997.

CHAPTER 49

[Substitute House Bill 1171]

EMERGENCY MANAGEMENT

AN ACT Relating to emergency management; amending RCW 38.52.010, 38.52.030, 38.52.050, 38.52.070, 38.52.400, 38.52.420, 38.52.530, 38.54.020, 38.54.030, 38.54.040, and 38.54.050; and reenacting and amending RCW 38.54.010.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 38.52.010 and 1995 c 391 s 2 are each amended to read as follows:

As used in this chapter:

(1) "Emergency management" or "comprehensive emergency management" means the preparation for and the carrying out of all emergency functions, other than functions for which the military forces are primarily responsible, to mitigate, prepare for, respond to, and recover from emergencies and disasters, and to aid victims suffering from injury or damage, resulting from disasters caused by all hazards, whether natural (~~or man-made~~), technological, or human caused, and to provide support for search and rescue operations for persons and property in distress. However, "emergency management" or "comprehensive emergency management" does not mean preparation for emergency evacuation or relocation of residents in anticipation of nuclear attack.

(2) "Local organization for emergency services or management" means an organization created in accordance with the provisions of this chapter by state or local authority to perform local emergency management functions.

(3) "Political subdivision" means any county, city or town.

(4) "Emergency worker" means any person, including but not limited to an architect registered under chapter 18.08 RCW or a professional engineer registered under chapter 18.43 RCW, who is registered with a local emergency management organization or the department and holds an identification card issued by the local emergency management director or the department for the purpose of engaging in authorized emergency management activities or is an employee of the state of Washington or any political subdivision thereof who is called upon to perform emergency management activities.

(5) "Injury" as used in this chapter shall mean and include accidental injuries and/or occupational diseases arising out of emergency management activities.

(6)(a) "Emergency or disaster" as used in all sections of this chapter except RCW 38.52.430 shall mean an event or set of circumstances which: (i) Demands immediate action to preserve public health, protect life, protect public property, or to provide relief to any stricken community overtaken by such occurrences, or (ii)

reaches such a dimension or degree of destructiveness as to warrant the governor declaring a state of emergency pursuant to RCW 43.06.010.

(b) "Emergency" as used in RCW 38.52.430 means an incident that requires a normal police, coroner, fire, rescue, emergency medical services, or utility response as a result of a violation of one of the statutes enumerated in RCW 38.52.430.

(7) "Search and rescue" means the acts of searching for, rescuing, or recovering by means of ground, marine, or air activity any person who becomes lost, injured, or is killed while outdoors or as a result of a natural (~~or man-made~~), technological, or human caused disaster, including instances involving searches for downed aircraft when ground personnel are used. Nothing in this section shall affect appropriate activity by the department of transportation under chapter 47.68 RCW.

(8) "Executive head" and "executive heads" means the county executive in those charter counties with an elective office of county executive, however designated, and, in the case of other counties, the county legislative authority. In the case of cities and towns, it means the mayor in those cities and towns with mayor-council or commission forms of government, where the mayor is directly elected, and it means the city manager in those cities and towns with council manager forms of government. Cities and towns may also designate an executive head for the purposes of this chapter by ordinance.

(9) "Director" means the adjutant general.

(10) "Local director" means the director of a local organization of emergency management or emergency services.

(11) "Department" means the state military department.

(12) "Emergency response" as used in RCW 38.52.430 means a public agency's use of emergency services during an emergency or disaster as defined in subsection (6)(b) of this section.

(13) "Expense of an emergency response" as used in RCW 38.52.430 means reasonable costs incurred by a public agency in reasonably making an appropriate emergency response to the incident, but shall only include those costs directly arising from the response to the particular incident. Reasonable costs shall include the costs of providing police, coroner, fire fighting, rescue, emergency medical services, or utility response at the scene of the incident, as well as the salaries of the personnel responding to the incident.

(14) "Public agency" means the state, and a city, county, municipal corporation, district, town, or public authority located, in whole or in part, within this state which provides or may provide fire fighting, police, ambulance, medical, or other emergency services.

(15) "Incident command system" means: (a) An all-hazards, on-scene functional management system that establishes common standards in organization, terminology, and procedures; provides a means (unified command) for the establishment of a common set of incident objectives and strategies during

multiagency/multijurisdiction operations while maintaining individual agency/jurisdiction authority, responsibility, and accountability; and is a component of the national interagency incident management system; or (b) an equivalent and compatible all-hazards, on-scene functional management system.

Sec. 2. RCW 38.52.030 and 1995 c 269 s 1201 are each amended to read as follows:

(1) The director may employ such personnel and may make such expenditures within the appropriation therefor, or from other funds made available for purposes of emergency management, as may be necessary to carry out the purposes of this chapter.

(2) The director, subject to the direction and control of the governor, shall be responsible to the governor for carrying out the program for emergency management of this state. The director shall coordinate the activities of all organizations for emergency management within the state, and shall maintain liaison with and cooperate with emergency management agencies and organizations of other states and of the federal government, and shall have such additional authority, duties, and responsibilities authorized by this chapter, as may be prescribed by the governor.

(3) The director shall develop and maintain a comprehensive, all-hazard emergency plan for the state which shall include an analysis of the natural (~~and man-caused~~), technological, or human caused hazards which could affect the state of Washington, and shall include the procedures to be used during emergencies for coordinating local resources, as necessary, and the resources of all state agencies, departments, commissions, and boards. The comprehensive emergency management plan shall direct the department in times of state emergency to administer and manage the state's emergency operations center. This will include representation from all appropriate state agencies and be available as a single point of contact for the authorizing of state resources or actions, including emergency permits. The comprehensive emergency management plan must specify the use of the incident command system for multiagency/multijurisdiction operations. The comprehensive, all-hazard emergency plan authorized under this subsection may not include preparation for emergency evacuation or relocation of residents in anticipation of nuclear attack. This plan shall be known as the comprehensive emergency management plan.

(4) In accordance with the comprehensive emergency management plans and the programs for the emergency management of this state, the director shall procure supplies and equipment, institute training programs and public information programs, and shall take all other preparatory steps, including the partial or full mobilization of emergency management organizations in advance of actual disaster, to insure the furnishing of adequately trained and equipped forces of emergency management personnel in time of need.

(5) The director shall make such studies and surveys of the industries, resources, and facilities in this state as may be necessary to ascertain the

capabilities of the state for emergency management, and shall plan for the most efficient emergency use thereof.

(6) The emergency management council shall advise the director on all aspects of the communications and warning systems and facilities operated or controlled under the provisions of this chapter.

(7) The director, through the state enhanced 911 coordinator, shall coordinate and facilitate implementation and operation of a state-wide enhanced 911 emergency communications network.

(8) The director shall appoint a state coordinator of search and rescue operations to coordinate those state resources, services and facilities (other than those for which the state director of aeronautics is directly responsible) requested by political subdivisions in support of search and rescue operations, and on request to maintain liaison with and coordinate the resources, services, and facilities of political subdivisions when more than one political subdivision is engaged in joint search and rescue operations.

(9) The director, subject to the direction and control of the governor, shall prepare and administer a state program for emergency assistance to individuals within the state who are victims of a natural (~~or man-made~~), technological, or human caused disaster, as defined by RCW 38.52.010(6). Such program may be integrated into and coordinated with disaster assistance plans and programs of the federal government which provide to the state, or through the state to any political subdivision thereof, services, equipment, supplies, materials, or funds by way of gift, grant, or loan for purposes of assistance to individuals affected by a disaster. Further, such program may include, but shall not be limited to, grants, loans, or gifts of services, equipment, supplies, materials, or funds of the state, or any political subdivision thereof, to individuals who, as a result of a disaster, are in need of assistance and who meet standards of eligibility for disaster assistance established by the department of social and health services: PROVIDED, HOWEVER, That nothing herein shall be construed in any manner inconsistent with the provisions of Article VIII, section 5 or section 7 of the Washington state Constitution.

(10) The director shall appoint a state coordinator for radioactive and hazardous waste emergency response programs. The coordinator shall consult with the state radiation control officer in matters relating to radioactive materials. The duties of the state coordinator for radioactive and hazardous waste emergency response programs shall include:

(a) Assessing the current needs and capabilities of state and local radioactive and hazardous waste emergency response teams on an ongoing basis;

(b) Coordinating training programs for state and local officials for the purpose of updating skills relating to emergency mitigation, preparedness, response, and recovery;

(c) Utilizing appropriate training programs such as those offered by the federal emergency management agency, the department of transportation and the environmental protection agency; and

(d) Undertaking other duties in this area that are deemed appropriate by the director.

Sec. 3. RCW 38.52.050 and 1986 c 266 s 27 are each amended to read as follows:

(1) The governor, through the director, shall have general supervision and control of the emergency management functions in the department, and shall be responsible for the carrying out of the provisions of this chapter, and in the event of disaster beyond local control, may assume direct operational control over all or any part of the emergency management functions within this state.

(2) In performing his or her duties under this chapter, the governor is authorized to cooperate with the federal government, with other states, and with private agencies in all matters pertaining to the emergency management of this state and of the nation.

(3) In performing his or her duties under this chapter and to effect its policy and purpose, the governor is further authorized and empowered:

(a) To make, amend, and rescind the necessary orders, rules, and regulations to carry out the provisions of this chapter within the limits of the authority conferred upon him herein, with due consideration of the plans of the federal government;

(b) On behalf of this state, to enter into mutual aid arrangements with other states and territories, or provinces of the Dominion of Canada and to coordinate mutual aid ~~((plans))~~ interlocal agreements between political subdivisions of this state;

(c) To delegate any administrative authority vested in him under this chapter, and to provide for the subdelegation of any such authority;

(d) To appoint, with the advice of local authorities, metropolitan or regional area coordinators, or both, when practicable;

(e) To cooperate with the president and the heads of the armed forces, the emergency management agency of the United States, and other appropriate federal officers and agencies, and with the officers and agencies of other states in matters pertaining to the emergency management of the state and nation.

Sec. 4. RCW 38.52.070 and 1986 c 266 s 28 are each amended to read as follows:

(1) Each political subdivision of this state is hereby authorized and directed to establish a local organization or to be a member of a joint local organization for emergency management in accordance with the state comprehensive emergency management plan and program: PROVIDED, That a political subdivision proposing such establishment shall submit its plan and program for emergency management to the state director and secure his or her recommendations thereon, and ~~((certification for))~~ verification of consistency with the state comprehensive

emergency management plan, in order that the plan of the local organization for emergency management may be coordinated with the plan and program of the state. Local comprehensive emergency management plans must specify the use of the incident command system for multiagency/multijurisdiction operations. No political subdivision may be required to include in its plan provisions for the emergency evacuation or relocation of residents in anticipation of nuclear attack. If the director's recommendations are adverse to the plan as submitted, and, if the local organization does not agree to the director's recommendations for modification to the proposal, the matter shall be referred to the council for final action. The director may authorize two or more political subdivisions to join in the establishment and operation of a joint local organization for emergency management as circumstances may warrant, in which case each political subdivision shall contribute to the cost of emergency management upon such fair and equitable basis as may be determined upon by the executive heads of the constituent subdivisions. If in any case the executive heads cannot agree upon the proper division of cost the matter shall be referred to the council for arbitration and its decision shall be final. When two or more political subdivisions join in the establishment and operation of a joint local organization for emergency management each shall pay its share of the cost into a special pooled fund to be administered by the treasurer of the most populous subdivision, which fund shall be known as the emergency management fund. Each local organization or joint local organization for emergency management shall have a director who shall be appointed by the executive head of the political subdivision, and who shall have direct responsibility for the organization, administration, and operation of such local organization for emergency management, subject to the direction and control of such executive officer or officers. In the case of a (~~jointly established and operated~~) joint local organization for emergency management, the director shall be appointed by the joint action of the executive heads of the constituent political subdivisions. Each local organization or joint local organization for emergency management shall perform emergency management functions within the territorial limits of the political subdivision within which it is organized, and, in addition, shall conduct such functions outside of such territorial limits as may be required pursuant to the provisions of this chapter.

(2) In carrying out the provisions of this chapter each political subdivision, in which any disaster as described in RCW 38.52.020 occurs, shall have the power to enter into contracts and incur obligations necessary to combat such disaster, protecting the health and safety of persons and property, and providing emergency assistance to the victims of such disaster. Each political subdivision is authorized to exercise the powers vested under this section in the light of the exigencies of an extreme emergency situation without regard to time-consuming procedures and formalities prescribed by law (excepting mandatory constitutional requirements), including, but not limited to, budget law limitations, requirements of competitive bidding and publication of notices, provisions pertaining to the performance of

public work, entering into contracts, the incurring of obligations, the employment of temporary workers, the rental of equipment, the purchase of supplies and materials, the levying of taxes, and the appropriation and expenditures of public funds.

Sec. 5. RCW 38.52.400 and 1986 c 266 s 43 are each amended to read as follows:

(1) The chief law enforcement officer of each political subdivision shall be responsible for local search and rescue activities. Operation of search and rescue activities shall be in accordance with state and local operations plans adopted by the elected governing body of each local political subdivision. These state and local plans must specify the use of the incident command system for multiagency/multijurisdiction search and rescue operations. The local emergency management director shall notify the department of all search and rescue missions. The local director of emergency management shall work in a coordinating capacity directly supporting all search and rescue activities in that political subdivision and in registering emergency search and rescue workers for employee status. The chief law enforcement officer of each political subdivision may restrict access to a specific search and rescue area to personnel authorized by him. Access shall be restricted only for the period of time necessary to accomplish the search and rescue mission. No unauthorized person shall interfere with a search and rescue mission.

(2) When search and rescue activities result in the discovery of a deceased person or search and rescue workers assist in the recovery of human remains, the chief law enforcement officer of the political subdivision shall insure compliance with chapter ((68.08)) 68.50 RCW.

Sec. 6. RCW 38.52.420 and 1995 c 391 s 4 are each amended to read as follows:

(1) The department, in consultation with appropriate federal agencies, the departments of natural resources, fish and wildlife, and ecology, representatives of local government, and any other person the director may deem appropriate, shall ((develop)) assist in the development of a model contingency plan, consistent with other plans required for hazardous materials by federal and state law, to serve as a draft plan for local governments which may be incorporated into the state and local emergency management plans.

(2) The model contingency plan shall:

(a) Include specific recommendations for pollution control facilities which are deemed to be most appropriate for the control, collection, storage, treatment, disposal, and recycling of oil and other spilled material and furthering the prevention and mitigation of such pollution;

(b) Include recommendations for the training of local personnel consistent with other training proposed, funded, or required by federal or state laws for hazardous materials;

(c) Suggest cooperative training exercises between the public and private sector consistent with other training proposed, funded, or required by federal or state laws for hazardous materials;

(d) Identify federal and state laws requiring contingency or management plans applicable or related to prevention of pollution, emergency response capabilities, and hazardous waste management, together with a list of funding sources that local governments may use in development of their specific plans;

(e) Promote formal agreements between the department and local entities for effective spill response; and

(f) Develop policies and procedures for the augmentation of emergency services and agency spill response personnel through the use of volunteers: PROVIDED, That no contingency plan may require the use of volunteers by a responding responsible party without that party's consent.

Sec. 7. RCW 38.52.530 and 1991 c 54 s 5 are each amended to read as follows:

The enhanced 911 advisory committee is created to advise and assist the state enhanced 911 coordinator in coordinating and facilitating the implementation and operation of enhanced 911 throughout the state. The director shall appoint members of the committee who represent diverse geographical areas of the state and include state residents who are members of the national emergency number association, the associated public communications officers (~~(northwest)~~) Washington chapter, the Washington state fire chiefs association, the Washington association of sheriffs and police chiefs, the Washington state council of fire fighters, the Washington state council of police officers, the Washington ambulance association, the state fire protection policy board, the Washington fire commissioners association, the Washington state patrol, the association of Washington cities, the Washington state association of counties, the utilities and transportation commission or commission staff, and representatives of large and small local exchange telephone companies. This section shall expire December 31, 2000.

Sec. 8. RCW 38.54.010 and 1995 c 391 s 5 and 1995 c 369 s 10 are each reenacted and amended to read as follows:

Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter.

(1) "Department" means the military department.

(2) "The adjutant general" means the adjutant general of the military department.

(3) "State fire marshal" means the (~~(assistant)~~) director of (~~(the division of)~~) fire protection (~~(services)~~) in the Washington state patrol.

(4) "Fire chief" includes the chief officer of a statutorily authorized fire agency, or the fire chief's authorized representative. Also included are the department of natural resources fire control chief, and the department of natural resources regional managers.

(5) "Jurisdiction" means state, county, city, fire district, or port district fire fighting units, or other units covered by this chapter.

(6) "Mobilization" means that fire fighting resources beyond those available through existing agreements will be requested and, when available, sent in response to an emergency or disaster situation that has exceeded the capabilities of available local resources. During a large scale emergency, mobilization includes the redistribution of regional or state-wide fire fighting resources to either direct emergency incident assignments or to assignment in communities where fire fighting resources are needed.

When mobilization is declared and authorized as provided in this chapter, all fire fighting resources (~~(except)~~) including those of the host fire protection authorities, i.e. incident jurisdiction, shall be deemed as mobilized under this chapter, including those that responded earlier under existing mutual aid or other agreement. All nonhost fire protection authorities providing fire fighting resources in response to a mobilization declaration shall be eligible for expense reimbursement as provided by this chapter from the time of the mobilization declaration.

This chapter shall not reduce or suspend the authority or responsibility of the department of natural resources under chapter 76.04 RCW.

(7) "Mutual aid" means emergency interagency assistance provided without compensation under an agreement between jurisdictions under chapter 39.34 RCW.

Sec. 9. RCW 38.54.020 and 1995 c 391 s 6 are each amended to read as follows:

Because of the possibility of the occurrence of disastrous fires or other disasters of unprecedented size and destructiveness, the need to insure that the state is adequately prepared to respond to such a fire or disaster, the need to establish a mechanism and a procedure to provide for reimbursement to fire fighting agencies that respond to help others in time of need or to a host fire district that experiences expenses beyond the resources of the fire district, and generally to protect the public peace, health, safety, lives, and property of the people of Washington, it is hereby declared necessary to:

(1) Provide the policy and organizational structure for large scale mobilization of fire fighting resources in the state through creation of the Washington state fire services mobilization plan;

(2) Confer upon the (~~(director)~~) adjutant general the powers provided herein;

(3) Provide a means for reimbursement to fire jurisdictions that incur expenses when mobilized by the (~~(director)~~) adjutant general under the Washington state fire services mobilization plan; and

(4) Provide for reimbursement of the host fire department or fire protection district (~~(fire fighting resources)~~) when (~~(the local district)~~) it has: (a) Exhausted all of its resources; and (h) invoked its local mutual aid network and exhausted those resources. Upon implementation of state fire mobilization, the host district

resources shall become state fire mobilization resources consistent with the fire mobilization plan.

It is the intent of the legislature that mutual aid and other interlocal agreements providing for enhanced emergency response be encouraged as essential to the public peace, safety, health, and welfare, and for the protection of the lives and property of the people of the state of Washington. If possible, mutual aid agreements should be without stated limitations as to resources available, time, or area. Nothing in this chapter shall be construed or interpreted to limit the eligibility of any nonhost fire protection authority for reimbursement of expenses incurred in providing fire fighting resources for mobilization.

Sec. 10. RCW 38.54.030 and 1995 c 269 s 1101 are each amended to read as follows:

The state fire protection policy board shall review and make recommendations to the ~~((director))~~ adjutant general on the refinement and maintenance of the Washington state fire services mobilization plan, which shall include the procedures to be used during fire and other emergencies for coordinating local, regional, and state fire jurisdiction resources. In carrying out this duty, the fire protection policy board shall consult with and solicit recommendations from representatives of state and local fire and emergency management organizations, regional fire defense boards, and the department of natural resources. The Washington state fire services mobilization plan shall be consistent with, and made part of, the Washington state comprehensive emergency management plan. The ~~((director))~~ adjutant general shall review the fire services mobilization plan as submitted by ~~((the state fire defense board and after consultation with))~~ the fire protection policy board, recommend changes that may be necessary, and approve the fire services mobilization plan for inclusion within the state comprehensive emergency management plan.

It is the responsibility of the ~~((director))~~ adjutant general to mobilize jurisdictions under the Washington state fire services mobilization plan. The state fire marshal shall serve as the state fire resources coordinator when the Washington state fire services mobilization plan is mobilized.

Sec. 11. RCW 38.54.040 and 1992 c 117 s 12 are each amended to read as follows:

Regions within the state are initially established as follows but may be adjusted as necessary by the ~~((director))~~ state fire marshal:

- (1) Northwest region - Whatcom, Skagit, Snohomish, San Juan, and Island counties;
- (2) Northeast region - Okanogan, Ferry, Stevens, Pend Oreille, Spokane, and Lincoln counties;
- (3) Olympic region - Clallam and Jefferson counties;
- (4) South Puget Sound region - Kitsap, Mason, King, and Pierce counties;

(5) Southeast region - Chelan, Douglas, Kittitas, Grant, Adams, Whitman, Yakima, Klickitat, Benton, Franklin, Walla Walla, Columbia, Garfield, and Asotin counties;

(6) Central region - Grays Harbor, Thurston, Pacific, and Lewis counties; and

(7) Southwest region - Wahkiakum, Cowlitz, Clark, and Skamania counties.

Within each of these regions there is created a regional fire defense board. The regional fire defense boards shall consist of two members from each county in the region. One member from each county shall be appointed by the county fire chiefs' association or, in the event there is no such county association, by the county's legislative authority. Each county's office of emergency management or, in the event there is no such office, the county's legislative authority shall select the second representative to the regional board. The department of natural resources fire control chief shall appoint a representative from each department of natural resources region to serve as a member of the appropriate regional fire defense board. Members of each regional board will select a chairperson and secretary as officers. Members serving on the regional boards do so in a voluntary capacity and are not eligible for reimbursement for meeting-related expenses from the state.

Regional defense boards shall develop regional fire service plans that include provisions for organized fire agencies to respond across municipal, county, or regional boundaries. Each regional plan shall be consistent with the incident command system, the Washington state fire services mobilization plan, and regional response plans already adopted and in use in the state. The regional boards shall work with the relevant local government entities to facilitate development of intergovernmental agreements if any such agreements are required to implement a regional fire service plan. Each regional plan shall be approved by the ((state)) fire ((defense)) protection policy board before implementation.

Sec. 12. RCW 38.54.050 and 1995 c 391 s 7 are each amended to read as follows:

The department in consultation with the office of financial management shall develop procedures to facilitate reimbursement to jurisdictions from appropriate federal and state funds when jurisdictions are mobilized by the ((director)) adjutant general under the Washington state fire services mobilization plan. The department shall ensure that these procedures provide reimbursement to the host district in as timely a manner as possible.

Passed the House February 19, 1997.

Passed the Senate April 7, 1997.

Approved by the Governor April 16, 1997.

Filed in Office of Secretary of State April 16, 1997.

CHAPTER 50

[House Bill 1188]

TUITION DIFFERENTIAL EXEMPTIONS FOR MEDICAL STUDENTS—ADDING WYOMING

AN ACT Relating to tuition differential exemptions for medical students; and amending RCW 28B.15.225.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 28B.15.225 and 1993 sp.s. c 18 s 9 are each amended to read as follows:

Subject to the limitations of RCW 28B.15.910, the governing board of the University of Washington may exempt the following students from the payment of all or a portion of the nonresident tuition fees differential: Students admitted to the university's school of medicine pursuant to contracts with the states of Alaska, Montana, ~~((or))~~ Idaho, or Wyoming, or agencies thereof, providing for a program of regionalized medical education conducted by the school of medicine; or students admitted to the university's school of dentistry pursuant to contracts with the states of Utah, Idaho, or any other western state which does not have a school of dentistry, or agencies thereof, providing for a program of regionalized dental education conducted by the school of dentistry. The proportional cost of the program, in excess of resident student tuition and fees, will be reimbursed to the university by or on behalf of participating states or agencies. Subject to the limitations of RCW 28B.15.910, the governing board of Washington State University may exempt from payment all or a portion of the nonresident tuition fees differential for any student admitted to the University of Washington's school of medicine and attending Washington State University as a participant in the Washington, Alaska, Montana, ~~((or))~~ Idaho, or Wyoming program in this section. Washington State University may reduce the professional student tuition for students enrolled in this program by the amount the student pays the University of Washington as a registration fee.

Passed the House March 10, 1997.

Passed the Senate April 7, 1997.

Approved by the Governor April 16, 1997.

Filed in Office of Secretary of State April 16, 1997.

CHAPTER 51

[Substitute House Bill 1249]

ISSUANCE OF FEDERAL EMPLOYER IDENTIFICATION NUMBERS THROUGH STATE AGENCIES

AN ACT Relating to state agencies issuing federal employer identification numbers; adding a new section to chapter 19.02 RCW; adding a new section to chapter 43.07 RCW; adding a new section to chapter 43.22 RCW; adding a new section to chapter 50.12 RCW; adding a new section to chapter 82.02 RCW; creating a new section; providing an effective date; and declaring an emergency.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. Sec. 1. The legislature intends to simplify the process of registering and licensing businesses in this state by authorizing state agencies to provide consolidated forms, instructions, service locations, and other operations whenever coordination of these functions would benefit individual businesses and the business community of this state. To further this goal, agencies participating in the master business license program should be able to contract with the federal internal revenue service, or other appropriate federal agency, to issue a conditional federal employer identification number, or other federal credentials or documents, at the same time that a business applies for registration or licensing with any state agency.

NEW SECTION. Sec. 2. A new section is added to chapter 19.02 RCW to read as follows:

(1) The director may contract with the federal internal revenue service, or other appropriate federal agency, to issue conditional federal employer identification numbers, or other federal credentials or documents, at specified offices and locations of the agency in conjunction with any application for state licenses under this chapter.

(2) To the extent permitted by any contract entered under subsection (1) of this section, the department may contract, under chapter 39.34 RCW, with any agency of state or local government which is participating in the master licensing program to issue conditional federal employer identification numbers, or other federal credentials or documents, in conjunction with applications for state licenses under this chapter.

NEW SECTION. Sec. 3. A new section is added to chapter 43.07 RCW to read as follows:

The secretary of state may contract with the federal internal revenue service, or other appropriate federal agency, to issue conditional federal employer identification numbers, or other federal credentials or documents, at specified offices and locations of the agency in conjunction with any application for state licenses under chapter 19.02 RCW.

NEW SECTION. Sec. 4. A new section is added to chapter 43.22 RCW to read as follows:

The director may contract with the federal internal revenue service, or other appropriate federal agency, to issue conditional federal employer identification numbers, or other federal credentials or documents, at specified offices and locations of the agency in conjunction with any application for state licenses under chapter 19.02 RCW.

NEW SECTION. Sec. 5. A new section is added to chapter 50.12 RCW to read as follows:

The commissioner may contract with the federal internal revenue service, or other appropriate federal agency, to issue conditional federal employer identification numbers, or other federal credentials or documents, at specified

offices and locations of the agency in conjunction with any application for state licenses under chapter 19.02 RCW.

NEW SECTION. Sec. 6. A new section is added to chapter 82.02 RCW to read as follows:

The director may contract with the federal internal revenue service, or other appropriate federal agency, to issue conditional federal employer identification numbers, or other federal credentials or documents, at specified offices and locations of the agency in conjunction with any application for state licenses under chapter 19.02 RCW.

****NEW SECTION. Sec. 7. This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect July 1, 1997.***

*Sec. 7 was vetoed. See message at end of chapter.

Passed the House March 11, 1997.

Passed the Senate April 7, 1997.

Approved by the Governor April 16, 1997, with the exception of certain items that were vetoed.

Filed in Office of Secretary of State April 16, 1997.

Note: Governor's explanation of partial veto is as follows:

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

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

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

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

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

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

CHAPTER 52

[Substitute House Bill 1383]

RAPE OF A CHILD—RESTITUTION AND EXCEPTIONAL SENTENCING

AN ACT Relating to criminal sentencing; amending RCW 9.94A.140 and 9.94A.145; reenacting and amending RCW 9.94A.142 and 9.94A.390; and prescribing penalties.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 9.94A.140 and 1995 c 231 s 1 are each amended to read as follows:

(1) If restitution is ordered, the court shall determine the amount of restitution due at the sentencing hearing or within one hundred eighty days. The court may continue the hearing beyond the one hundred eighty days for good cause. The court shall then set a minimum monthly payment that the offender is required to make towards the restitution that is ordered. The court should take into consideration the total amount of the restitution owed, the offender's present, past, and future ability to pay, as well as any assets that the offender may have. During the period of supervision, the community corrections officer may examine the offender to determine if there has been a change in circumstances that warrants an amendment of the monthly payment schedule. The community corrections officer may recommend a change to the schedule of payment and shall inform the court of the recommended change and the reasons for the change. The sentencing court may then reset the monthly minimum payments based on the report from the community corrections officer of the change in circumstances. Except as provided in subsection (3) of this section, restitution ordered by a court pursuant to a criminal conviction shall be based on easily ascertainable damages for injury to or loss of property, actual expenses incurred for treatment for injury to persons, and lost wages resulting from injury. Restitution shall not include reimbursement for damages for mental anguish, pain and suffering, or other intangible losses, but may include the costs of counseling reasonably related to the offense. The amount of restitution shall not exceed double the amount of the offender's gain or the victim's loss from the commission of the crime. For the purposes of this section, the offender shall remain under the court's jurisdiction for a maximum term of ten years following the offender's release from total confinement or ten years subsequent to the entry of the judgment and sentence, whichever period is longer. The portion of the sentence concerning restitution may be modified as to amount, terms and conditions during the ten-year period, regardless of the expiration of the offender's term of community supervision and regardless of the statutory maximum for the crime. The court may not reduce the total amount of restitution ordered because the offender may lack the ability to pay the total amount. The offender's compliance with the restitution shall be supervised by the department of corrections.

(2) Restitution may be ordered whenever the offender is convicted of an offense which results in injury to any person or damage to or loss of property or as provided in subsection (3) of this section. In addition, restitution may be ordered to pay for an injury, loss, or damage if the offender pleads guilty to a lesser offense or fewer offenses and agrees with the prosecutor's recommendation that the offender be required to pay restitution to a victim of an offense or offenses which are not prosecuted pursuant to a plea agreement.

(3) Restitution for the crime of rape of a child in the first, second, or third degree, in which the victim becomes pregnant, shall include: (a) All of the victim's

medical expenses that are associated with the rape and resulting pregnancy; and (b) child support for any child born as a result of the rape if child support is ordered pursuant to a civil superior court or administrative order for support for that child. The clerk must forward any restitution payments made on behalf of the victim's child to the Washington state child support registry under chapter 26.23 RCW. Identifying information about the victim and child shall not be included in the order. The defendant shall receive a credit against any obligation owing under the administrative or superior court order for support of the victim's child. For the purposes of this subsection, the offender shall remain under the court's jurisdiction until the defendant has satisfied support obligations under the superior court or administrative order but not longer than a maximum term of twenty-five years following the offender's release from total confinement or twenty-five years subsequent to the entry of the judgment and sentence, whichever period is longer. The court may not reduce the total amount of restitution ordered because the offender may lack the ability to pay the total amount. The department shall supervise the offender's compliance with the restitution ordered under this subsection.

(4) In addition to any sentence that may be imposed, a defendant who has been found guilty of an offense involving fraud or other deceptive practice or an organization which has been found guilty of any such offense may be ordered by the sentencing court to give notice of the conviction to the class of persons or to the sector of the public affected by the conviction or financially interested in the subject matter of the offense by mail, by advertising in designated areas or through designated media, or by other appropriate means.

~~((4))~~ (5) This section does not limit civil remedies or defenses available to the victim or defendant including support enforcement remedies for support ordered under subsection (3) of this section for a child born as a result of a rape of a child victim. The court shall identify in the judgment and sentence the victim or victims entitled to restitution and what amount is due each victim. The state or victim may enforce the court-ordered restitution in the same manner as a judgment in a civil action. Restitution collected through civil enforcement must be paid through the registry of the court and must be distributed proportionately according to each victim's loss when there is more than one victim.

Sec. 2. RCW 9.94A.142 and 1995 c 231 s 2 and 1995 c 33 s 4 are each reenacted and amended to read as follows:

(1) When restitution is ordered, the court shall determine the amount of restitution due at the sentencing hearing or within one hundred eighty days except as provided in subsection ~~((3))~~ (4) of this section. The court may continue the hearing beyond the one hundred eighty days for good cause. The court shall then set a minimum monthly payment that the offender is required to make towards the restitution that is ordered. The court should take into consideration the total amount of the restitution owed, the offender's present, past, and future ability to pay, as well as any assets that the offender may have. During the period of

supervision, the community corrections officer may examine the offender to determine if there has been a change in circumstances that warrants an amendment of the monthly payment schedule. The community corrections officer may recommend a change to the schedule of payment and shall inform the court of the recommended change and the reasons for the change. The sentencing court may then reset the monthly minimum payments based on the report from the community corrections officer of the change in circumstances. Except as provided in subsection (3) of this section, restitution ordered by a court pursuant to a criminal conviction shall be based on easily ascertainable damages for injury to or loss of property, actual expenses incurred for treatment for injury to persons, and lost wages resulting from injury. Restitution shall not include reimbursement for damages for mental anguish, pain and suffering, or other intangible losses, but may include the costs of counseling reasonably related to the offense. The amount of restitution shall not exceed double the amount of the offender's gain or the victim's loss from the commission of the crime. For the purposes of this section, the offender shall remain under the court's jurisdiction for a maximum term of ten years following the offender's release from total confinement or ten years subsequent to the entry of the judgment and sentence, whichever period is longer. The portion of the sentence concerning restitution may be modified as to amount, terms and conditions during the ten-year period, regardless of the expiration of the offender's term of community supervision and regardless of the statutory maximum for the crime. The court may not reduce the total amount of restitution ordered because the offender may lack the ability to pay the total amount. The offender's compliance with the restitution shall be supervised by the department of corrections.

(2) Restitution shall be ordered whenever the offender is convicted of an offense which results in injury to any person or damage to or loss of property or as provided in subsection (3) of this section unless extraordinary circumstances exist which make restitution inappropriate in the court's judgment and the court sets forth such circumstances in the record. In addition, restitution shall be ordered to pay for an injury, loss, or damage if the offender pleads guilty to a lesser offense or fewer offenses and agrees with the prosecutor's recommendation that the offender be required to pay restitution to a victim of an offense or offenses which are not prosecuted pursuant to a plea agreement.

(3) Restitution for the crime of rape of a child in the first, second, or third degree, in which the victim becomes pregnant, shall include: (a) All of the victim's medical expenses that are associated with the rape and resulting pregnancy; and (b) child support for any child born as a result of the rape if child support is ordered pursuant to a civil superior court or administrative order for support for that child. The clerk must forward any restitution payments made on behalf of the victim's child to the Washington state child support registry under chapter 26.23 RCW. Identifying information about the victim and child shall not be included in the order. The defendant shall receive a credit against any obligation owing under the

administrative or superior court order for support of the victim's child. For the purposes of this subsection, the offender shall remain under the court's jurisdiction until the defendant has satisfied support obligations under the superior court or administrative order but not longer than a maximum term of twenty-five years following the offender's release from total confinement or twenty-five years subsequent to the entry of the judgment and sentence, whichever period is longer. The court may not reduce the total amount of restitution ordered because the offender may lack the ability to pay the total amount. The department shall supervise the offender's compliance with the restitution ordered under this subsection.

(4) Regardless of the provisions of subsections (1) ~~((and))~~, (2), and (3) of this section, the court shall order restitution in all cases where the victim is entitled to benefits under the crime victims' compensation act, chapter 7.68 RCW. If the court does not order restitution and the victim of the crime has been determined to be entitled to benefits under the crime victims' compensation act, the department of labor and industries, as administrator of the crime victims' compensation program, may petition the court within one year of entry of the judgment and sentence for entry of a restitution order. Upon receipt of a petition from the department of labor and industries, the court shall hold a restitution hearing and shall enter a restitution order.

~~((4))~~ (5) In addition to any sentence that may be imposed, a defendant who has been found guilty of an offense involving fraud or other deceptive practice or an organization which has been found guilty of any such offense may be ordered by the sentencing court to give notice of the conviction to the class of persons or to the sector of the public affected by the conviction or financially interested in the subject matter of the offense by mail, by advertising in designated areas or through designated media, or by other appropriate means.

~~((5))~~ (6) This section does not limit civil remedies or defenses available to the victim, survivors of the victim, or defendant including support enforcement remedies for support ordered under subsection (3) of this section for a child born as a result of a rape of a child victim. The court shall identify in the judgment and sentence the victim or victims entitled to restitution and what amount is due each victim. The state or victim may enforce the court-ordered restitution in the same manner as a judgment in a civil action. Restitution collected through civil enforcement must be paid through the registry of the court and must be distributed proportionately according to each victim's loss when there is more than one victim.

~~((6))~~ (7) This section shall apply to offenses committed after July 1, 1985.

Sec. 3. RCW 9.94A.145 and 1995 c 231 s 3 are each amended to read as follows:

(1) Whenever a person is convicted of a felony, the court may order the payment of a legal financial obligation as part of the sentence. The court must on either the judgment and sentence or on a subsequent order to pay, designate the total amount of a legal financial obligation and segregate this amount among the

separate assessments made for restitution, costs, fines, and other assessments required by law. On the same order, the court is also to set a sum that the offender is required to pay on a monthly basis towards satisfying the legal financial obligation. If the court fails to set the offender monthly payment amount, the department shall set the amount. Upon receipt of an offender's monthly payment, after restitution is satisfied, the county clerk shall distribute the payment proportionally among all other fines, costs, and assessments imposed, unless otherwise ordered by the court.

(2) If the court determines that the offender, at the time of sentencing, has the means to pay for the cost of incarceration, the court may require the offender to pay for the cost of incarceration at a rate of fifty dollars per day of incarceration. Payment of other court-ordered financial obligations, including all legal financial obligations and costs of supervision shall take precedence over the payment of the cost of incarceration ordered by the court. All funds recovered from offenders for the cost of incarceration in the county jail shall be remitted to the county and the costs of incarceration in a prison shall be remitted to the department of corrections.

(3) The court may add to the judgment and sentence or subsequent order to pay a statement that a notice of payroll deduction is to be immediately issued. If the court chooses not to order the immediate issuance of a notice of payroll deduction at sentencing, the court shall add to the judgment and sentence or subsequent order to pay a statement that a notice of payroll deduction may be issued or other income-withholding action may be taken, without further notice to the offender if a monthly court-ordered legal financial obligation payment is not paid when due, and an amount equal to or greater than the amount payable for one month is owed.

If a judgment and sentence or subsequent order to pay does not include the statement that a notice of payroll deduction may be issued or other income-withholding action may be taken if a monthly legal financial obligation payment is past due, the department may serve a notice on the offender stating such requirements and authorizations. Service shall be by personal service or any form of mail requiring a return receipt.

(4) All legal financial obligations that are ordered as a result of a conviction for a felony, may also be enforced in the same manner as a judgment in a civil action by the party or entity to whom the legal financial obligation is owed. Restitution collected through civil enforcement must be paid through the registry of the court and must be distributed proportionately according to each victim's loss when there is more than one victim. The judgment and sentence shall identify the party or entity to whom restitution is owed so that the state, party, or entity may enforce the judgment. ((These)) If restitution is ordered pursuant to RCW 9.94A.140(3) or 9.94A.142(3) to a victim of rape of a child and the victim's child born from the rape, the Washington state child support registry shall be identified as the party to whom payments must be made. Restitution obligations arising from the rape of a child in the first, second, or third degree that result in the pregnancy

of the victim may be enforced for the time periods provided under RCW 9.94A.140(3) and 9.94A.142(3). All other legal financial obligations may be enforced at any time during the ten-year period following the offender's release from total confinement or within ten years of entry of the judgment and sentence, whichever period is longer. Independent of the department, the party or entity to whom the legal financial obligation is owed shall have the authority to utilize any other remedies available to the party or entity to collect the legal financial obligation.

(5) In order to assist the court in setting a monthly sum that the offender must pay during the period of supervision, the offender is required to report to the department for purposes of preparing a recommendation to the court. When reporting, the offender is required, under oath, to truthfully and honestly respond to all questions concerning present, past, and future earning capabilities and the location and nature of all property or financial assets. The offender is further required to bring any and all documents as requested by the department.

(6) After completing the investigation, the department shall make a report to the court on the amount of the monthly payment that the offender should be required to make towards a satisfied legal financial obligation.

(7) During the period of supervision, the department may make a recommendation to the court that the offender's monthly payment schedule be modified so as to reflect a change in financial circumstances. If the department sets the monthly payment amount, the department may modify the monthly payment amount without the matter being returned to the court. Also, during the period of supervision, the offender may be required at the request of the department to report to the department for the purposes of reviewing the appropriateness of the collection schedule for the legal financial obligation. During this reporting, the offender is required under oath to truthfully and honestly respond to all questions concerning earning capabilities and the location and nature of all property or financial assets. Also, the offender is required to bring any and all documents as requested by the department in order to prepare the collection schedule.

(8) After the judgment and sentence or payment order is entered, the department shall for any period of supervision be authorized to collect the legal financial obligation from the offender. Any amount collected by the department shall be remitted daily to the county clerk for the purposes of disbursements. The department is authorized to accept credit cards as payment for a legal financial obligation, and any costs incurred related to accepting credit card payments shall be the responsibility of the offender.

(9) The department or any obligee of the legal financial obligation may seek a mandatory wage assignment for the purposes of obtaining satisfaction for the legal financial obligation pursuant to RCW 9.94A.2001.

(10) The requirement that the offender pay a monthly sum towards a legal financial obligation constitutes a condition or requirement of a sentence and the

offender is subject to the penalties as provided in RCW 9.94A.200 for noncompliance.

(11) The county clerk shall provide the department with individualized monthly billings for each offender with an unsatisfied legal financial obligation and shall provide the department with notice of payments by such offenders no less frequently than weekly.

Sec. 4. RCW 9.94A.390 and 1996 c 248 s 2 and 1996 c 121 s 1 are each reenacted and amended to read as follows:

If the sentencing court finds that an exceptional sentence outside the standard range should be imposed in accordance with RCW 9.94A.120(2), the sentence is subject to review only as provided for in RCW 9.94A.210(4).

The following are illustrative factors which the court may consider in the exercise of its discretion to impose an exceptional sentence. The following are illustrative only and are not intended to be exclusive reasons for exceptional sentences.

(1) Mitigating Circumstances

(a) To a significant degree, the victim was an initiator, willing participant, aggressor, or provoker of the incident.

(b) Before detection, the defendant compensated, or made a good faith effort to compensate, the victim of the criminal conduct for any damage or injury sustained.

(c) The defendant committed the crime under duress, coercion, threat, or compulsion insufficient to constitute a complete defense but which significantly affected his or her conduct.

(d) The defendant, with no apparent predisposition to do so, was induced by others to participate in the crime.

(e) The defendant's capacity to appreciate the wrongfulness of his or her conduct or to conform his or her conduct to the requirements of the law, was significantly impaired (voluntary use of drugs or alcohol is excluded).

(f) The offense was principally accomplished by another person and the defendant manifested extreme caution or sincere concern for the safety or well-being of the victim.

(g) The operation of the multiple offense policy of RCW 9.94A.400 results in a presumptive sentence that is clearly excessive in light of the purpose of this chapter, as expressed in RCW 9.94A.010.

(h) The defendant or the defendant's children suffered a continuing pattern of physical or sexual abuse by the victim of the offense and the offense is a response to that abuse.

(2) Aggravating Circumstances

(a) The defendant's conduct during the commission of the current offense manifested deliberate cruelty to the victim.

(b) The defendant knew or should have known that the victim of the current offense was particularly vulnerable or incapable of resistance due to extreme youth, advanced age, disability, or ill health.

(c) The current offense was a violent offense, and the defendant knew that the victim of the current offense was pregnant.

(d) The current offense was a major economic offense or series of offenses, so identified by a consideration of any of the following factors:

(i) The current offense involved multiple victims or multiple incidents per victim;

(ii) The current offense involved attempted or actual monetary loss substantially greater than typical for the offense;

(iii) The current offense involved a high degree of sophistication or planning or occurred over a lengthy period of time; or

(iv) The defendant used his or her position of trust, confidence, or fiduciary responsibility to facilitate the commission of the current offense.

(e) The current offense was a major violation of the Uniform Controlled Substances Act, chapter 69.50 RCW (VUCSA), related to trafficking in controlled substances, which was more onerous than the typical offense of its statutory definition: The presence of ANY of the following may identify a current offense as a major VUCSA:

(i) The current offense involved at least three separate transactions in which controlled substances were sold, transferred, or possessed with intent to do so;

(ii) The current offense involved an attempted or actual sale or transfer of controlled substances in quantities substantially larger than for personal use;

(iii) The current offense involved the manufacture of controlled substances for use by other parties;

(iv) The circumstances of the current offense reveal the offender to have occupied a high position in the drug distribution hierarchy;

(v) The current offense involved a high degree of sophistication or planning or occurred over a lengthy period of time or involved a broad geographic area of disbursement; or

(vi) The offender used his or her position or status to facilitate the commission of the current offense, including positions of trust, confidence or fiduciary responsibility (e.g., pharmacist, physician, or other medical professional).

(f) The current offense included a finding of sexual motivation pursuant to RCW 9.94A.127.

(g) The offense was part of an ongoing pattern of sexual abuse of the same victim under the age of eighteen years manifested by multiple incidents over a prolonged period of time.

(h) The current offense involved domestic violence, as defined in RCW 10.99.020 and one or more of the following was present:

(i) The offense was part of an ongoing pattern of psychological, physical, or sexual abuse of the victim manifested by multiple incidents over a prolonged period of time;

(ii) The offense occurred within sight or sound of the victim's or the offender's minor children under the age of eighteen years; or

(iii) The offender's conduct during the commission of the current offense manifested deliberate cruelty or intimidation of the victim.

(i) The operation of the multiple offense policy of RCW 9.94A.400 results in a presumptive sentence that is clearly too lenient in light of the purpose of this chapter, as expressed in RCW 9.94A.010.

(j) The defendant's prior unscored misdemeanor or prior unscored foreign criminal history results in a presumptive sentence that is clearly too lenient in light of the purpose of this chapter as expressed in RCW 9.94A.010.

(k) The offense resulted in the pregnancy of a child victim of rape.

Passed the House March 7, 1997.

Passed the Senate April 8, 1997.

Approved by the Governor April 16, 1997.

Filed in Office of Secretary of State April 16, 1997.

CHAPTER 53

[House Bill 1400]

BANK ACCOUNTS—REQUIRED INFORMATION ON STATEMENTS

AN ACT Relating to the bank statement rule; and amending RCW 62A.4-406.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 62A.4-406 and 1995 c 107 s 1 are each amended to read as follows:

(a) A bank that sends or makes available to a customer a statement of account showing payment of items for the account shall either return or make available to the customer the items paid, copies of the items paid, or provide information in the statement of account sufficient to allow the customer reasonably to identify the items paid. ~~((Until January 1, 1998,))~~ The statement of account provides sufficient information if the item is described by item number, amount, and date of payment. If the bank does not return the items paid or copies of the items paid, it shall provide in the statement of account the telephone number that the customer may call to request an item or copy of an item pursuant to subsection (b) of this section.

(b) If the items are not returned to the customer, the person retaining the items shall either retain the items or, if the items are destroyed, maintain the capacity to furnish legible copies of the items until the expiration of seven years after receipt of the items. A customer may request an item from the bank that paid the item, and that bank must provide in a reasonable time either the item or, if the item has been destroyed or is not otherwise obtainable, a legible copy of the item. A bank shall provide, upon request and without charge to the customer, at least two items or

copies of items with respect to each statement of account sent to the customer. A bank may charge fees for additional items or copies of items in accordance with RCW 30.22.230. Requests for ten items or less shall be processed and completed within ten business days.

(c) If a bank sends or makes available a statement of account or items pursuant to subsection (a), the customer must exercise reasonable promptness in examining the statement or the items to determine whether any payment was not authorized because of an alteration of an item or because a purported signature by or on behalf of the customer was not authorized. If, based on the statement or items provided, the customer should reasonably have discovered the unauthorized payment, the customer must promptly notify the bank of the relevant facts.

(d) If the bank proves that the customer, failed with respect to an item, to comply with the duties imposed on the customer by subsection (c) the customer is precluded from asserting against the bank:

(1) The customer's unauthorized signature or any alteration on the item, if the bank also proves that it suffered a loss by reason of the failure; and

(2) The customer's unauthorized signature or alteration by the same wrongdoer on any other item paid in good faith by the bank if the payment was made before the bank received notice from the customer of the unauthorized signature or alteration and after the customer had been afforded a reasonable period of time, not exceeding thirty days, in which to examine the item or statement of account and notify the bank.

(e) If subsection (d) applies and the customer proves that the bank failed to exercise ordinary care in paying the item and that the failure substantially contributed to loss, the loss is allocated between the customer precluded and the bank asserting the preclusion according to the extent to which the failure of the customer to comply with subsection (c) and the failure of the bank to exercise ordinary care contributed to the loss. If the customer proves that the bank did not pay the item in good faith, the preclusion under subsection (d) does not apply.

(f) Without regard to care or lack of care of either the customer or the bank, a natural person whose account is primarily for personal, family, or household purposes who does not within one year, and any other customer who does not within sixty days, from the time the statement and items are made available to the customer (subsection (a)) discover and report the customer's unauthorized signature or any alteration on the face or back of the item or does not within one year from that time discover and report any unauthorized indorsement is precluded from asserting against the bank such unauthorized signature or indorsement or such alteration. If there is a preclusion under this subsection, the payor bank may not recover for breach of warranty under RCW 62A.4-208 with respect to the unauthorized signature or alteration to which the preclusion applies.

Passed the House February 21, 1997.

Passed the Senate April 7, 1997.

Approved by the Governor April 16, 1997.

Filed in Office of Secretary of State April 16, 1997.

CHAPTER 54

[House Bill 1514]

RECORDS OF CONTRACTORS' UNIFIED BUSINESS IDENTIFIER ACCOUNT NUMBERS

AN ACT Relating to keeping records of unified business identifier account numbers; and amending RCW 39.06.010, 50.12.070, 51.16.070, and 82.32.070.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 39.06.010 and 1984 c 7 s 43 are each amended to read as follows:

No agency of the state or any of its political subdivisions may execute a contract:

(1) With any contractor who is not registered or licensed as may be required by the laws of this state other than contractors on highway projects who have been prequalified as required by RCW 47.28.070, with the department of transportation to perform highway construction, reconstruction, or maintenance; or

(2) For two years from the date that a violation is finally determined, with any person or entity who has been determined by the respective administering agency to have violated RCW 50.12.070(1)(b), 51.16.070(1)(b), or 82.32.070(1)(b). During this two-year period, the person or entity may not be permitted to bid, or have a bid considered, on any public works contract.

Sec. 2. RCW 50.12.070 and 1983 1st ex.s. c 23 s 8 are each amended to read as follows:

(1)(a) Each employing unit shall keep true and accurate work records, containing such information as the commissioner may prescribe. Such records shall be open to inspection and be subject to being copied by the commissioner or his or her authorized representatives at any reasonable time and as often as may be necessary. The commissioner may require from any employing unit any sworn or unsworn reports with respect to persons employed by it, which he or she deems necessary for the effective administration of this title.

(b) An employer who contracts with another person or entity for work subject to chapter 18.27 or 19.28 RCW shall obtain and preserve a record of the unified business identifier account number for the person or entity performing the work. Failure to obtain or maintain the record is subject to RCW 39.06.010 and to a penalty determined by the commissioner, but not to exceed two hundred fifty dollars, to be collected as provided in RCW 50.24.120.

(2)(a) Each employer shall make periodic reports at such intervals as the commissioner may by regulation prescribe, setting forth the remuneration paid for employment to workers in its employ, the names of all such workers, and until April 1, 1978, the number of weeks for which the worker earned the "qualifying

weekly wage", and beginning July 1, 1977, the hours worked by each worker and such other information as the commissioner may by regulation prescribe.

~~((In the event))~~ (b) If the employing unit fails or has failed to report the number of hours in a reporting period for which a worker worked, such number will be computed by the commissioner and given the same force and effect as if it had been reported by the employing unit. In computing the number of such hours worked the total wages for the reporting period, as reported by the employing unit, shall be divided by the dollar amount of the state's minimum wage in effect for such reporting period and the quotient, disregarding any remainder, shall be credited to the worker: PROVIDED, That although the computation so made will not be subject to appeal by the employing unit, monetary entitlement may be redetermined upon request if the department is provided with credible evidence of the actual hours worked.

Sec. 3. RCW 51.16.070 and 1961 c 23 s 51.16.070 are each amended to read as follows:

(1)(a) Every employer shall keep at his place of business a record of his employment from which the information needed by the department may be obtained and such record shall at all times be open to the inspection of the director, supervisor of industrial insurance, or the traveling auditors, agents, or assistants of the department, as provided in RCW 51.48.040.

(b) An employer who contracts with another person or entity for work subject to chapter 18.27 or 19.28 RCW shall obtain and preserve a record of the unified business identifier account number for the person or entity performing the work. Failure to obtain or maintain the record is subject to RCW 39.06.010 and to a penalty under RCW 51.48.030.

(2) Information obtained from employing unit records under the provisions of this title shall be deemed confidential and shall not be open to public inspection (other than to public employees in the performance of their official duties), but any interested party shall be supplied with information from such records to the extent necessary for the proper presentation of the case in question: PROVIDED, That any employing unit may authorize inspection of its records by written consent.

Sec. 4. RCW 82.32.070 and 1983 c 3 s 22I are each amended to read as follows:

(1)(a) Every person liable for any fee or tax imposed by chapters 82.04 through 82.27 RCW shall keep and preserve, for a period of five years, suitable records as may be necessary to determine the amount of any tax for which he may be liable, which records shall include copies of all federal income tax and state tax returns and reports made by him. All his books, records, and invoices shall be open for examination at any time by the department of revenue. In the case of an out-of-state person or concern which does not keep the necessary books and records within this state, it shall be sufficient if it produces within the state such books and records as shall be required by the department of revenue, or permits the examination by an agent authorized or designated by the department of revenue at

the place where such books and records are kept. Any person who fails to comply with the requirements of this section shall be forever barred from questioning, in any court action or proceedings, the correctness of any assessment of taxes made by the department of revenue based upon any period for which such books, records, and invoices have not been so kept and preserved.

(b) A person liable for any fee or tax imposed by chapters 82.04 through 82.27 RCW who contracts with another person or entity for work subject to chapter 18.27 or 19.28 RCW shall obtain and preserve a record of the unified business identifier account number for the person or entity performing the work. Failure to obtain or maintain the record is subject to RCW 39.06.010 and to a penalty determined by the director, but not to exceed two hundred fifty dollars. The department shall notify the taxpayer and collect the penalty in the same manner as penalties under RCW 82.32.100.

(2) Any person claiming a credit against the tax imposed by chapter 82.04 RCW by reason of the provisions of RCW 82.04.435 shall keep and preserve until the claim has been verified or allowed by the department of revenue sufficient books, records and invoices to prove the right to and amount of such claim for credit, and no such claim shall be allowed by the department of revenue unless such books, records and invoices have been kept and preserved.

Passed the House March 11, 1997.

Passed the Senate April 8, 1997.

Approved by the Governor April 16, 1997.

Filed in Office of Secretary of State April 16, 1997.

CHAPTER 55

[House Bill 1590]

HEALTH PLANS—EXCLUSION OF CERTAIN LIMITED AND STUDENT PLANS FROM REGULATION

AN ACT Relating to the definition of health plan; amending RCW 48.43.005; and declaring an emergency.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 48.43.005 and 1995 c 265 s 4 are each amended to read as follows:

Unless otherwise specifically provided, the definitions in this section apply throughout this chapter.

(1) "Adjusted community rate" means the rating method used to establish the premium for health plans adjusted to reflect actuarially demonstrated differences in utilization or cost attributable to geographic region, age, family size, and use of wellness activities.

(2) "Covered person" or "enrollee" means a person covered by a health plan including an enrollee, subscriber, policyholder, beneficiary of a group plan, or individual covered by any other health plan.

(3) "Eligible employee" means an employee who works on a full-time basis with a normal work week of thirty or more hours. The term includes a self-employed individual, including a sole proprietor, a partner of a partnership, and may include an independent contractor, if the self-employed individual, sole proprietor, partner, or independent contractor is included as an employee under a health benefit plan of a small employer, but does not work less than thirty hours per week and derives at least seventy-five percent of his or her income from a trade or business through which he or she has attempted to earn taxable income and for which he or she has filed the appropriate internal revenue service form. Persons covered under a health benefit plan pursuant to the consolidated omnibus budget reconciliation act of 1986 shall not be considered eligible employees for purposes of minimum participation requirements of chapter 265, Laws of 1995.

(4) "Enrollee point-of-service cost-sharing" means amounts paid to health carriers directly providing services, health care providers, or health care facilities by enrollees and may include copayments, coinsurance, or deductibles.

(5) "Health care facility" or "facility" means hospices licensed under chapter 70.127 RCW, hospitals licensed under chapter 70.41 RCW, rural health care facilities as defined in RCW 70.175.020, psychiatric hospitals licensed under chapter 71.12 RCW, nursing homes licensed under chapter 18.51 RCW, community mental health centers licensed under chapter 71.05 or 71.24 RCW, kidney disease treatment centers licensed under chapter 70.41 RCW, ambulatory diagnostic, treatment, or surgical facilities licensed under chapter 70.41 RCW, drug and alcohol treatment facilities licensed under chapter 70.96A RCW, and home health agencies licensed under chapter 70.127 RCW, and includes such facilities if owned and operated by a political subdivision or instrumentality of the state and such other facilities as required by federal law and implementing regulations.

(6) "Health care provider" or "provider" means:

(a) A person regulated under Title 18 or chapter 70.127 RCW, to practice health or health-related services or otherwise practicing health care services in this state consistent with state law; or

(b) An employee or agent of a person described in (a) of this subsection, acting in the course and scope of his or her employment.

(7) "Health care service" means that service offered or provided by health care facilities and health care providers relating to the prevention, cure, or treatment of illness, injury, or disease.

(8) "Health carrier" or "carrier" means a disability insurer regulated under chapter 48.20 or 48.21 RCW, a health care service contractor as defined in RCW 48.44.010, or a health maintenance organization as defined in RCW 48.46.020.

(9) "Health plan" or "health benefit plan" means any policy, contract, or agreement offered by a health carrier to provide, arrange, reimburse, or pay for health care service except the following:

(a) Long-term care insurance governed by chapter 48.84 RCW;

(b) Medicare supplemental health insurance governed by chapter 48.66 RCW;

(c) Limited health care service offered by limited health care service contractors in accordance with RCW 48.44.035;

(d) Disability income;

(e) Coverage incidental to a property/casualty liability insurance policy such as automobile personal injury protection coverage and homeowner guest medical;

(f) Workers' compensation coverage;

(g) Accident only coverage;

(h) Specified disease and hospital confinement indemnity when marketed solely as a supplement to a health plan;

(i) Employer-sponsored self-funded health plans; ~~((and))~~

(j) Dental only and vision only coverage; and

(k) Plans deemed by the insurance commissioner to have a short-term limited purpose or duration, or to be a student-only plan that is guaranteed renewable while the covered person is enrolled as a regular full-time undergraduate or graduate student at an accredited higher education institution, after a written request for such classification by the carrier and subsequent written approval by the insurance commissioner.

(10) "Basic health plan services" means that schedule of covered health services, including the description of how those benefits are to be administered, that are required to be delivered to an enrollee under the basic health plan, as revised from time to time.

(11) "Preexisting condition" means any medical condition, illness, or injury that existed any time prior to the effective date of coverage.

(12) "Premium" means all sums charged, received, or deposited by a health carrier as consideration for a health plan or the continuance of a health plan. Any assessment or any "membership," "policy," "contract," "service," or similar fee or charge made by a health carrier in consideration for a health plan is deemed part of the premium. "Premium" shall not include amounts paid as enrollee point-of-service cost-sharing.

(13) "Small employer" means any person, firm, corporation, partnership, association, political subdivision except school districts, or self-employed individual that is actively engaged in business that, on at least fifty percent of its working days during the preceding calendar quarter, employed no more than fifty eligible employees, with a normal work week of thirty or more hours, the majority of whom were employed within this state, and is not formed primarily for purposes of buying health insurance and in which a bona fide employer-employee relationship exists. In determining the number of eligible employees, companies that are affiliated companies, or that are eligible to file a combined tax return for purposes of taxation by this state, shall be considered an employer. Subsequent to the issuance of a health plan to a small employer and for the purpose of determining eligibility, the size of a small employer shall be determined annually. Except as otherwise specifically provided, a small employer shall continue to be considered a small employer until the plan anniversary following the date the small

employer no longer meets the requirements of this definition. The term "small employer" includes a self-employed individual or sole proprietor. The term "small employer" also includes a self-employed individual or sole proprietor who derives at least seventy-five percent of his or her income from a trade or business through which the individual or sole proprietor has attempted to earn taxable income and for which he or she has filed the appropriate internal revenue service form 1040, schedule C or F, for the previous taxable year.

(14) "Wellness activity" means an explicit program of an activity consistent with department of health guidelines, such as, smoking cessation, injury and accident prevention, reduction of alcohol misuse, appropriate weight reduction, exercise, automobile and motorcycle safety, blood cholesterol reduction, and nutrition education for the purpose of improving enrollee health status and reducing health service costs.

(15) "Basic health plan" means the plan described under chapter 70.47 RCW, as revised from time to time.

NEW SECTION. Sec. 2. This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately.

Passed the House March 5, 1997.

Passed the Senate April 7, 1997.

Approved by the Governor April 16, 1997.

Filed in Office of Secretary of State April 16, 1997.

CHAPTER 56

[Substitute House Bill 1799]

LETTERS OF CREDIT

AN ACT Relating to letters of credit under the uniform commercial code; amending RCW 62A.5-102, 62A.5-103, 62A.5-104, 62A.5-105, 62A.5-106, 62A.5-107, 62A.5-108, 62A.5-109, 62A.5-110, 62A.5-111, 62A.5-112, 62A.5-113, 62A.5-114, 62A.5-115, 62A.5-116, 62A.5-117, 62A.1-105, 62A.2-512, 62A.9-103, 62A.9-104, 62A.9-105, 62A.9-106, 62A.9-304, and 62A.9-305; and creating new sections.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. Sec. 1. APPLICABILITY. This act applies to a letter of credit that is issued on or after the effective date of this act. This act does not apply to a transaction, event, obligation, or duty arising out of or associated with a letter of credit that was issued before the effective date of this act.

NEW SECTION. Sec. 2. SAVINGS CLAUSE. A transaction arising out of or associated with a letter of credit that was issued before the effective date of this act and the rights, obligations, and interests flowing from that transaction are governed by any statute or other law amended or repealed by this act as if repeal or amendment had not occurred and may be terminated, completed, consummated, or enforced under that statute or other law.

Sec. 3. RCW 62A.5-102 and 1965 ex.s. c 157 s 5-102 are each amended to read as follows:

~~((Scope:)) Definitions. ((1) This Article applies~~

~~— (a) to a credit issued by a bank if the credit requires a documentary draft or a documentary demand for payment; and~~

~~— (b) to a credit issued by a person other than a bank if the credit requires that the draft or demand for payment be accompanied by a document of title; and~~

~~— (c) to a credit issued by a bank or other person if the credit is not within subparagraphs (a) or (b) but conspicuously states that it is a letter of credit or is conspicuously so entitled.~~

~~— (2) Unless the engagement meets the requirements of subsection (1), this Article does not apply to engagements to make advances or to honor drafts or demands for payment, to authorities to pay or purchase, to guarantees or to general agreements:~~

~~— (3) This Article deals with some but not all of the rules and concepts of letters of credit as such rules or concepts have developed prior to this act or may hereafter develop. The fact that this Article states a rule does not by itself require, imply or negate application of the same or a converse rule to a situation not provided for or to a person not specified by this Article:)) (1) The definitions in this section apply throughout this Article unless the context clearly requires otherwise:~~

(a) "Adviser" means a person who, at the request of the issuer, a confirmer, or another adviser, notifies or requests another adviser to notify the beneficiary that a letter of credit has been issued, confirmed, or amended.

(b) "Applicant" means a person at whose request or for whose account a letter of credit is issued. The term includes a person who requests an issuer to issue a letter of credit on behalf of another if the person making the request undertakes an obligation to reimburse the issuer.

(c) "Beneficiary" means a person who under the terms of a letter of credit is entitled to have its complying presentation honored. The term includes a person to whom drawing rights have been transferred under a transferable letter of credit.

(d) "Confirmer" means a nominated person who undertakes, at the request or with the consent of the issuer, to honor a presentation under a letter of credit issued by another.

(e) "Dishonor" of a letter of credit means failure timely to honor or to take an interim action, such as acceptance of a draft, that may be required by the letter of credit.

(f) "Document" means a draft or other demand, document of title, investment security, certificate, invoice, or other record, statement, or representation of fact, law, right, or opinion (i) which is presented in a written or other medium permitted by the letter of credit or, unless prohibited by the letter of credit, by the standard practice referred to in RCW 62A.5-108(5) and (ii) which is capable of being examined for compliance with the terms and conditions of the letter of credit. A document may not be oral.

(g) "Good faith" means honesty in fact in the conduct or transaction concerned.

(h) "Honor" of a letter of credit means performance of the issuer's undertaking in the letter of credit to pay or deliver an item of value. Unless the letter of credit otherwise provides, "honor" occurs:

(i) Upon payment;

(ii) If the letter of credit provides for acceptance, upon acceptance of a draft and, at maturity, its payment; or

(iii) If the letter of credit provides for incurring a deferred obligation, upon incurring the obligation and, at maturity, its performance.

(i) "Issuer" means a bank or other person that issues a letter of credit, but does not include an individual who makes an engagement for personal, family, or household purposes.

(j) "Letter of credit" means a definite undertaking that satisfies the requirements of RCW 62A.5-104 by an issuer to a beneficiary at the request or for the account of an applicant or, in the case of a financial institution, to itself or for its own account, to honor a documentary presentation by payment or delivery of an item of value.

(k) "Nominated person" means a person whom the issuer (i) designates or authorizes to pay, accept, negotiate, or otherwise give value under a letter of credit and (ii) undertakes by agreement or custom and practice to reimburse.

(l) "Presentation" means delivery of a document to an issuer or nominated person for honor or giving of value under a letter of credit.

(m) "Presenter" means a person making a presentation as or on behalf of a beneficiary or nominated person.

(n) "Record" means information that is inscribed on a tangible medium, or that is stored in an electronic or other medium and is retrievable in perceivable form.

(o) "Successor of a beneficiary" means a person who succeeds to substantially all of the rights of a beneficiary by operation of law, including a corporation with or into which the beneficiary has been merged or consolidated, an administrator, executor, personal representative, trustee in bankruptcy, debtor in possession, liquidator, and receiver.

(2) Definitions in other Articles applying to this Article and the sections in which they appear are:

"Accept" or "Acceptance" RCW 62A.3-409

"Value" RCW 62A.3-303, RCW 62A.4-211.

(3) Article 1 contains certain additional general definitions and principles of construction and interpretation applicable throughout this Article.

Sec. 4. RCW 62A.5-103 and 1965 ex.s. c 157 s 5-103 are each amended to read as follows:

((Definitions:)) Scope. ~~((1) In this Article unless the context otherwise requires~~

— (a) "Credit" or "letter of credit" means an engagement by a bank or other person made at the request of a customer and of a kind within the scope of this Article (RCW 62A.5-102) that the issuer will honor drafts or other demands for payment upon compliance with the conditions specified in the credit. A credit may be either revocable or irrevocable. The engagement may be either an agreement to honor or a statement that the bank or other person is authorized to honor.

— (b) A "documentary draft" or a "documentary demand for payment" is one honor of which is conditioned upon the presentation of a document or documents. "Document" means any paper including document of title, security, invoice, certificate, notice of default and the like.

— (c) An "issuer" is a bank or other person issuing a credit.

— (d) A "beneficiary" of a credit is a person who is entitled under its terms to draw or demand payment.

— (e) An "advising bank" is a bank which gives notification of the issuance of a credit by another bank.

— (f) A "confirming bank" is a bank which engages either that it will itself honor a credit already issued by another bank or that such a credit will be honored by the issuer or a third bank.

— (g) A "customer" is a buyer or other person who causes an issuer to issue a credit. The term also includes a bank which procures issuance or confirmation on behalf of that bank's customer.

— (2) Other definitions applying to this Article and the sections in which they appear are:

— "Notation of credit". RCW 62A.5-108.

— "Presenter". RCW 62A.5-112(3).

— (3) Definitions in other Articles applying to this Article and the sections in which they appear are:

— "Accept" or "Acceptance". RCW 62A.3-410.

— "Contract for sale". RCW 62A.2-106.

— "Draft". RCW 62A.3-104.

— "Holder in due course". RCW 62A.3-302.

— "Midnight deadline". RCW 62A.4-104.

— "Security". RCW 62A.8-102.

— (4) In addition, Article 1 contains general definitions and principles of construction and interpretation applicable throughout this Article.)) (1) This Article applies to letters of credit and to certain rights and obligations arising out of transactions involving letters of credit.

(2) The statement of a rule in this Article does not by itself require, imply, or negate application of the same or a different rule to a situation not provided for, or to a person not specified, in this Article.

(3) With the exception of this subsection, subsections (1) and (4) of this section, RCW 62A.5-102(1) (i) and (j), 62A.5-106(4), and 62A.5-114(4), and except to the extent prohibited in RCW 62A.1-102(3) and 62A.5-117(4), the effect

of this Article may be varied by agreement or by a provision stated or incorporated by reference in an undertaking. A term in an agreement or undertaking generally excusing liability or generally limiting remedies for failure to perform obligations is not sufficient to vary obligations prescribed by this Article.

(4) Rights and obligations of an issuer to a beneficiary or a nominated person under a letter of credit are independent of the existence, performance, or nonperformance of a contract or arrangement out of which the letter of credit arises or which underlies it, including contracts or arrangements between the issuer and the applicant and between the applicant and the beneficiary.

Sec. 5. RCW 62A.5-104 and 1965 ex.s. c 157 s 5-104 are each amended to read as follows:

~~Formal requirements (,; signing)). ((1) Except as otherwise required in subsection (1)(e) of RCW 62A.5-102 on scope, no particular form of phrasing is required for a credit. A credit must be in writing and signed by the issuer and a confirmation must be in writing and signed by the confirming bank. A modification of the terms of a credit or confirmation must be signed by the issuer or confirming bank.~~

~~— (2) A telegram may be a sufficient signed writing if it identifies its sender by an authorized authentication. The authentication may be in code and the authorized naming of the issuer in an advice of credit is a sufficient signing.)~~ A letter of credit, confirmation, advice, transfer, amendment, or cancellation may be issued in any form that is a record and is authenticated (1) by a signature or (2) in accordance with the agreement of the parties or the standard practice referred to in RCW 62A.5-108(5).

Sec. 6. RCW 62A.5-105 and 1965 ex.s. c 157 s 5-105 are each amended to read as follows:

~~Consideration. ((No consideration is necessary to establish a credit or to enlarge or otherwise modify its terms.))~~ Consideration is not required to issue, amend, transfer, or cancel a letter of credit, advice, or confirmation.

Sec. 7. RCW 62A.5-106 and 1965 ex.s. c 157 s 5-106 are each amended to read as follows:

~~((Time and effect of establishment of credit.))~~ Issuance, amendment, cancellation, and duration. (((1) Unless otherwise agreed a credit is established:

~~— (a) as regards the customer as soon as a letter of credit is sent to him or the letter of credit or an authorized written advice of its issuance is sent to the beneficiary; and~~

~~— (b) as regards the beneficiary when he receives a letter of credit or an authorized written advice of its issuance.~~

~~— (2) Unless otherwise agreed once an irrevocable credit is established as regards the customer it can be modified or revoked only with the consent of the customer and once it is established as regards the beneficiary it can be modified or revoked only with his consent.~~

— (3) Unless otherwise agreed after a revocable credit is established it may be modified or revoked by the issuer without notice to or consent from the customer or beneficiary.

— (4) Notwithstanding any modification or revocation of a revocable credit any person authorized to honor or negotiate under the terms of the original credit is entitled to reimbursement for or honor of any draft or demand for payment duly honored or negotiated before receipt of notice of the modification or revocation and the issuer in turn is entitled to reimbursement from its customer.) (1) A letter of credit is issued and becomes enforceable according to its terms against the issuer when the issuer sends or otherwise transmits it to the person requested to advise or to the beneficiary. A letter of credit is revocable only if it so provides.

(2) After a letter of credit is issued, rights and obligations of a beneficiary, applicant, confirmer, and issuer are not affected by an amendment or cancellation to which that person has not consented except to the extent the letter of credit provides that it is revocable or that the issuer may amend or cancel the letter of credit without that consent.

(3) If there is no stated expiration date or other provision that determines its duration, a letter of credit expires one year after its stated date of issuance or, if none is stated, after the date on which it is issued.

(4) A letter of credit that states that it is perpetual expires five years after its stated date of issuance, or if none is stated, after the date on which it is issued.

Sec. 8. RCW 62A.5-107 and 1965 ex.s. c 157 s 5-107 are each amended to read as follows:

~~((Advice of credit; confirmation; error in statement of terms.))~~ Confirmer, nominated person, and adviser. ~~((1) Unless otherwise specified an advising bank by advising a credit issued by another bank does not assume any obligation to honor drafts drawn or demands for payment made under the credit but it does assume obligation for the accuracy of its own statement.~~

— (2) A confirming bank by confirming a credit becomes directly obligated on the credit to the extent of its confirmation as though it were its issuer and acquires the rights of an issuer.

— (3) Even though an advising bank incorrectly advises the terms of a credit it has been authorized to advise the credit is established as against the issuer to the extent of its original terms.

— (4) Unless otherwise specified the customer bears as against the issuer all risks of transmission and reasonable translation or interpretation of any message relating to a credit.) (1) A confirmer is directly obligated on a letter of credit and has the rights and obligations of an issuer to the extent of its confirmation. The confirmer also has rights against and obligations to the issuer as if the issuer were an applicant and the confirmer had issued the letter of credit at the request and for the account of the issuer.

(2) A nominated person who is not a confirmer is not obligated to honor or otherwise give value for a presentation.

(3) A person requested to advise may decline to act as an adviser. An adviser that is not a confirmer is not obligated to honor or give value for a presentation. An adviser undertakes to the issuer and to the beneficiary accurately to advise the terms of the letter of credit, confirmation, amendment, or advice received by that person and undertakes to the beneficiary to check the apparent authenticity of the request to advise. Even if the advice is inaccurate, the letter of credit, confirmation, or amendment is enforceable as issued.

(4) A person who notifies a transferee beneficiary of the terms of a letter of credit, confirmation, amendment, or advice has the rights and obligations of an adviser under subsection (3) of this section. The terms in the notice to the transferee beneficiary may differ from the terms in any notice to the transferor beneficiary to the extent permitted by the letter of credit, confirmation, amendment, or advice received by the person who so notifies.

Sec. 9. RCW 62A.5-108 and 1965 ex.s. c 157 s 5-108 are each amended to read as follows:

~~(("Notation credit"; exhaustion of credit.)) Issuer's rights and obligations. ((†) A credit which specifies that any person purchasing or paying drafts drawn or demands for payment made under it must note the amount of the draft or demand on the letter or advice of credit is a "notation credit".~~

~~— (2) Under a notation credit~~

~~— (a) a person paying the beneficiary or purchasing a draft or demand for payment from him acquires a right to honor only if the appropriate notation is made and by transferring or forwarding for honor the documents under the credit such a person warrants to the issuer that the notation has been made; and~~

~~— (b) unless the credit or a signed statement that an appropriate notation has been made accompanies the draft or demand for payment the issuer may delay honor until evidence of notation has been procured which is satisfactory to it but its obligation and that of its customer continue for a reasonable time not exceeding thirty days to obtain such evidence.~~

~~— (3) If the credit is not a notation credit~~

~~— (a) the issuer may honor complying drafts or demands for payment presented to it in the order in which they are presented and is discharged pro tanto by honor of any such draft or demand;~~

~~— (b) as between competing good faith purchasers of complying drafts or demands the person first purchasing has priority over a subsequent purchaser even though the later purchased draft or demand has been first honored.)) (1) Except as otherwise provided in RCW 62A.5-109, an issuer shall honor a presentation that, as determined by the standard practice referred to in subsection (5) of this section, appears on its face strictly to comply with the terms and conditions of the letter of credit. Except as otherwise provided in RCW 62A.5-113 and unless otherwise agreed with the applicant, an issuer shall dishonor a presentation that does not appear so to comply.~~

(1) Except as otherwise provided in RCW 62A.5-109, an issuer shall honor a presentation that, as determined by the standard practice referred to in subsection (5) of this section, appears on its face strictly to comply with the terms and conditions of the letter of credit. Except as otherwise provided in RCW 62A.5-113 and unless otherwise agreed with the applicant, an issuer shall dishonor a presentation that does not appear so to comply.

(2) An issuer has a reasonable time after presentation, but not beyond the end of the seventh business day of the issuer after the day of its receipt of documents:

(a) To honor;

(b) If the letter of credit provides for honor to be completed more than seven business days after presentation, to accept a draft or incur a deferred obligation; or

(c) To give notice to the presenter of discrepancies in the presentation.

(3) Except as otherwise provided in subsection (4) of this section, an issuer is precluded from asserting as a basis for dishonor any discrepancy if timely notice is not given, or any discrepancy not stated in the notice if timely notice is given.

(4) Failure to give the notice specified in subsection (2) of this section or to mention fraud, forgery, or expiration in the notice does not preclude the issuer from asserting as a basis for dishonor fraud or forgery as described in RCW 62A.5-109(1) or expiration of the letter of credit before presentation.

(5) An issuer shall observe standard practice of financial institutions that regularly issue letters of credit. Determination of the issuer's observance of the standard practice is a matter of interpretation for the court. The court shall offer the parties a reasonable opportunity to present evidence of the standard practice.

(6) An issuer is not responsible for:

(a) The performance or nonperformance of the underlying contract, arrangement, or transaction;

(b) An act or omission of others; or

(c) Observance or knowledge of the usage of a particular trade other than the standard practice referred to in subsection (5) of this section.

(7) If an undertaking constituting a letter of credit under RCW 62A.5-102(1)(i) contains nondocumentary conditions, an issuer shall disregard the nondocumentary conditions and treat them as if they were not stated.

(8) An issuer that has dishonored a presentation shall return the documents or hold them at the disposal of, and send advice to that effect to, the presenter.

(9) An issuer that has honored a presentation as permitted or required by this Article:

(a) Is entitled to be reimbursed by the applicant in immediately available funds not later than the date of its payment of funds;

(b) Takes the documents free of claims of the beneficiary or presenter;

(c) Is precluded from asserting a right of recourse on a draft under RCW 62A.3-414 and 62A.3-415;

(d) Except as otherwise provided in RCW 62A.5-110 and 62A.5-117, is precluded from restitution of money paid or other value given by mistake to the extent the mistake concerns discrepancies in the documents or tender which are apparent on the face of the presentation; and

(e) Is discharged to the extent of its performance under the letter of credit unless the issuer honored a presentation in which a required signature of a beneficiary was forged.

Sec. 10. RCW 62A.5-109 and 1965 ex.s. c 157 s 5-109 are each amended to read as follows:

~~((Issuer's obligation to its customer.)) Fraud and forgery. ~~((1) An issuer's obligation to its customer includes good faith and observance of any general banking usage but unless otherwise agreed does not include liability or responsibility~~~~

~~—(a) for performance of the underlying contract for sale or other transaction between the customer and the beneficiary; or~~

~~—(b) for any act or omission of any person other than itself or its own branch or for loss or destruction of a draft, demand or document in transit or in the possession of others; or~~

~~—(c) based on knowledge or lack of knowledge of any usage of any particular trade.~~

~~—(2) An issuer must examine documents with care so as to ascertain that on their face they appear to comply with the terms of the credit but unless otherwise agreed assumes no liability or responsibility for the genuineness, falsification or effect of any document which appears on such examination to be regular on its face.~~

~~—(3) A non-bank issuer is not bound by any banking usage of which it has no knowledge.)) (1) If a presentation is made that appears on its face strictly to comply with the terms and conditions of the letter of credit, but a required document is forged or materially fraudulent, or honor of the presentation would facilitate a material fraud by the beneficiary on the issuer or applicant:~~

~~(a) The issuer shall honor the presentation, if honor is demanded by (i) a nominated person who has given value in good faith and without notice of forgery or material fraud, (ii) a confirmer who has honored its confirmation in good faith, (iii) a holder in due course of a draft drawn under the letter of credit which was taken after acceptance by the issuer or nominated person, or (iv) an assignee of the issuer's or nominated person's deferred obligation that was taken for value and without notice of forgery or material fraud after the obligation was incurred by the issuer or nominated person; and~~

~~(b) The issuer, acting in good faith, may honor or dishonor the presentation in any other case.~~

~~(2) If an applicant claims that a required document is forged or materially fraudulent or that honor of the presentation would facilitate a material fraud by the beneficiary on the issuer or applicant, a court of competent jurisdiction may temporarily or permanently enjoin the issuer from honoring a presentation or grant similar relief against the issuer or other persons only if the court finds that:~~

~~(a) The relief is not prohibited under the law applicable to an accepted draft or deferred obligation incurred by the issuer;~~

~~(b) A beneficiary, issuer, or nominated person who may be adversely affected is adequately protected against loss that it may suffer because the relief is granted;~~

(c) All of the conditions to entitle a person to the relief under the law of this state have been met; and

(d) On the basis of the information submitted to the court, the applicant is more likely than not to succeed under its claim of forgery or material fraud and the person demanding honor does not qualify for protection under subsection (1)(a) of this section.

Sec. 11. RCW 62A.5-110 and 1965 ex.s. c 157 s 5-110 are each amended to read as follows:

~~((Availability of credit in portions; presenter's reservation of lien or claim.))~~
Warranties. ~~(((1) Unless otherwise specified a credit may be used in portions in the discretion of the beneficiary;~~

~~— (2) Unless otherwise specified a person by presenting a documentary draft or demand for payment under a credit relinquishes upon its honor all claims to the documents and a person by transferring such draft or demand or causing such presentment authorizes such relinquishment. An explicit reservation of claim makes the draft or demand non-complying.)) (1) If its presentation is honored, the beneficiary warrants:~~

(a) To the issuer, any other person to whom presentation is made, and the applicant that there is no fraud or forgery of the kind described in RCW 62A.5-109(1); and

(b) To the applicant that the drawing does not violate any agreement between the applicant and beneficiary or any other agreement intended by them to be augmented by the letter of credit.

(2) The warranties in subsection (1) of this section are in addition to warranties arising under Articles 3, 4, 7, and 8 because of the presentation or transfer of documents covered by any of those Articles.

Sec. 12. RCW 62A.5-111 and 1965 ex.s. c 157 s 5-111 are each amended to read as follows:

~~((Warranties on transfer and presentment.)) Remedies.~~ ~~(((1) Unless otherwise agreed the beneficiary by transferring or presenting a documentary draft or demand for payment warrants to all interested parties that the necessary conditions of the credit have been complied with. This is in addition to any warranties arising under Articles 3, 4, 7 and 8.~~

~~— (2) Unless otherwise agreed a negotiating, advising, confirming, collecting or issuing bank presenting or transferring a draft or demand for payment under a credit warrants only the matters warranted by a collecting bank under Article 4 and any such bank transferring a document warrants only the matters warranted by an intermediary under Articles 7 and 8.)) (1) If an issuer wrongfully dishonors or repudiates its obligation to pay money under a letter of credit before presentation, the beneficiary, successor, or nominated person presenting on its own behalf may recover from the issuer the amount that is the subject of the dishonor or repudiation. If the issuer's obligation under the letter of credit is not for the payment of money, the claimant may obtain specific performance or, at the~~

claimant's election, recover an amount equal to the value of performance from the issuer. In either case, the claimant may also recover incidental but not consequential damages. The claimant is not obligated to take action to avoid damages that might be due from the issuer under this subsection. If, although not obligated to do so, the claimant avoids damages, the claimant's recovery from the issuer must be reduced by the amount of damages avoided. The issuer has the burden of proving the amount of damages avoided. In the case of repudiation the claimant need not present any document.

(2) If an issuer wrongfully dishonors a draft or demand presented under a letter of credit or honors a draft or demand in breach of its obligation to the applicant, the applicant may recover damages resulting from the breach, including incidental but not consequential damages, less any amount saved as a result of the breach.

(3) If an adviser or nominated person other than a confirmer breaches an obligation under this Article or an issuer breaches an obligation not covered in subsection (1) or (2) of this section, a person to whom the obligation is owed may recover damages resulting from the breach, including incidental but not consequential damages, less any amount saved as a result of the breach. To the extent of the confirmation, a confirmer has the liability of an issuer specified in this subsection and subsections (1) and (2) of this section.

(4) An issuer, nominated person, or adviser who is found liable under subsection (1), (2), or (3) of this section shall pay interest on the amount owed thereunder from the date of wrongful dishonor or other appropriate date.

(5) Reasonable attorney's fees and other expenses of litigation must be awarded to the prevailing party in an action in which a remedy is sought under this Article.

(6) Damages that would otherwise be payable by a party for breach of an obligation under this Article may be liquidated by agreement or undertaking, but only in an amount or by a formula that is reasonable in light of the harm anticipated.

Sec. 13. RCW 62A.5-112 and 1965 ex.s. c 157 s 5-112 are each amended to read as follows:

~~((Time allowed for honor or rejection; withholding honor or rejection by consent; "presenter";))~~ Transfer of letter of credit. ~~((1) A bank to which a documentary draft or demand for payment is presented under a credit may without dishonor of the draft, demand or credit~~

~~— (a) defer honor until the close of the third banking day following receipt of the documents; and~~

~~— (b) further defer honor if the presenter has expressly or impliedly consented thereto;~~

~~Failure to honor within the time here specified constitutes dishonor of the draft or demand and of the credit except as otherwise provided in subsection (4) of RCW 62A.5-114 on conditional payment.~~

—(2) Upon dishonor the bank may unless otherwise instructed fulfill its duty to return the draft or demand and the documents by holding them at the disposal of the presenter and sending him an advice to that effect.

—(3) "Presenter" means any person presenting a draft or demand for payment for honor under a credit even though that person is a confirming bank or other correspondent which is acting under an issuer's authorization:)) (1) Except as otherwise provided in RCW 62A.5-113, unless a letter of credit provides that it is transferable, the right of a beneficiary to draw or otherwise demand performance under a letter of credit may not be transferred.

(2) Even if a letter of credit provides that it is transferable, the issuer may refuse to recognize or carry out a transfer if:

(a) The transfer would violate applicable law; or

(b) The transferor or transferee has failed to comply with any requirement stated in the letter of credit or any other requirement relating to transfer imposed by the issuer which is within the standard practice referred to in RCW 62A.5-108(5) or is otherwise reasonable under the circumstances.

Sec. 14. RCW 62A.5-113 and 1965 ex.s. c 157 s 5-113 are each amended to read as follows:

~~((Indemnities:))~~ Transfer by operation of law. ~~((1) A bank seeking to obtain (whether for itself or another) honor, negotiation or reimbursement under a credit may give an indemnity to induce such honor, negotiation or reimbursement:~~

~~—(2) An indemnity agreement inducing honor, negotiation or reimbursement~~

~~—(a) unless otherwise explicitly agreed applies to defects in the documents but not in the goods; and~~

~~—(b) unless a longer time is explicitly agreed expires at the end of ten business days following receipt of the documents by the ultimate customer unless notice of objection is sent before such expiration date. The ultimate customer may send notice of objection to the person from whom he received the documents and any bank receiving such notice is under a duty to send notice to its transferor before its midnight deadline:))~~ (1) A successor of a beneficiary may consent to amendments, sign and present documents, and receive payment or other items of value in the name of the beneficiary without disclosing its status as a successor.

(2) A successor of a beneficiary may consent to amendments, sign and present documents, and receive payment or other items of value in its own name as the disclosed successor of the beneficiary. Except as otherwise provided in subsection (5) of this section, an issuer shall recognize a disclosed successor of a beneficiary as beneficiary in full substitution for its predecessor upon compliance with the requirements for recognition by the issuer of a transfer of drawing rights by operation of law under the standard practice referred to in RCW 62A.5-108(5) or, in the absence of such a practice, compliance with other reasonable procedures sufficient to protect the issuer.

(3) An issuer is not obliged to determine whether a purported successor is a successor of a beneficiary or whether the signature of a purported successor is genuine or authorized.

(4) Honor of a purported successor's apparently complying presentation under subsection (1) or (2) of this section has the consequences specified in RCW 62A.5-108(9) even if the purported successor is not the successor of a beneficiary. Documents signed in the name of the beneficiary or of a disclosed successor by a person who is neither the beneficiary nor the successor of the beneficiary are forged documents for the purposes of RCW 62A.5-109.

(5) An issuer whose rights of reimbursement are not covered by subsection (4) of this section or substantially similar law and any confirmer or nominated person may decline to recognize a presentation under subsection (2) of this section.

(6) A beneficiary whose name is changed after the issuance of a letter of credit has the same rights and obligations as a successor of a beneficiary under this section.

Sec. 15. RCW 62A.5-114 and 1995 c 48 s 57 are each amended to read as follows:

~~((Issuer's duty and privilege to honor; right to reimbursement:))~~ Assignment of proceeds. ~~((1) An issuer must honor a draft or demand for payment which complies with the terms of the relevant credit regardless of whether the goods or documents conform to the underlying contract for sale or other contract between the customer and the beneficiary. The issuer is not excused from honor of such a draft or demand by reason of an additional general term that all documents must be satisfactory to the issuer, but an issuer may require that specified documents must be satisfactory to it:~~

~~—(2) Unless otherwise agreed when documents appear on their face to comply with the terms of a credit but a required document does not in fact conform to the warranties made on negotiation or transfer of a document of title (RCW 62A.7-507) or of a certificated security (RCW 62A.8-108) or is forged or fraudulent or there is fraud in the transaction:~~

~~—(a) the issuer must honor the draft or demand for payment if honor is demanded by a negotiating bank or other holder of the draft or demand which has taken the draft or demand under the credit and under circumstances which would make it a holder in due course (RCW 62A.3-302) and in an appropriate case would make it a person to whom a document of title has been duly negotiated (RCW 62A.7-502) or a bona fide purchaser of a certificated security (RCW 62A.8-302); and~~

~~—(b) in all other cases as against its customer, an issuer acting in good faith may honor the draft or demand for payment despite notification from the customer of fraud, forgery or other defect not apparent on the face of the documents but a court of appropriate jurisdiction may enjoin such honor.~~

~~—(3) Unless otherwise agreed an issuer which has duly honored a draft or demand for payment is entitled to immediate reimbursement of any payment made~~

under the credit and to be put in effectively available funds not later than the day before maturity of any acceptance made under the credit.

— (4) When a credit provides for payment by the issuer on receipt of notice that the required documents are in the possession of a correspondent or other agent of the issuer

— (a) any payment made on receipt of such notice is conditional; and

— (b) the issuer may reject documents which do not comply with the credit if it does so within three banking days following its receipt of the documents; and

— (c) in the event of such rejection, the issuer is entitled by charge back or otherwise to return of the payment made.

— (5) In the case covered by subsection (4) failure to reject documents within the time specified in sub-paragraph (b) constitutes acceptance of the documents and makes the payment final in favor of the beneficiary.) (1) In this section, "proceeds of a letter of credit" means the cash, check, accepted draft, or other item of value paid or delivered upon honor or giving of value by the issuer or any nominated person under the letter of credit. The term does not include a beneficiary's drawing rights or documents presented by the beneficiary.

(2) A beneficiary may assign its right to part or all of the proceeds of a letter of credit. The beneficiary may do so before presentation as a present assignment of its right to receive proceeds contingent upon its compliance with the terms and conditions of the letter of credit.

(3) An issuer or nominated person need not recognize an assignment of proceeds of a letter of credit until it consents to the assignment.

(4) An issuer or nominated person has no obligation to give or withhold its consent to an assignment of proceeds of a letter of credit, but consent may not be unreasonably withheld if the assignee possesses and exhibits the letter of credit and presentation of the letter of credit is a condition to honor.

(5) Rights of a transferee beneficiary or nominated person are independent of the beneficiary's assignment of the proceeds of a letter of credit and are superior to the assignee's right to the proceeds.

(6) Neither the rights recognized by this section between an assignee and an issuer, transferee beneficiary, or nominated person nor the issuer's or nominated person's payment of proceeds to an assignee or a third person affect the rights between the assignee and any person other than the issuer, transferee beneficiary, or nominated person. The mode of creating and perfecting a security interest in or granting an assignment of a beneficiary's rights to proceeds is governed by Article 9 or other law. Against persons other than the issuer, transferee beneficiary, or nominated person, the rights and obligations arising upon the creation of a security interest or other assignment of a beneficiary's right to proceeds and its perfection are governed by Article 9 or other law.

Sec. 16. RCW 62A.5-115 and 1965 ex.s. c 157 s 5-115 are each amended to read as follows:

~~((Remedy for improper dishonor or anticipatory repudiation:)) Statute of Limitations. (((1) When an issuer wrongfully dishonors a draft or demand for payment presented under a credit the person entitled to honor has with respect to any documents the rights of a person in the position of a seller (RCW 62A.2-707) and may recover from the issuer the face amount of the draft or demand together with incidental damages under RCW 62A.2-710 on seller's incidental damages and interest but less any amount realized by resale or other use or disposition of the subject matter of the transaction. In the event no resale or other utilization is made the documents, goods or other subject matter involved in the transaction must be turned over to the issuer on payment of judgment.~~

~~—(2) When an issuer wrongfully cancels or otherwise repudiates a credit before presentment of a draft or demand for payment drawn under it the beneficiary has the rights of a seller after anticipatory repudiation by the buyer under RCW 62A.2-610 if he learns of the repudiation in time reasonably to avoid procurement of the required documents. Otherwise the beneficiary has an immediate right of action for wrongful dishonor:)) An action to enforce a right or obligation arising under this Article must be commenced within one year after the expiration date of the relevant letter of credit or one year after the cause of action accrues, whichever occurs later. A cause of action accrues when the breach occurs, regardless of the aggrieved party's lack of knowledge of the breach.~~

Sec. 17. RCW 62A.5-116 and 1981 c 41 s 5 are each amended to read as follows:

~~((Transfer and assignment:)) Choice of law and forum. (((1) The right to draw under a credit can be transferred or assigned only when the credit is expressly designated as transferable or assignable.~~

~~—(2) Even though the credit specifically states that it is nontransferable or nonassignable the beneficiary may before performance of the conditions of the credit assign his right to proceeds. Such an assignment is an assignment of an account under Article 9 on Secured Transactions and is governed by that Article except that~~

~~—(a) the assignment is ineffective until the letter of credit or advice of credit is delivered to the assignee which delivery constitutes perfection of the security interest under Article 9; and~~

~~—(b) the issuer may honor drafts or demands for payment drawn under the credit until it receives a notification of the assignment signed by the beneficiary which reasonably identifies the credit involved in the assignment and contains a request to pay the assignee; and~~

~~—(c) after what reasonably appears to be such a notification has been received the issuer may without dishonor refuse to accept or pay even to a person otherwise entitled to honor until the letter of credit or advice of credit is exhibited to the issuer.~~

~~—(3) Except where the beneficiary has effectively assigned his right to draw or his right to proceeds, nothing in this section limits his right to transfer or negotiate~~

~~drafts or demands drawn under the credit:))~~ (1) The liability of an issuer, nominated person, or adviser for action or omission is governed by the law of the jurisdiction chosen by an agreement in the form of a record signed or otherwise authenticated by the affected parties in the manner provided in RCW 62A.5-104 or by a provision in the person's letter of credit, confirmation, or other undertaking. The jurisdiction whose law is chosen need not bear any relation to the transaction.

(2) Unless subsection (1) of this section applies, the liability of an issuer, nominated person, or adviser for action or omission is governed by the law of the jurisdiction in which the person is located. The person is considered to be located at the address indicated in the person's undertaking. If more than one address is indicated, the person is considered to be located at the address from which the person's undertaking was issued. For the purpose of jurisdiction, choice of law, and recognition of interbranch letters of credit, but not enforcement of a judgment, all branches of a bank are considered separate juridical entities and a bank is considered to be located at the place where its relevant branch is considered to be located under this subsection.

(3) Except as otherwise provided in this subsection, the liability of an issuer, nominated person, or adviser is governed by any rules of custom or practice, such as the Uniform Customs and Practice for Documentary Credits, to which the letter of credit, confirmation, or other undertaking is expressly made subject. If (a) this Article would govern the liability of an issuer, nominated person, or adviser under subsection (1) or (2) of this section, (b) the relevant undertaking incorporates rules of custom or practice, and (c) there is conflict between this Article and those rules as applied to that undertaking, those rules govern except to the extent of any conflict with the nonvariable provisions specified in RCW 62A.5-103(3).

(4) If there is conflict between this Article and Article 3, 4, 4A, or 9, this Article governs.

(5) The forum for settling disputes arising out of an undertaking within this Article may be chosen in the manner and with the binding effect that governing law may be chosen in accordance with subsection (1) of this section.

Sec. 18. RCW 62A.5-117 and 1965 ex.s. c 157 s 5-117 are each amended to read as follows:

~~((Insolvency of bank holding funds for documentary credit:))~~ Subrogation of issuer, applicant, and nominated person. ((1) Where an issuer or an advising or confirming bank or a bank which has for a customer procured issuance of a credit by another bank becomes insolvent before final payment under the credit and the credit is one to which this Article is made applicable by paragraphs (a) or (b) of RCW 62A.5-102(1) on scope, the receipt or allocation of funds or collateral to secure or meet obligations under the credit shall have the following results:

~~—(a) to the extent of any funds or collateral turned over after or before the insolvency as indemnity against or specifically for the purpose of payment of drafts or demands for payment drawn under the designated credit, the drafts or demands~~

are entitled to payment in preference over depositors or other general creditors of the issuer or bank; and

—(b) on expiration of the credit or surrender of the beneficiary's rights under it unused any person who has given such funds or collateral is similarly entitled to return thereof; and

—(c) a charge to a general or current account with a bank if specifically consented to for the purpose of indemnity against or payment of drafts or demands for payment drawn under the designated credit falls under the same rules as if the funds had been drawn out in cash and then turned over with specific instructions.

—(2) After honor or reimbursement under this section the customer or other person for whose account the insolvent bank has acted is entitled to receive the documents involved:)) (1) An issuer that honors a beneficiary's presentation is subrogated to the rights of the beneficiary to the same extent as if the issuer were a secondary obligor of the underlying obligation owed to the beneficiary and of the applicant to the same extent as if the issuer were the secondary obligor of the underlying obligation owed to the applicant.

(2) An applicant that reimburses an issuer is subrogated to the rights of the issuer against any beneficiary, presenter, or nominated person to the same extent as if the applicant were the secondary obligor of the obligations owed to the issuer and has the rights of subrogation of the issuer to the rights of the beneficiary stated in subsection (1) of this section.

(3) A nominated person who pays or gives value against a draft or demand presented under a letter of credit is subrogated to the rights of:

(a) The issuer against the applicant to the same extent as if the nominated person were a secondary obligor of the obligation owed to the issuer by the applicant;

(b) The beneficiary to the same extent as if the nominated person were a secondary obligor of the underlying obligation owed to the beneficiary; and

(c) The applicant to the same extent as if the nominated person were a secondary obligor of the underlying obligation owed to the applicant.

(4) Notwithstanding any agreement or term to the contrary, the rights of subrogation stated in subsections (1) and (2) of this section do not arise until the issuer honors the letter of credit or otherwise pays and the rights in subsection (3) of this section do not arise until the nominated person pays or otherwise gives value. Until then, the issuer, nominated person, and the applicant do not derive under this section present or prospective rights forming the basis of a claim, defense, or excuse.

Sec. 19. RCW 62A.1-105 and 1995 c 48 s 54 are each amended to read as follows:

Territorial application of the title; parties' power to choose applicable law. (1) Except as provided hereafter in this section, when a transaction bears a reasonable relation to this state and also to another state or nation the parties may agree that the law either of this state or of such other state or nation shall govern their rights

and duties. Failing such agreement this Title applies to transactions bearing an appropriate relation to this state.

(2) Where one of the following provisions of this Title specifies the applicable law, that provision governs and a contrary agreement is effective only to the extent permitted by the law (including the conflict of laws rules) so specified:

Rights of creditors against sold goods. RCW 62A.2-402.

Applicability of the Article on Leases. RCW 62A.2A-105 and 62A.2A-106.

Applicability of the Article on Bank Deposits and Collections. RCW 62A.4-102.

Applicability of the Article on Letters of Credit. RCW 62A.5-116.

Applicability of the Article on Investment Securities. RCW 62A.8-110.

Perfection provisions of the Article on Secured Transactions. RCW 62A.9-103.

Sec. 20. RCW 62A.2-512 and 1965 ex.s. c 157 s 2-512 are each amended to read as follows:

Payment by buyer before inspection. (1) Where the contract requires payment before inspection non-conformity of the goods does not excuse the buyer from so making payment unless

(a) the non-conformity appears without inspection; or

(b) despite tender of the required documents the circumstances would justify injunction against honor under the provisions of this Title (RCW ~~((62A.5-114))~~ 62A.5-109(2)).

(2) Payment pursuant to subsection (1) does not constitute an acceptance of goods or impair the buyer's right to inspect or any of his or her remedies.

Sec. 21. RCW 62A.9-103 and 1995 c 48 s 58 are each amended to read as follows:

Perfection of security interest in multiple state transactions. (1) Documents, instruments, letters of credit, and ordinary goods.

(a) This subsection applies to documents ~~((and))~~, instruments, rights to proceed of written letters of credit, and ~~((to))~~ goods other than those covered by a certificate of title described in subsection (2), mobile goods described in subsection (3), and minerals described in subsection (5).

(b) Except as otherwise provided in this subsection, perfection and the effect of perfection or nonperfection of a security interest in collateral are governed by the law of the jurisdiction where the collateral is when the last event occurs on which is based the assertion that the security interest is perfected or unperfected.

(c) If the parties to a transaction creating a purchase money security interest in goods in one jurisdiction understand at the time that the security interest attaches that the goods will be kept in another jurisdiction, then the law of the other jurisdiction governs the perfection and the effect of perfection or nonperfection of the security interest from the time it attaches until thirty days after the debtor receives possession of the goods and thereafter if the goods are taken to the other jurisdiction before the end of the thirty-day period.

(d) When collateral is brought into and kept in this state while subject to a security interest perfected under the law of the jurisdiction from which the collateral was removed, the security interest remains perfected, but if action is required by Part 3 of this Article to perfect the security interest,

(i) if the action is not taken before the expiration of the period of perfection in the other jurisdiction or the end of four months after the collateral is brought into this state, whichever period first expires, the security interest becomes unperfected at the end of that period and is thereafter deemed to have been unperfected as against a person who became a purchaser after removal;

(ii) if the action is taken before the expiration of the period specified in subparagraph (i), the security interest continues perfected thereafter;

(iii) for the purpose of priority over a buyer of consumer goods (subsection (2) of RCW 62A.9-307), the period of the effectiveness of a filing in the jurisdiction from which the collateral is removed is governed by the rules with respect to perfection in subparagraphs (i) and (ii).

(e) For purposes of this subsection, rights to proceeds of a written letter of credit are deemed located where the letter of credit is located.

(2) Certificate of title.

(a) This subsection applies to goods covered by a certificate of title issued under a statute of this state or of another jurisdiction under the law of which indication of a security interest on the certificate is required as a condition of perfection.

(b) Except as otherwise provided in this subsection, perfection and the effect of perfection or nonperfection of the security interest are governed by the law (including the conflict of laws rules) of the jurisdiction issuing the certificate until four months after the goods are removed from that jurisdiction and thereafter until the goods are registered in another jurisdiction, but in any event not beyond surrender of the certificate. After the expiration of that period, the goods are not covered by the certificate of title within the meaning of this section.

(c) Except with respect to the rights of a buyer described in the next paragraph, a security interest, perfected in another jurisdiction otherwise than by notation on a certificate of title, in goods brought into this state and thereafter covered by a certificate of title issued by this state is subject to the rules stated in paragraph (d) of subsection (1).

(d) If goods are brought into this state while a security interest therein is perfected in any manner under the law of the jurisdiction from which the goods are removed and a certificate of title is issued by this state and the certificate does not show that the goods are subject to the security interest or that they may be subject to security interests not shown on the certificate, the security interest is subordinate to the rights of a buyer of the goods who is not in the business of selling goods of that kind to the extent that he gives value and receives delivery of the goods after issuance of the certificate and without knowledge of the security interest.

(3) Accounts, general intangibles and mobile goods.

(a) This subsection applies to accounts (other than an account described in subsection (5) on minerals) and general intangibles (other than uncertificated securities) and to goods which are mobile and which are of a type normally used in more than one jurisdiction, such as motor vehicles, trailers, rolling stock, airplanes, shipping containers, road building and construction machinery and commercial harvesting machinery and the like, if the goods are equipment or are inventory leased or held for lease by the debtor to others, and are not covered by a certificate of title described in subsection (2).

(b) The law (including the conflict of laws rules) of the jurisdiction in which the debtor is located governs the perfection and the effect of perfection or nonperfection of the security interest.

(c) If, however, the debtor is located in a jurisdiction which is not a part of the United States, and which does not provide for perfection of the security interest by filing or recording in that jurisdiction, the law of the jurisdiction in the United States in which the debtor has its major executive office in the United States governs the perfection and the effect of perfection or nonperfection of the security interest through filing. In the alternative, if the debtor is located in a jurisdiction which is not a part of the United States or Canada and the collateral is accounts or general intangibles for money due or to become due, the security interest may be perfected by notification to the account debtor. As used in this paragraph, "United States" includes its territories and possessions and the Commonwealth of Puerto Rico.

(d) A debtor shall be deemed located at his place of business if he has one, at his chief executive office if he has more than one place of business, otherwise at his residence. If, however, the debtor is a foreign air carrier under the Federal Aviation Act of 1958, as amended, it shall be deemed located at the designated office of the agent upon whom service of process may be made on behalf of the foreign air carrier.

(e) A security interest perfected under the law of the jurisdiction of the location of the debtor is perfected until the expiration of four months after a change of the debtor's location to another jurisdiction, or until perfection would have ceased by the law of the first jurisdiction, whichever period first expires. Unless perfected in the new jurisdiction before the end of that period, it becomes unperfected thereafter and is deemed to have been unperfected as against a person who became a purchaser after the change.

(4) Chattel paper.

The rules stated for goods in subsection (1) apply to a possessory security interest in chattel paper. The rules stated for accounts in subsection (3) apply to a nonpossessory security interest in chattel paper, but the security interest may not be perfected by notification to the account debtor.

(5) Minerals.

Perfection and the effect of perfection or nonperfection of a security interest which is created by a debtor who has an interest in minerals or the like (including

oil and gas) before extraction and which attaches thereto as extracted, or which attaches to an account resulting from the sale thereof at the wellhead or minehead are governed by the law (including the conflict of laws rules) of the jurisdiction wherein the wellhead or minehead is located.

(6) Investment property.

(a) This subsection applies to investment property.

(b) Except as otherwise provided in paragraph (f), during the time that a security certificate is located in a jurisdiction, perfection of a security interest, the effect of perfection or non-perfection, and the priority of a security interest in the certificated security represented thereby are governed by the local law of that jurisdiction.

(c) Except as otherwise provided in paragraph (f), perfection of a security interest, the effect of perfection or non-perfection, and the priority of a security interest in an uncertificated security are governed by the local law of the issuer's jurisdiction as specified in RCW 62A.8-110(4).

(d) Except as otherwise provided in paragraph (f), perfection of a security interest, the effect of perfection or non-perfection, and the priority of a security interest in a security entitlement or securities account are governed by the local law of the securities intermediary's jurisdiction as specified in RCW 62A.8-110(5).

(e) Except as otherwise provided in paragraph (f), perfection of a security interest, the effect of perfection or non-perfection, and the priority of a security interest in a commodity contract or commodity account are governed by the local law of the commodity intermediary's jurisdiction. The following rules determine a "commodity intermediary's jurisdiction" for purposes of this paragraph:

(i) if an agreement between the commodity intermediary and commodity customer specifies that it is governed by the law of a particular jurisdiction, that jurisdiction is the commodity intermediary's jurisdiction.

(ii) if an agreement between the commodity intermediary and commodity customer does not specify the governing law as provided in subparagraph (i), but expressly specifies that the commodity account is maintained at an office in a particular jurisdiction, that jurisdiction is the commodity intermediary's jurisdiction.

(iii) if an agreement between the commodity intermediary and commodity customer does not specify a jurisdiction as provided in subparagraph (i) or (ii), the commodity intermediary's jurisdiction is the jurisdiction in which is located the office identified in an account statement as the office serving the commodity customer's account.

(iv) if an agreement between the commodity intermediary and commodity customer does not specify a jurisdiction as provided in subparagraph (i) or (ii) and an account statement does not identify an office serving the commodity customer's account as provided in subparagraph (iii), the commodity intermediary's jurisdiction is the jurisdiction in which is located the chief executive office of the commodity intermediary.

(f) Perfection of a security interest by filing, automatic perfection of a security interest in investment property granted by a broker or securities intermediary, and automatic perfection of a security interest in a commodity contract or commodity account granted by a commodity intermediary are governed by the local law of the jurisdiction in which the debtor is located.

Sec. 22. RCW 62A.9-104 and 1985 c 412 s 11 are each amended to read as follows:

Transactions excluded from Article. This Article does not apply

(a) to a security interest subject to any statute of the United States to the extent that such statute governs the rights of parties to and third parties affected by transactions in particular types of property; or

(b) to a landlord's lien; or

(c) to a lien given by statute or other rule of law for services or materials or to a lien created under chapter 60.13 or 22.09 RCW except as provided in RCW 62A.9-310 on priority of such liens; or

(d) to a transfer of a claim for wages, salary or other compensation of an employee; or

(e) to a transfer by a government or governmental subdivision or agency; or

(f) to a sale of accounts or chattel paper as part of a sale of the business out of which they arose, or an assignment of accounts or chattel paper which is for the purpose of collection only, or a transfer of a right to payment under a contract to an assignee who is also to do the performance under the contract or a transfer of a single account to an assignee in whole or partial satisfaction of a preexisting indebtedness; or

(g) to a transfer of an interest or claim in or under any policy of insurance, except as provided with respect to proceeds (RCW 62A.9-306) and priorities in proceeds (RCW 62A.9-312); or

(h) to a right represented by a judgment (other than a judgment taken on a right to payment which was collateral); or

(i) to any right of set-off; or

(j) except to the extent that provision is made for fixtures in RCW 62A.9-313, to the creation or transfer of an interest in or lien on real estate, including a lease or rents thereunder; or

(k) to a transfer in whole or in part of any claim arising out of tort; or

(l) to a transfer of an interest in any deposit account (subsection (1) of RCW 62A.9-105), except as provided with respect to proceeds (RCW 62A.9-306) and priorities in proceeds (RCW 62A.9-312); or

(m) to a transfer of an interest in a letter of credit other than the rights to proceeds of a written letter of credit.

Sec. 23. RCW 62A.9-105 and 1995 c 48 s 59 are each amended to read as follows:

Definitions and index of definitions. (1) In this Article unless the context otherwise requires:

(a) "Account debtor" means the person who is obligated on an account, chattel paper or general intangible;

(b) "Chattel paper" means a writing or writings which evidence both a monetary obligation and a security interest in or a lease of specific goods, but a charter or other contract involving the use or hire of a vessel is not chattel paper. When a transaction is evidenced both by such a security agreement or a lease and by an instrument or a series of instruments, the group of writings taken together constitutes chattel paper;

(c) "Collateral" means the property subject to a security interest, and includes accounts and chattel paper which have been sold;

(d) "Debtor" means the person who owes payment or other performance of the obligation secured, whether or not he owns or has rights in the collateral, and includes the seller of accounts or chattel paper. Where the debtor and the owner of the collateral are not the same person, the term "debtor" means the owner of the collateral in any provision of the Article dealing with the collateral, the obligor in any provision dealing with the obligation, and may include both where the context so requires;

(e) "Deposit account" means a demand, time, savings, passbook or like account maintained with a bank, savings and loan association, credit union or like organization, other than an account evidenced by a certificate of deposit;

(f) "Document" means document of title as defined in the general definitions of Article 1 (RCW 62A.1-201), and a receipt of the kind described in subsection (2) of RCW 62A.7-201;

(g) "Encumbrance" includes real estate mortgages and other liens on real estate and all other rights in real estate that are not ownership interests;

(h) "Goods" includes all things which are movable at the time the security interest attaches or which are fixtures (RCW 62A.9-313), but does not include money, documents, instruments, investment property, commodity contracts, accounts, chattel paper, general intangibles, or minerals or the like (including oil and gas) before extraction. "Goods" also includes standing timber which is to be cut and removed under a conveyance or contract for sale, the unborn young of animals and growing crops;

(i) "Instrument" means a negotiable instrument (defined in RCW 62A.3-104), or any other writing which evidences a right to the payment of money and is not itself a security agreement or lease and is of a type which is in ordinary course of business transferred by delivery with any necessary indorsement or assignment. The term does not include investment property;

(j) "Mortgage" means a consensual interest created by a real estate mortgage, a trust deed on real estate, or the like;

(k) An advance is made "pursuant to commitment" if the secured party has bound himself to make it, whether or not a subsequent event of default or other event not within his control has relieved or may relieve him from his obligation;

(l) "Security agreement" means an agreement which creates or provides for a security interest;

(m) "Secured party" means a lender, seller or other person in whose favor there is a security interest, including a person to whom accounts or chattel paper have been sold. When the holders of obligations issued under an indenture of trust, equipment trust agreement or the like are represented by a trustee or other person, the representative is the secured party;

(n) "Transmitting utility" means any person primarily engaged in the railroad, street railway or trolley bus business, the electric or electronics communications transmission business, the transmission of goods by pipeline, or the transmission or the production and transmission of electricity, steam, gas or water, or the provision of sewer service.

(2) Other definitions applying to this Article and the sections in which they appear are:

"Account".	RCW 62A.9-106.
"Attach".	RCW 62A.9-203.
"Commodity contract".	RCW 62A.9-115.
"Commodity customer".	RCW 62A.9-115.
"Commodity intermediary".	RCW 62A.9-115.
"Construction mortgage".	RCW 62A.9-313(1).
"Consumer goods".	RCW 62A.9-109(1).
"Control".	RCW 62A.9-115.
"Equipment".	RCW 62A.9-109(2).
"Farm products".	RCW 62A.9-109(3).
"Fixture".	RCW 62A.9-313.
"Fixture filing".	RCW 62A.9-313.
"General intangibles".	RCW 62A.9-106.
"Inventory".	RCW 62A.9-109(4).
"Investment property".	RCW 62A.9-115.
"Lien creditor".	RCW 62A.9-301(3).
"Proceeds".	RCW 62A.9-306(1).
"Purchase money security interest".	RCW 62A.9-107.
"United States".	RCW 62A.9-103.

(3) The following definitions in other Articles apply to this Article:

"Broker".	RCW 62A.8-102.
"Certificated security".	RCW 62A.8-102.
"Check".	RCW 62A.3-104.
"Clearing corporation".	RCW 62A.8-102.
"Contract for sale".	RCW 62A.2-106.
"Control".	RCW 62A.8-106.
"Delivery".	RCW 62A.8-301.
"Entitlement holder".	RCW 62A.8-102.

"Financial asset".	RCW 62A.8-102.
"Holder in due course".	RCW 62A.3-302.
<u>"Letter of credit".</u>	<u>RCW 62A.5-102.</u>
"Note".	RCW 62A.3-104.
<u>"Proceeds of a letter of credit".</u>	<u>RCW 62A.5-114(1).</u>
"Sale".	RCW 62A.2-106.
"Securities intermediary".	RCW 62A.8-102.
"Security".	RCW 62A.8-102.
"Security certificate".	RCW 62A.8-102.
"Security entitlement".	RCW 62A.8-102.
"Uncertificated security".	RCW 62A.8-102.

(4) In addition Article 1 contains general definitions and principles of construction and interpretation applicable throughout this Article.

Sec. 24. RCW 62A.9-106 and 1995 c 48 s 60 are each amended to read as follows:

Definitions: "Account"; "general intangibles". "Account" means any right to payment for goods sold or leased or for services rendered which is not evidenced by an instrument or chattel paper, whether or not it has been earned by performance. "General intangibles" means any personal property (including things in action) other than goods, accounts, chattel paper, documents, instruments, investment property, rights to proceeds of written letters of credit, and money. All rights to payment earned or unearned under a charter or other contract involving the use or hire of a vessel and all rights incident to the charter or contract are accounts.

Sec. 25. RCW 62A.9-304 and 1995 c 48 s 66 are each amended to read as follows:

Perfection of security interest in instruments, documents, and goods covered by documents; perfection by permissive filing; temporary perfection without filing or transfer of possession. (1) A security interest in chattel paper or negotiable documents may be perfected by filing. A security interest in the rights to proceeds of a written letter of credit can be perfected only by the secured party's taking possession of the letter of credit. A security interest in money or instruments (other than instruments which constitute part of chattel paper) can be perfected only by the secured party's taking possession, except as provided in subsections (4) and (5) of this section and subsections (2) and (3) of RCW 62A.9-306 on proceeds.

(2) During the period that goods are in the possession of the issuer of a negotiable document therefor, a security interest in the goods is perfected by perfecting a security interest in the document, and any security interest in the goods otherwise perfected during such period is subject thereto.

(3) A security interest in goods in the possession of a bailee other than one who has issued a negotiable document therefor is perfected by issuance of a

document in the name of the secured party or by the bailee's receipt of notification of the secured party's interest or by filing as to the goods.

(4) A security interest in instruments, certificated securities, or negotiable documents is perfected without filing or the taking of possession for a period of twenty-one days from the time it attaches to the extent that it arises for new value given under a written security agreement.

(5) A security interest remains perfected for a period of twenty-one days without filing where a secured party having a perfected security interest in an instrument, a certificated security, a negotiable document or goods in possession of a bailee other than one who has issued a negotiable document therefor

(a) makes available to the debtor the goods or documents representing the goods for the purpose of ultimate sale or exchange or for the purpose of loading, unloading, storing, shipping, transshipping, manufacturing, processing or otherwise dealing with them in a manner preliminary to their sale or exchange but priority between conflicting security interests in the goods is subject to subsection (3) of RCW 62A.9-312; or

(b) delivers the instrument or certificated security to the debtor for the purpose of ultimate sale or exchange or of presentation, collection, renewal, or registration of transfer.

(6) After the twenty-one day period in subsections (4) and (5) perfection depends upon compliance with applicable provisions of this Article.

Sec. 26. RCW 62A.9-305 and 1995 c 48 s 67 are each amended to read as follows:

When possession by secured party perfects security interest without filing. A security interest in (~~letters of credit and advices of credit (subsection (2)(a) of RCW 62A.5-116);~~) goods, instruments, money, negotiable documents, or chattel paper may be perfected by the secured party's taking possession of the collateral. A security interest in the right to proceeds of a written letter of credit may be perfected by the secured party's taking possession of the letter of credit. If such collateral other than goods covered by a negotiable document is held by a bailee, the secured party is deemed to have possession from the time the bailee receives notification of the secured party's interest. A security interest is perfected by possession from the time possession is taken without relation back and continues only so long as possession is retained, unless otherwise specified in this Article. The security interest may be otherwise perfected as provided in this Article before or after the period of possession by the secured party.

Passed the House March 11, 1997.

Passed the Senate April 7, 1997.

Approved by the Governor April 16, 1997.

Filed in Office of Secretary of State April 16, 1997.

CHAPTER 57

[Engrossed Senate Bill 6098]

ELIGIBILITY OF IMMIGRANTS FOR PUBLIC SERVICES

AN ACT Relating to human services; adding new sections to chapter 74.— RCW; and creating a new section.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. Sec. 1. IMMIGRANTS —ELIGIBILITY. The state shall exercise its option under P.L. 104-193 to continue services to legal immigrants under temporary assistance for needy families, medicaid, and social services block grant programs. Eligibility for these benefits for legal immigrants arriving after August 21, 1996, is limited to those families where the parent, parents, or legal guardians have been in residence in Washington state for a period of twelve consecutive months before making their application for assistance. Legal immigrants who lose benefits under the supplemental security income program as a result of P.L. 104-193 are immediately eligible for benefits under the state's general assistance-unemployable program. The department shall redetermine income and resource eligibility at least annually, in accordance with existing state policy.

NEW SECTION. Sec. 2. SPONSOR DEEMING. (1) Except as provided in subsection (4) of this section, qualified aliens and aliens permanently residing under color of law shall have their eligibility for assistance redetermined.

(2) In determining the eligibility and the amount of benefits of a qualified alien or an alien permanently residing under color of law for public assistance under this title, the income and resources of the alien shall be deemed to include the income and resources of any person and his or her spouse who executed an affidavit of support pursuant to section 213A of the federal immigration and naturalization act on behalf of the alien for a period of five years following the execution of that affidavit of support. The deeming provisions of this subsection shall be waived if the sponsor dies or is permanently incapacitated during the period the affidavit of support is valid.

(3) As used in this section, "qualified alien" has the meaning provided it in P.L. 104-183.

(4)(a) Qualified aliens specified under sections 403, 412, and 552 (e) and (f), subtitle B, Title IV, of P.L. 104-193 and in P.L. 104-208, are exempt from this section.

(b) Qualified aliens who served in the armed forces of an allied country, or were employed by an agency of the federal government, during a military conflict between the United States of America and a military adversary are exempt from the provisions of this section.

(c) Qualified aliens who are victims of domestic violence and petition for legal status under the federal violence against women act are exempt from the provisions of this section.

NEW SECTION. Sec. 3. FOOD ASSISTANCE. (1) The department may establish a food assistance program for persons whose immigrant status meets the eligibility requirements of the federal food stamp program, but who are no longer eligible solely due to their immigrant status under P.L. 104-193.

(2) The rules for the state food assistance program shall follow exactly the rules of the federal food stamp program except for the provisions pertaining to immigrant status under P.L. 104-193.

(3) The benefit under the state food assistance program shall be established by the legislature in the biennial operating budget.

(4) The department may enter into a contract with the United States department of agriculture to use the existing federal food stamp program coupon system for the purposes of administering the state food assistance program.

(5) In the event the department is unable to enter into a contract with the United States department of agriculture, the department may issue vouchers to eligible households for the purchase of eligible foods at participating retailers.

NEW SECTION. Sec. 4. CAPTIONS NOT LAW. Captions used in this act are not any part of the law.

NEW SECTION. Sec. 5. Sections 1 through 3 of this act are each added to the chapter created in section 1010, chapter . . . (Engrossed House Bill No. 3901), Laws of 1997.

Passed the Senate April 16, 1997.

Passed the House April 16, 1997.

Approved by the Governor April 17, 1997.

Filed in Office of Secretary of State April 17, 1997.

CHAPTER 58

[Engrossed House Bill 3901]

FEDERAL PERSONAL RESPONSIBILITY AND WORK OPPORTUNITY RECONCILIATION ACT OF 1996—IMPLEMENTATION

AN ACT Relating to implementing the federal personal responsibility and work opportunity reconciliation act of 1996; amending RCW 74.08.025, 74.08.340, 74.09.510, 74.09.800, 74.08.331, 28A.630.876, 74.04.050, 41.06.380, 74.12A.020, 74.13.0903, 74.25.040, 74.12.255, 74.04.0052, 13.34.160, 74.12.250, 74.12.410, 74.20A.020, 46.20.291, 46.20.311, 18.04.335, 18.11.160, 18.27.060, 18.39.181, 18.46.050, 18.96.120, 18.104.110, 18.130.150, 18.160.080, 18.165.160, 18.170.170, 43.20A.205, 43.70.115, 19.28.310, 19.28.580, 19.30.060, 19.16.120, 19.31.130, 19.32.060, 19.105.380, 19.105.440, 19.138.130, 19.158.050, 19.166.040, 21.20.110, 67.08.100, 19.02.100, 43.24.080, 43.24.110, 43.24.120, 70.74.110, 70.74.130, 70.74.370, 66.24.010, 43.63B.040, 70.95D.040, 17.21.130, 64.44.060, 19.146.220, 75.28.010, 26.09.160, 26.23.050, 26.18.100, 26.23.060, 74.20.040, 26.23.090, 74.20A.100, 26.23.045, 26.23.030, 74.20A.080, 26.23.120, 26.04.160, 26.09.170, 26.21.005, 26.21.115, 26.21.135, 26.21.235, 26.21.245, 26.21.255, 26.21.265, 26.21.450, 26.21.490, 26.21.520, 26.21.530, 26.21.580, 26.21.590, 26.21.620, 26.23.035, 74.20A.030, 74.20.320, 74.20.330, 70.58.080, 26.26.040, 74.20A.055, 26.23.040, 26.23.040, 26.26.130, 70.58.055, 50.13.060, and 74.04.062; reenacting and amending RCW 74.04.005, 74.20A.270, 42.17.310, 74.20A.060, 74.20A.056, 26.09.020, and 26.26.100; adding new sections to chapter 74.12 RCW; adding new sections to chapter 74.04 RCW; adding a new section to chapter 28A.630 RCW; adding a new section to chapter 43.30 RCW; adding a new section to chapter 43.330 RCW; adding a new section to chapter 44.28 RCW; adding new sections to chapter 74.20A RCW; adding a new section to

chapter 48.22 RCW; adding a new section to chapter 2.48 RCW; adding a new section to chapter 18.04 RCW; adding a new section to chapter 18.08 RCW; adding a new section to chapter 18.16 RCW; adding a new section to chapter 18.20 RCW; adding a new section to chapter 18.28 RCW; adding a new section to chapter 18.39 RCW; adding a new section to chapter 18.43 RCW; adding a new section to chapter 18.44 RCW; adding a new section to chapter 18.51 RCW; adding a new section to chapter 18.76 RCW; adding a new section to chapter 18.85 RCW; adding a new section to chapter 18.106 RCW; adding a new section to chapter 18.130 RCW; adding a new section to chapter 18.140 RCW; adding a new section to chapter 18.145 RCW; adding a new section to chapter 18.165 RCW; adding a new section to chapter 18.170 RCW; adding a new section to chapter 18.175 RCW; adding a new section to chapter 18.185 RCW; adding a new section to chapter 28A.410 RCW; adding a new section to chapter 20.01 RCW; adding a new section to chapter 48.17 RCW; adding a new section to chapter 74.15 RCW; adding a new section to chapter 47.68 RCW; adding a new section to chapter 71.12 RCW; adding a new section to chapter 66.20 RCW; adding a new section to chapter 66.24 RCW; adding a new section to chapter 88.02 RCW; adding a new section to chapter 43.24 RCW; adding a new section to chapter 70.95B RCW; adding a new section to chapter 75.25 RCW; adding a new section to chapter 77.32 RCW; adding a new section to chapter 75.28 RCW; adding a new section to chapter 75.30 RCW; adding a new section to chapter 26.09 RCW; adding new sections to chapter 74.20 RCW; adding new sections to chapter 26.23 RCW; adding new sections to chapter 26.21 RCW; adding a new section to chapter 26.26 RCW; adding a new section to chapter 26.18 RCW; adding a new section to chapter 43.20A RCW; adding a new chapter to Title 74 RCW; creating new sections; repealing RCW 74.12.420, 74.12.425, 74.04.660, 74.25.010, 74.25.020, 74.25.030, 74.25.900, 74.25.901, 74.08.120, and 74.08.125; providing effective dates; providing an expiration date; and declaring an emergency.

Be it enacted by the Legislature of the State of Washington:

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X. MISCELLANEOUS 364

***NEW SECTION. Sec. 1. LEGISLATIVE INTENT AND FINDINGS.**

The legislature finds that the federal personal responsibility and work opportunity reconciliation act of 1996 presents both opportunities and challenges for the states as they develop methods of moving families in poverty from welfare to work. The legislature further finds that, although many of the goals of the federal act coincide with Washington state's vision for enabling families to achieve eventual economic self-sufficiency through private, unsubsidized employment, the treatment of legal immigrants under the federal act does not reflect Washington's commitment to those legal immigrants within Washington's borders who have played by the rules, and who live in our communities and participate in the American way of life, providing economic and cultural enrichment to Washington state's population.

The legislature finds that at least one-third of public assistance recipients have experience in the work force and sufficient training to enable them to obtain unsubsidized employment. The legislature intends to put a priority on finding jobs, which may include on-the-job training, for this group of public assistance recipients. The legislature intends that state agencies involved in welfare reform shall reorganize to accomplish this priority. The legislature intends that state agencies solicit from businesses information about job opportunities and make the information available to public assistance recipients.

The legislature intends that legal immigrants who obey the laws of Washington, and who were granted permission to immigrate by the federal government, should be treated as equitably as possible under the state's enactment and implementation of public assistance programs.

The legislature finds that Washington state's goals in implementing the federal act include promoting the American values of work, education, and responsibility, including responsible childbearing and dedication by both parents to protecting, supporting, and bringing up children to become responsible, productive Americans. This has been the goal and the dream of generations of Americans, whether native born or naturalized citizens.

The legislature finds that it is necessary, to enable people to leave welfare, to encourage a new alliance of state and local government, business, churches, nonprofit organizations, and individuals to dedicate themselves, within the letter and the spirit of the law, to helping families in poverty overcome barriers, obtain support, direction, and encouragement, and become contributors to the American way of life.

The legislature finds that, in pursuance of these goals, it is also necessary to establish policy that recognizes our moral imperative to protect children when their parents or other adults in a child's life are unable or unwilling to do so, and to continue our commitment to the elderly, frail, and vulnerable for whom work is not an option.

The legislature reaffirms its commitment to provide medical services to eligible legal immigrants under the children's health program established under RCW 74.09.405. The legislature affirms its commitment to provide the benefits of the maternity care access program under RCW 74.09.800 to documented and undocumented immigrants who qualify.

The legislature finds that family structure and relationships are critical to the long-term success and economic self-sufficiency of recipients of temporary assistance for needy families and their children. The department and its employees shall communicate clearly to recipients of temporary assistance for needy families the importance of healthy and safe marriages and family relationships.

*Sec. 1 was vetoed. See message at end of chapter.

NEW SECTION. Sec. 2. SHORT TITLE. This act may be known and cited as the Washington WorkFirst temporary assistance for needy families act.

I. GENERAL PROVISIONS

Sec. 101. RCW 74.08.025 and 1981 1st ex.s. c 6 s 9 are each amended to read as follows:

(1) Public assistance ~~((shall))~~ may be awarded to any applicant:

~~((+))~~ **(a)** Who is in need and otherwise meets the eligibility requirements of department assistance programs; and

~~((2))~~ **(b)** Who has not made a voluntary assignment of property or cash for the purpose of qualifying for an assistance grant; and

~~((3))~~ **(c)** Who is not an inmate of a public institution except as a patient in a medical institution or except as an inmate in a public institution who could qualify for federal aid assistance: **PROVIDED**, That the assistance paid by the department to recipients in nursing homes, or receiving nursing home care, may cover the cost of clothing and incidentals and general maintenance exclusive of medical care and health services. The department may pay a grant to cover the cost of clothing and personal incidentals in public or private medical institutions and institutions for tuberculosis. The department shall allow recipients in nursing homes to retain, in addition to the grant to cover the cost of clothing and incidentals, wages received for work as a part of a training or rehabilitative program designed to prepare the recipient for less restrictive placement to the extent permitted under Title XIX of the federal social security act.

(2) Any person otherwise qualified for temporary assistance for needy families under this title who has resided in the state of Washington for fewer than twelve consecutive months immediately preceding application for assistance is limited to the benefit level in the state in which the person resided immediately before Washington, using the eligibility rules and other definitions established under this chapter, that was obtainable on the date of application in Washington state, if the benefit level of the prior state is lower than the level provided to similarly situated applicants in Washington state. The benefit level under this subsection shall be in

effect for the first twelve months a recipient is on temporary assistance for needy families in Washington state.

(3) Any person otherwise qualified for temporary assistance for needy families who is assessed through the state alcohol and substance abuse program as drug or alcohol-dependent and requiring treatment to become employable shall be required by the department to participate in a drug or alcohol treatment program as a condition of benefit receipt.

(4) In order to be eligible for temporary assistance for needy families and food stamp program benefits, any applicant with a felony conviction after August 21, 1996, involving drug use or possession, must: (a) Have been assessed as chemically dependent by a chemical dependency program approved under chapter 70.96A RCW and be participating in or have completed a coordinated rehabilitation plan consisting of chemical dependency treatment and vocational services; and (b) have not been convicted of a felony involving drug use or possession in the three years prior to the most current conviction.

Sec. 102. RCW 74.08.340 and I959 c 26 s 74.08.340 are each amended to read as follows:

All assistance granted under this title shall be deemed to be granted and to be held subject to the provisions of any amending or repealing act that may hereafter be enacted, and no recipient shall have any claim for compensation, or otherwise, by reason of his assistance being affected in any way by such amending or repealing act. There is no legal entitlement to public assistance.

NEW SECTION. Sec. 103. TIME LIMITS. (1) A family that includes an adult who has received temporary assistance for needy families for sixty months after the effective date of this section shall be ineligible for further temporary assistance for needy families assistance.

(2) For the purposes of applying the rules of this section, the department shall count any month in which an adult family member received a temporary assistance for needy families cash assistance grant unless the assistance was provided when the family member was a minor child and not the head of the household or married to the head of the household.

(3) The department shall refer recipients who require specialized assistance to appropriate department programs, crime victims' programs through the department of community, trade, and economic development, or the crime victims' compensation program of the department of labor and industries.

(4) The department may exempt a recipient and the recipient's family from the application of subsection (1) of this section by reason of hardship or if the recipient meets the family violence options of section 402(A)(7) of Title IVA of the federal social security act as amended by P.L. 104-193. The number of recipients and their families exempted from subsection (1) of this section for a fiscal year shall not exceed twenty percent of the average monthly number of recipients and their families to which assistance is provided under the temporary assistance for needy families program.

(5) The department shall not exempt a recipient and his or her family from the application of subsection (1) of this section until after the recipient has received fifty-two months of assistance under this chapter.

NEW SECTION. Sec. 104. ELECTRONIC BENEFIT TRANSFER. By October 2002, the department shall develop and implement an electronic benefit transfer system to be used for the delivery of public assistance benefits, including without limitation, food assistance.

The department shall comply with P.L. 104-193, and shall cooperate with relevant federal agencies in the design and implementation of the electronic benefit transfer system.

***NEW SECTION. Sec. 105.** The following acts or parts of acts are each repealed:

(1) RCW 74.12.420 and 1994 c 299 s 9;

(2) RCW 74.12.425 and 1994 c 299 s 10; and

(3) *RCW 74.04.660 and 1994 c 296 s 1, 1993 c 63 s 1, 1989 c 11 s 26, 1985 c 335 s 3, & 1981 1st ex.s. c 6 s 6.*

*Sec. 105 was partially vetoed. See message at end of chapter.

NEW SECTION. Sec. 106. (1) The department shall allow religiously affiliated organizations to provide services to families receiving temporary assistance for needy families on the same basis as any other nongovernmental provider, without impairing the religious character of such organizations, and without diminishing the religious freedom of beneficiaries of assistance funded under chapter 74.12 RCW.

(2) The department shall adopt rules implementing this section, and the applicable sections of P.L. 104-193 related to services provided by charitable, religious, or private organizations.

NEW SECTION. Sec. 107. A new section is added to chapter 74.12 RCW to read as follows:

The department shall (1) provide eligible Indian tribes ongoing, meaningful opportunities to participate in the development, oversight, and operation of the state temporary assistance for needy families program; (2) certify annually that it is providing equitable access to the state temporary assistance for needy families program to Indian people whose tribe is not administering a tribal temporary assistance for needy families program; (3) coordinate and cooperate with eligible Indian tribes that elect to operate a tribal temporary assistance for needy families program as provided for in P.L. 104-193; (4) upon approval by the secretary of the federal department of health and human services of a tribal temporary assistance for needy families program, transfer a fair and equitable amount of the state maintenance of effort funds to the eligible Indian tribe; and (5) establish rules related to the operation of this section and section 108 of this act, covering, at a minimum, appropriate uses of state maintenance of effort funds and annual reports

on program operations. The legislature shall specify the amount of state maintenance of effort funds to be transferred in the biennial appropriations act.

NEW SECTION. Sec. 108. A new section is added to chapter 74.12 RCW to read as follows:

An eligible Indian tribe exercising its authority under P.L. 104-193 to operate a tribal temporary assistance for needy families program shall operate the program on a state fiscal year basis. If a tribe decides to cancel a tribal temporary assistance for needy families program, it shall notify the department no later than ninety days prior to the start of the state fiscal year.

***NEW SECTION. Sec. 109.** A new section is added to chapter 74.12 RCW to read as follows:

WRITTEN MATERIAL. All forms, letters, and documents sent to recipients of assistance shall be easy to read and comprehend. The department shall ensure that all forms, letters, and documents covered by this section shall be written at an eighth grade comprehension level.

*Sec. 109 was vetoed. See message at end of chapter.

NEW SECTION. Sec. 110. A new section is added to chapter 74.12 RCW to read as follows:

FOOD STAMP WORK REQUIREMENTS. Single adults without dependents between eighteen and fifty years of age shall comply with federal food stamp work requirements as a condition of eligibility. The department may exempt any counties or subcounty areas from the federal food stamp work requirements in P.L. 104-193, unless the department receives written evidence of official action by a county or subcounty governing entity, taken after noticed consideration, that indicates that a county or subcounty area chooses not to use an exemption to the federal food stamp work requirements.

II. IMMIGRANT PROTECTION

Sec. 201. RCW 74.09.510 and 1991 sp.s. c 8 s 8 are each amended to read as follows:

Medical assistance may be provided in accordance with eligibility requirements established by the department (~~(of social and health services)~~), as defined in the social security Title XIX state plan for mandatory categorically needy persons and: (1) Individuals who would be eligible for cash assistance except for their institutional status; (2) individuals who are under twenty-one years of age, who would be eligible for (~~(aid to families with dependent children)~~) temporary assistance for needy families, but do not qualify as dependent children and who are in (a) foster care, (b) subsidized adoption, (c) a nursing facility or an intermediate care facility for the mentally retarded, or (d) inpatient psychiatric facilities; (3) the aged, blind, and disabled who: (a) Receive only a state supplement, or (b) would not be eligible for cash assistance if they were not institutionalized; (4) categorically eligible individuals who (~~would be eligible for but choose not to receive cash assistance~~) meet the income and resource

requirements of the cash assistance programs; (5) individuals who are enrolled in managed health care systems, who have otherwise lost eligibility for medical assistance, but who have not completed a current six-month enrollment in a managed health care system, and who are eligible for federal financial participation under Title XIX of the social security act; (6) children and pregnant women allowed by federal statute for whom funding is appropriated; ~~((and))~~ (7) other individuals eligible for medical services under RCW 74.09.035 and 74.09.700 for whom federal financial participation is available under Title XIX of the social security act; and (8) persons allowed by section 1931 of the social security act for whom funding is appropriated.

****NEW SECTION. Sec. 202. IMMIGRANTS—ELIGIBILITY. It is the intent of the legislature that all legal immigrants who resided in the United States before August 22, 1996, retain eligibility for assistance programs the same as or similar to those from which they lost benefits as a result of P.L. 104-193. The legislature also intends that sponsors' incomes continue to be deemed for these individuals in the same manner it was addressed prior to August 22, 1996.***

Accordingly, the state shall exercise its option under P.L. 104-193 to continue services to legal immigrants under temporary assistance for needy families, medicaid, and social services block grant programs. Legal immigrants who lose benefits under the supplemental security income program as a result of P.L. 104-193 are immediately eligible to apply for benefits under the state's general assistance-unemployable program. The department shall redetermine income and resource eligibility at least annually, in accordance with existing state policy. It is the policy of the legislature to distinguish between legal immigrants living in the United States prior to August 22, 1996, and those who immigrated on or after the enactment of P.L. 104-193. The postenactment legal immigrants are subject to a five-year benefit exclusion for means-tested public assistance programs and are subject to the sponsor-deeming provisions of section 206 of this act, which shall be strictly construed in favor of benefit denial.

****Sec. 202 was vetoed. See message at end of chapter.***

****NEW SECTION. Sec. 203. INCOME AVERAGING—BENEFIT DETERMINATION. In the case of applicants for temporary assistance for needy families whose principal source of earned income is seasonal employment, the department shall determine eligibility and benefit levels by retrospectively considering the applicant's earned income for the twelve-month period immediately preceding the application for assistance. The earned income shall be prorated on an annual basis, and the prorated amount used for eligibility and benefit determination in the prospective month. Assistance shall be denied until the applicant's prorated prior twelve months of income equals a monthly amount at or below the eligibility level. The intent of the legislature is to ensure that persons with seasonal earned income that, if prorated on an annual basis, would have exceeded the level qualifying them for assistance will be denied assistance until such time as they qualify on a prorated basis.***

*Sec. 203 was vetoed. See message at end of chapter.

NEW SECTION. Sec. 204. NATURALIZATION FACILITATION. The department shall make an affirmative effort to identify and proactively contact legal immigrants receiving public assistance to facilitate their applications for naturalization. The department shall obtain a complete list of legal immigrants in Washington who are receiving correspondence regarding their eligibility from the social security administration. The department shall inform immigrants regarding how citizenship may be attained. In order to facilitate the citizenship process, the department shall coordinate and contract, to the extent necessary, with existing public and private resources and shall, within available funds, ensure that those immigrants who qualify to apply for naturalization are referred to or otherwise offered classes. The department shall assist eligible immigrants in obtaining appropriate test exemptions, and other exemptions in the naturalization process, to the extent permitted under federal law. The department shall report annually by December 15th to the legislature regarding the progress and barriers of the immigrant naturalization facilitation effort. It is the intent of the legislature that persons receiving naturalization assistance be facilitated in obtaining citizenship within two years of their eligibility to apply.

***NEW SECTION. Sec. 205. SPONSOR DEEMING.** (1) *Except as provided in subsection (5) of this section, qualified aliens and aliens permanently residing under color of law who are recipients of public assistance under this title as of August 22, 1996, shall have their eligibility for assistance redetermined.*

(2) *Qualified aliens who enter the United States of America after August 22, 1996, are ineligible to receive public assistance under this title for a period of five years, except as provided in subsection (6) of this section. Following their period of ineligibility, their eligibility for public assistance shall be determined as provided for in this section.*

(3) *In determining the eligibility and the amount of benefits of a qualified alien or an alien permanently residing under color of law for public assistance under this title, the income and resources of the alien shall be deemed to include the income and resources of any person and his or her spouse who executed an affidavit of support pursuant to section 213A of the federal immigration and naturalization act on behalf of the alien. The deeming provisions of this subsection shall be waived if the sponsor dies or is permanently incapacitated during the period the affidavit of support is valid.*

(4) *As used in this section, "qualified alien" has the meaning provided it in P.L. 104-193.*

(5)(a) *Qualified aliens specified under sections 403, 412, and 552 (e) and (f), subtitle B, Title IV, of P.L. 104-193 and in P.L. 104-208, are exempt from this section.*

(b) *Qualified aliens who served in the armed forces of an allied country, or were employed by an agency of the federal government, during a military conflict*

between the United States of America and a military adversary are exempt from the provisions of this section.

(c) Qualified aliens who are victims of domestic violence and petition for legal status under the federal violence against women act are exempt from the provisions of this section.

(d) Until January 1, 1999, a qualified alien whose sponsor dies or is permanently incapacitated is exempt from this section.

(6) Subsection (2) of this section does not apply to the following state benefits:

(a) Assistance described in P.L. 104-193 sections 403(c)(H) through (K), 411(b)(1), 421(b), and P.L. 104-208;

(b) Short-term, noncash, in-kind emergency disaster relief;

(c) Programs comparable to assistance or benefits under the federal national school lunch act;

(d) Programs comparable to assistance or benefits under the federal child nutrition act of 1966;

(e) Public health assistance for immunizations with respect to immunizable diseases and for testing and treatment of symptoms of communicable diseases whether or not the symptoms are caused by a communicable disease;

(f) Payments for foster care and adoption assistance;

(g) Programs, services, or assistance where eligibility is not determined by employees of the department of social and health services;

(h) Programs, services, or assistance such as meals from a soup kitchen, crisis counseling and intervention, and short-term shelter, specified by the attorney general, after consultation with appropriate agencies and departments, that:

(i) Deliver in-kind services at the community level, including through public or private nonprofit agencies;

(ii) Do not condition the provision of assistance, the amount of assistance provided, or the cost of assistance provided on the individual recipient's income or resources; and

(iii) Are necessary for the protection of life or safety.

*Sec. 205 was vetoed. See message at end of chapter.

***NEW SECTION.** Sec. 206. A new section is added to chapter 74.04 RCW to read as follows:

FOOD ASSISTANCE. (1) The department may establish a food assistance program for persons whose immigrant status meets the eligibility requirements of the federal food stamp program as of August 21, 1996, but who are no longer eligible solely due to their immigrant status under P.L. 104-193.

(2) The rules for the state food assistance program shall follow exactly the rules of the federal food stamp program except for the provisions pertaining to immigrant status under P.L. 104-193.

(3) The benefit under the state food assistance program shall be established by the legislature in the biennial operating budget.

(4) The department may enter into a contract with the United States department of agriculture to use the existing federal food stamp program coupon system for the purposes of administering the state food assistance program.

(5) In the event the department is unable to enter into a contract with the United States department of agriculture, the department may issue vouchers to eligible households for the purchase of eligible foods at participating retailers.

**Sec. 206 was vetoed. See message at end of chapter.*

**Sec. 207. RCW 74.09.800 and 1993 c 407 s 10 are each amended to read as follows:*

The department shall, consistent with the state budget act, develop a maternity care access program designed to ensure healthy birth outcomes as follows:

(1) Provide maternity care services to low-income pregnant women and health care services to children in poverty to the maximum extent allowable under the medical assistance program, Title XIX of the federal social security act;

(2) Provide maternity care services to low-income women who are not eligible to receive such services under the medical assistance program, Title XIX of the federal social security act;

(3) By January 1, 1990, have the following procedures in place to improve access to maternity care services and eligibility determinations for pregnant women applying for maternity care services under the medical assistance program, Title XIX of the federal social security act:

(a) Use of a shortened and simplified application form;

(b) Outstationing department staff to make eligibility determinations;

(c) Establishing local plans at the county and regional level, coordinated by the department; and

(d) Conducting an interview for the purpose of determining medical assistance eligibility within five working days of the date of an application by a pregnant woman and making an eligibility determination within fifteen working days of the date of application by a pregnant woman;

(4) Establish a maternity care case management system that shall assist at-risk eligible persons with obtaining medical assistance benefits and receiving maternity care services, including transportation and child care services;

(5) Within available resources, establish appropriate reimbursement levels for maternity care providers;

(6) Implement a broad-based public education program that stresses the importance of obtaining maternity care early during pregnancy;

(7) Refer persons eligible for maternity care services under the program established by this section to persons, agencies, or organizations with maternity care service practices that primarily emphasize healthy birth outcomes;

(8) Provide family planning services including information about the synthetic progestin capsule implant form of contraception, for twelve months immediately following a pregnancy to women who were eligible for medical assistance under the maternity care access program during that pregnancy or who were eligible only for emergency labor and delivery services during that pregnancy; and

(9) Within available resources, provide family planning services to women who meet the financial eligibility requirements for services under subsections (1) and (2) of this section.

The legislature reaffirms its commitment to provide health care services under this section to eligible immigrants, regardless of documented or undocumented status.

*Sec. 207 was vetoed. See message at end of chapter.

III. WASHINGTON WORKFIRST PROGRAM

NEW SECTION. Sec. 301. It is the intent of the legislature that all applicants to the Washington WorkFirst program shall be focused on obtaining paid, unsubsidized employment. The focus of the Washington WorkFirst program shall be work for all recipients.

NEW SECTION. Sec. 302. DIVERSION ASSISTANCE. (1) In order to prevent some families from developing dependency on temporary assistance for needy families, the department shall make available to qualifying applicants a diversion program designed to provide brief, emergency assistance for families in crisis whose income and assets would otherwise qualify them for temporary assistance for needy families.

(2) Diversion assistance may include cash or vouchers in payment for the following needs:

- (a) Child care;
- (b) Housing assistance;
- (c) Transportation-related expenses;
- (d) Food;
- (e) Medical costs for the recipient's immediate family;
- (f) Employment-related expenses which are necessary to keep or obtain paid unsubsidized employment.

(3) Diversion assistance is available once in each twelve-month period for each adult applicant. Recipients of diversion assistance are not included in the temporary assistance for needy families program.

(4) Diversion assistance may not exceed one thousand five hundred dollars for each instance.

(5) To be eligible for diversion assistance, a family must otherwise be eligible for temporary assistance for needy families.

(6) Families ineligible for temporary assistance for needy families or general assistance due to sanction, noncompliance, the lump sum income rule, or any other reason are not eligible for diversion assistance.

(7) Families must provide evidence showing that a bona fide need exists according to subsection (2) of this section in order to be eligible for diversion assistance.

An adult applicant may receive diversion assistance of any type no more than once per twelve-month period. If the recipient of diversion assistance is placed on the temporary assistance for needy families program within twelve months of receiving diversion assistance, the prorated dollar value of the assistance shall be treated as a loan from the state, and recovered by deduction from the recipient's cash grant.

Sec. 303. RCW 74.08.331 and 1992 c 7 s 59 are each amended to read as follows:

Any person who by means of a willfully false statement, or representation, or impersonation, or a willful failure to reveal any material fact, condition or circumstance affecting eligibility (~~(of or for))~~ or need for assistance, including medical care, surplus commodities and food stamps, as required by law, or a willful failure to promptly notify the county office in writing as required by law or any change in status in respect to resources, or income, or need, or family composition, money contribution and other support, from whatever source derived, including unemployment insurance, or any other change in circumstances affecting the person's eligibility or need for assistance, or other fraudulent device, obtains, or attempts to obtain, or aids or abets any person to obtain any public assistance to which the person is not entitled or greater public assistance than that to which he or she is justly entitled shall be guilty of grand larceny and upon conviction thereof shall be punished by imprisonment in a state correctional facility for not more than fifteen years.

Any person who by means of a willfully false statement or representation or by impersonation or other fraudulent device aids or abets in buying, selling, or in any other way disposing of the real property of a recipient of public assistance without the consent of the secretary shall be guilty of a gross misdemeanor and upon conviction thereof shall be punished by imprisonment for not more than one year in the county jail or a fine of not to exceed one thousand dollars or by both.

NEW SECTION. **Sec. 304.** A new section is added to chapter 28A.630 RCW to read as follows:

SCHOOL-TO-WORK TRANSITIONS. (1) The legislature finds that students who do not prepare for postsecondary education, training, and employment are more likely to become dependent on state assistance programs than those who do make such preparation and that long-term employment and earning outcomes for youth can be significantly improved through school-to-work transition efforts, particularly through work-based learning experiences. The legislature intends that every effort be made to involve all youth in preparation for postsecondary education, training, and employment, including out-of-school youth.

(2) Washington is engaged in developing school-to-work transitions for all youth, which involves preparation for postsecondary education, training, and

employment and requires outreach to out-of-school youth. All school-to-work transition projects in the state, therefore, whether funded by state or federal funds, shall contain an outreach component directed toward school-age youth not currently enrolled in school and demonstrate the involvement of all in-school youth in preparation for postsecondary education or training or employment. At the time a school-to-work grant is made, the superintendent of public instruction shall withhold twenty percent of the grant award and release the funds upon a showing that the project has satisfactorily included outreach to out-of-school youth and progress in involving students not traditionally engaged in preparation for postsecondary education, training, or employment.

(3) The office of the superintendent of public instruction shall provide technical assistance to ensure that school districts establish and operate outreach efforts under this section, and to include out-of-school youth in school-to-work efforts within available funds.

Sec. 305. RCW 28A.630.876 and 1993 c 335 s 8 are each amended to read as follows:

(1) The superintendent of public instruction shall report to the education committees of the legislature and committees of the legislature handling economic development and social welfare issues on the progress of the schools for the school-to-work transitions program by December 15 of each odd-numbered year.

(2) Each school district selected to participate in the (~~academic and vocational integration development~~) school-to-work transitions program shall submit an annual report to the superintendent of public instruction on the progress of the project as a condition of receipt of continued funding.

***NEW SECTION.** *Sec. 306. A new section is added to chapter 43.30 RCW to read as follows:*

JOBS FOR THE ENVIRONMENT PROGRAMS. *In any jobs for the environment program designed to train and employ displaced natural resource workers and operated by the department of natural resources, recipients of temporary assistance for needy families from natural resource areas who are engaged in work search activities are eligible for training and employment on the same basis as displaced natural resource workers within available funds.*

**Sec. 306 was vetoed. See message at end of chapter.*

NEW SECTION. **Sec. 307. INDIVIDUAL DEVELOPMENT ACCOUNTS.** The department shall carry out a program to fund individual development accounts established by recipients eligible for assistance under the temporary assistance for needy families program.

(1) An individual development account may be established by or on behalf of a recipient eligible for assistance provided under the temporary assistance for needy families program operated under this title for the purpose of enabling the recipient to accumulate funds for a qualified purpose described in subsection (2) of this section.

(2) A qualified purpose as described in this subsection is one or more of the following, as provided by the qualified entity providing assistance to the individual:

(a) Postsecondary expenses paid from an individual development account directly to an eligible educational institution;

(b) Qualified acquisition costs with respect to a qualified principal residence for a qualified first-time home buyer, if paid from an individual development account directly to the persons to whom the amounts are due;

(c) Amounts paid from an individual development account directly to a business capitalization account which is established in a federally insured financial institution and is restricted to use solely for qualified business capitalization expenses.

(3) A recipient may only contribute to an individual development account such amounts as are derived from earned income, as defined in section 911(d)(2) of the internal revenue code of 1986.

(4) The department shall establish rules to ensure funds held in an individual development account are only withdrawn for a qualified purpose as provided in this section.

(5) An individual development account established under this section shall be a trust created or organized in the United States and funded through periodic contributions by the establishing recipient and matched by or through a qualified entity for a qualified purpose as provided in this section.

(6) For the purpose of determining eligibility for any assistance provided under this title, all funds in an individual development account under this section shall be disregarded for such purpose with respect to any period during which such individual maintains or makes contributions into such an account.

(7) The department shall adopt rules authorizing the use of organizations using microcredit and microenterprise approaches to assisting low-income families to become financially self-sufficient.

(8) The department shall adopt rules implementing the use of individual development accounts by recipients of temporary assistance for needy families.

(9) For the purposes of this section, "eligible educational institution," "postsecondary educational expenses," "qualified acquisition costs," "qualified business," "qualified business capitalization expenses," "qualified expenditures," "qualified first-time home buyer," "date of acquisition," "qualified plan," and "qualified principal residence" include the meanings provided for them in P.L. 104-193.

NEW SECTION. Sec. 308. EARNINGS DISREGARDS AND EARNED INCOME CUTOFFS. (1) In addition to their monthly benefit payment, a family may earn and keep one-half of its earnings during every month it is eligible to receive assistance under this section.

(2) In no event may a family be eligible for temporary assistance for needy families if its monthly gross earned income exceeds the maximum earned income

level as set by the department. In calculating a household's gross earnings, the department shall disregard the earnings of a minor child who is:

- (a) A full-time student; or
- (b) A part-time student carrying at least half the normal school load and working fewer than thirty-five hours per week.

Sec. 309. RCW 74.04.005 and 1992 c 165 s 1 and 1992 c 136 s 1 are each reenacted and amended to read as follows:

For the purposes of this title, unless the context indicates otherwise, the following definitions shall apply:

(1) "Public assistance" or "assistance"—Public aid to persons in need thereof for any cause, including services, medical care, assistance grants, disbursing orders, work relief, general assistance and federal-aid assistance.

(2) "Department"—The department of social and health services.

(3) "County or local office"—The administrative office for one or more counties or designated service areas.

(4) "Director" or "secretary" means the secretary of social and health services.

(5) "Federal-aid assistance"—The specific categories of assistance for which provision is made in any federal law existing or hereafter passed by which payments are made from the federal government to the state in aid or in respect to payment by the state for public assistance rendered to any category of needy persons for which provision for federal funds or aid may from time to time be made, or a federally administered needs-based program.

(6)(a) "General assistance"—Aid to persons in need who:

(i) Are not eligible to receive federal-aid assistance, other than food stamps and medical assistance; however, an individual who refuses or fails to cooperate in obtaining federal-aid assistance, without good cause, is not eligible for general assistance;

(ii) Meet one of the following conditions:

(A) Pregnant: PROVIDED, That need is based on the current income and resource requirements of the federal ~~((aid to families with dependent children))~~ temporary assistance for needy families program ~~((~~PROVIDED FURTHER, That during any period in which an aid for dependent children employable program is not in operation, only those pregnant women who are categorically eligible for medicaid are eligible for general assistance~~))~~; or

(B) Subject to chapter 165, Laws of 1992, incapacitated from gainful employment by reason of bodily or mental infirmity that will likely continue for a minimum of ninety days as determined by the department.

(C) Persons who are unemployable due to alcohol or drug addiction are not eligible for general assistance. Persons receiving general assistance on July 26, 1987, or becoming eligible for such assistance thereafter, due to an alcohol or drug-related incapacity, shall be referred to appropriate assessment, treatment, shelter, or supplemental security income referral services as authorized under chapter 74.50 RCW. Referrals shall be made at the time of application or at the time of eligibility

review. Alcoholic and drug addicted clients who are receiving general assistance on July 26, 1987, may remain on general assistance if they otherwise retain their eligibility until they are assessed for services under chapter 74.50 RCW. Subsection (6)(a)(ii)(B) of this section shall not be construed to prohibit the department from granting general assistance benefits to alcoholics and drug addicts who are incapacitated due to other physical or mental conditions that meet the eligibility criteria for the general assistance program;

(iii) Are citizens or aliens lawfully admitted for permanent residence or otherwise residing in the United States under color of law; and

(iv) Have furnished the department their social security account number. If the social security account number cannot be furnished because it has not been issued or is not known, an application for a number shall be made prior to authorization of assistance, and the social security number shall be provided to the department upon receipt.

(b) Notwithstanding the provisions of subsection (6)(a)(i), (ii), and (c) of this section, general assistance shall be provided to the following recipients of federal-aid assistance:

(i) Recipients of supplemental security income whose need, as defined in this section, is not met by such supplemental security income grant because of separation from a spouse; or

(ii) To the extent authorized by the legislature in the biennial appropriations act, to recipients of ~~((aid to families with dependent children))~~ temporary assistance for needy families whose needs are not being met because of a temporary reduction in monthly income below the entitled benefit payment level caused by loss or reduction of wages or unemployment compensation benefits or some other unforeseen circumstances. The amount of general assistance authorized shall not exceed the difference between the entitled benefit payment level and the amount of income actually received.

(c) General assistance shall be provided only to persons who are not members of assistance units receiving federal aid assistance, except as provided in subsection (6)(a)(ii)(A) and (b) of this section, and will accept available services which can reasonably be expected to enable the person to work or reduce the need for assistance unless there is good cause to refuse. Failure to accept such services shall result in termination until the person agrees to cooperate in accepting such services and subject to the following maximum periods of ineligibility after reapplication:

(i) First failure: One week;

(ii) Second failure within six months: One month;

(iii) Third and subsequent failure within one year: Two months.

(d) Persons found eligible for general assistance based on incapacity from gainful employment may, if otherwise eligible, receive general assistance pending application for federal supplemental security income benefits. Any general assistance that is subsequently duplicated by the person's receipt of supplemental security income for the same period shall be considered a debt due the state and

shall by operation of law be subject to recovery through all available legal remedies.

(e) The department shall adopt by rule medical criteria for general assistance eligibility to ensure that eligibility decisions are consistent with statutory requirements and are based on clear, objective medical information.

(f) The process implementing the medical criteria shall involve consideration of opinions of the treating or consulting physicians or health care professionals regarding incapacity, and any eligibility decision which rejects uncontroverted medical opinion must set forth clear and convincing reasons for doing so.

(g) Recipients of general assistance based upon a finding of incapacity from gainful employment who remain otherwise eligible shall not have their benefits terminated absent a clear showing of material improvement in their medical or mental condition or specific error in the prior determination that found the recipient eligible by reason of incapacitation. Recipients of general assistance based upon pregnancy who relinquish their child for adoption, remain otherwise eligible, and are not eligible to receive benefits under the federal (~~aid to families with dependent children~~) temporary assistance for needy families program shall not have their benefits terminated until the end of the month in which the period of six weeks following the birth of the recipient's child falls. Recipients of the federal (~~aid to families with dependent children~~) temporary assistance for needy families program who lose their eligibility solely because of the birth and relinquishment of the qualifying child may receive general assistance through the end of the month in which the period of six weeks following the birth of the child falls.

(7) "Applicant"—Any person who has made a request, or on behalf of whom a request has been made, to any county or local office for assistance.

(8) "Recipient"—Any person receiving assistance and in addition those dependents whose needs are included in the recipient's assistance.

(9) "Standards of assistance"—The level of income required by an applicant or recipient to maintain a level of living specified by the department.

(10) "Resource"—Any asset, tangible or intangible, owned by or available to the applicant at the time of application, which can be applied toward meeting the applicant's need, either directly or by conversion into money or its equivalent: PROVIDED, That an applicant may retain the following described resources and not be ineligible for public assistance because of such resources.

(a) A home, which is defined as real property owned and used by an applicant or recipient as a place of residence, together with a reasonable amount of property surrounding and contiguous thereto, which is used by and useful to the applicant. Whenever a recipient shall cease to use such property for residential purposes, either for himself or his dependents, the property shall be considered as a resource which can be made available to meet need, and if the recipient or his dependents absent themselves from the home for a period of ninety consecutive days such absence, unless due to hospitalization or health reasons or a natural disaster, shall raise a rebuttable presumption of abandonment: PROVIDED, That if in the

opinion of three physicians the recipient will be unable to return to the home during his lifetime, and the home is not occupied by a spouse or dependent children or disabled sons or daughters, such property shall be considered as a resource which can be made available to meet need.

(b) Household furnishings and personal effects and other personal property having great sentimental value to the applicant or recipient, as limited by the department consistent with limitations on resources and exemptions for federal aid assistance.

(c) A motor vehicle, other than a motor home, used and useful having an equity value not to exceed ~~((one))~~ five thousand ~~((five hundred))~~ dollars.

(d) A motor vehicle necessary to transport a physically disabled household member. This exclusion is limited to one vehicle per physically disabled person.

(e) All other resources, including any excess of values exempted, not to exceed one thousand dollars or other limit as set by the department, to be consistent with limitations on resources and exemptions necessary for federal aid assistance. The department shall also allow recipients of temporary assistance for needy families to exempt savings accounts with combined balances of up to an additional three thousand dollars.

~~((e))~~ (f) Applicants for or recipients of general assistance shall have their eligibility based on resource limitations consistent with the ~~((aid to families with dependent children))~~ temporary assistance for needy families program rules adopted by the department.

~~((f))~~ (g) If an applicant for or recipient of public assistance possesses property and belongings in excess of the ceiling value, such value shall be used in determining the need of the applicant or recipient, except that: (i) The department may exempt resources or income when the income and resources are determined necessary to the applicant's or recipient's restoration to independence, to decrease the need for public assistance, or to aid in rehabilitating the applicant or recipient or a dependent of the applicant or recipient; and (ii) the department may provide grant assistance for a period not to exceed nine months from the date the agreement is signed pursuant to this section to persons who are otherwise ineligible because of excess real property owned by such persons when they are making a good faith effort to dispose of that property: PROVIDED, That:

(A) The applicant or recipient signs an agreement to repay the lesser of the amount of aid received or the net proceeds of such sale;

(B) If the owner of the excess property ceases to make good faith efforts to sell the property, the entire amount of assistance may become an overpayment and a debt due the state and may be recovered pursuant to RCW 43.20B.630;

(C) Applicants and recipients are advised of their right to a fair hearing and afforded the opportunity to challenge a decision that good faith efforts to sell have ceased, prior to assessment of an overpayment under this section; and

(D) At the time assistance is authorized, the department files a lien without a sum certain on the specific property.

(11) "Income"—(a) All appreciable gains in real or personal property (cash or kind) or other assets, which are received by or become available for use and enjoyment by an applicant or recipient during the month of application or after applying for or receiving public assistance. The department may by rule and regulation exempt income received by an applicant for or recipient of public assistance which can be used by him to decrease his need for public assistance or to aid in rehabilitating him or his dependents, but such exemption shall not, unless otherwise provided in this title, exceed the exemptions of resources granted under this chapter to an applicant for public assistance. In determining the amount of assistance to which an applicant or recipient of ~~((aid to families with dependent children))~~ temporary assistance for needy families is entitled, the department is hereby authorized to disregard as a resource or income the earned income exemptions consistent with federal requirements. The department may permit the above exemption of earnings of a child to be retained by such child to cover the cost of special future identifiable needs even though the total exceeds the exemptions or resources granted to applicants and recipients of public assistance, but consistent with federal requirements. In formulating rules and regulations pursuant to this chapter, the department shall define income and resources and the availability thereof, consistent with federal requirements. All resources and income not specifically exempted, and any income or other economic benefit derived from the use of, or appreciation in value of, exempt resources, shall be considered in determining the need of an applicant or recipient of public assistance.

(b) If, under applicable federal requirements, the state has the option of considering property in the form of lump sum compensatory awards or related settlements received by an applicant or recipient as income or as a resource, the department shall consider such property to be a resource.

(12) "Need"—The difference between the applicant's or recipient's standards of assistance for himself and the dependent members of his family, as measured by the standards of the department, and value of all nonexempt resources and nonexempt income received by or available to the applicant or recipient and the dependent members of his family.

(13) For purposes of determining eligibility for public assistance and participation levels in the cost of medical care, the department shall exempt restitution payments made to people of Japanese and Aleut ancestry pursuant to the Civil Liberties Act of 1988 and the Aleutian and Pribilof Island Restitution Act passed by congress, P.L. 100-383, including all income and resources derived therefrom.

(14) In the construction of words and phrases used in this title, the singular number shall include the plural, the masculine gender shall include both the feminine and neuter genders and the present tense shall include the past and future tenses, unless the context thereof shall clearly indicate to the contrary.

NEW SECTION. Sec. 310. NONCUSTODIAL PARENTS IN WORK PROGRAMS. The department may provide Washington WorkFirst activities or

make cross-referrals to existing programs to qualifying noncustodial parents of children receiving temporary assistance for needy families who are unable to meet their child support obligations. Services authorized under this section shall be provided within available funds.

NEW SECTION. Sec. 311. DEFINITIONS. Unless the context clearly requires otherwise, as used in this chapter, "work activity" means:

- (1) Unsubsidized paid employment in the private or public sector;
- (2) Subsidized paid employment in the private or public sector;
- (3) Work experience, including work associated with the refurbishing of publicly assisted housing, if sufficient paid employment is not available;
- (4) On-the-job training;
- (5) Job search and job readiness assistance;
- (6) Community service programs;
- (7) Vocational educational training, not to exceed twelve months with respect to any individual;
- (8) Job skills training directly related to employment;
- (9) Education directly related to employment, in the case of a recipient who has not received a high school diploma or a GED;
- (10) Satisfactory attendance at secondary school or in a course of study leading to a GED, in the case of a recipient who has not completed secondary school or received such a certificate;
- (11) The provision of child care services to an individual who is participating in a community service program; and
- (12) Services required by the recipient under RCW 74.08.025(3) and 74.—.—(3) (section 103(3) of this act) to become employable.

***NEW SECTION. Sec. 312. JOB SEARCH OR WORK ACTIVITY.** (1) *There is established in the department the Washington WorkFirst program. The department shall administer the program consistent with the temporary assistance for needy families provisions of P.L. 104-193. In operating the WorkFirst program the department shall meet the minimum work participation rates specified in federal law, and shall require recipients of assistance to engage in job search and work activities as an ongoing condition of eligibility.*

(2) *Upon application to the temporary assistance for needy families program, each recipient shall be placed in the job search component. For recipients who have been approved for assistance before the effective date of this section, the job search component shall be completed no later than one hundred eighty days after the effective date of this section.*

(3) *The Washington WorkFirst program shall include a job search component in which each nonexempt recipient of temporary assistance for needy families shall participate. The job search component may not last more than four weeks for each recipient. Each recipient shall be required to attend job search component activities at least thirty-six hours per week. Failure to participate in the job search component shall result in sanctions under section*

313 of this act. The job search component shall serve as the assessment tool to comply with federal law. If a recipient fails to find paid employment during the job search component, the department may refer the recipient to those work activities that are directly related to improving the recipient's employability.

(4) As used in this section, "job search component" means an activity in which nonexempt recipients engage each weekday upon entering the Washington WorkFirst program. The component shall provide at least three hours per weekday of classroom instruction on how to secure a job and at least three hours per weekday of individual job search activities.

**Sec. 312 was vetoed. See message at end of chapter.*

NEW SECTION. Sec. 313. PLACEMENT INTO WORK ACTIVITY. Recipients who have not obtained paid, unsubsidized employment by the end of the job search component authorized in section 312 of this act shall be referred to a work activity.

(1) Each recipient shall be assessed immediately upon completion of the job search component. Assessments shall be based upon factors that are critical to obtaining employment, including but not limited to education, employment strengths, and employment history. Assessments may be performed by the department or by a contracted entity. The assessment shall be based on a uniform, consistent, transferable format that will be accepted by all agencies and organizations serving the recipient. Based on the assessment, an individual responsibility plan shall be prepared that: (a) Sets forth an employment goal and a plan for moving the recipient immediately into employment; (b) contains the obligation of the recipient to become and remain employed; (c) moves the recipient into whatever employment the recipient is capable of handling as quickly as possible; and (d) describes the services available to the recipient to enable the recipient to obtain and keep employment.

(2) Recipients who are not engaged in work and work activities, and do not qualify for a good cause exemption under section 314 of this act, shall engage in self-directed service as provided in section 326 of this act.

(3) If a recipient refuses to engage in work and work activities required by the department, the family's grant shall be reduced by the recipient's share, and may, if the department determines it appropriate, be terminated.

(4) The department may waive the penalties required under subsection (3) of this section, subject to a finding that the recipient refused to engage in work for good cause provided in section 314 of this act.

(5) In implementing this section, the department shall assign the highest priority to the most employable clients, including adults in two-parent families and parents in single-parent families that include older preschool or school age children to be engaged in work activities.

(6) In consultation with the recipient, the department or contractor shall place the recipient into a work activity that is available in the local area where the recipient resides.

NEW SECTION. Sec. 314. GOOD CAUSE. Good cause reasons for failure to participate in WorkFirst program components include: (1) Situations where the recipient is a parent or other relative personally providing care for a child under the age of six years, and formal or informal child care, or day care for an incapacitated individual living in the same home as a dependent child, is necessary for an individual to participate or continue participation in the program or accept employment, and such care is not available, and the department fails to provide such care; or (2) until June 30, 1999, if the recipient is a parent with a child under the age of one year. A parent may only receive this exemption for a total of twelve months, which may be consecutive or nonconsecutive; or (3) after June 30, 1999, if the recipient is a parent with a child under three months of age.

NEW SECTION. Sec. 315. WORKFIRST—GOALS—CONTRACTS—SERVICE AREAS—PLANS. (1) The legislature finds that moving those eligible for assistance to self-sustaining employment is a goal of the WorkFirst program. It is the intent of WorkFirst to aid a participant's progress to self-sufficiency by allowing flexibility within the state-wide program to reflect community resources, the local characteristics of the labor market, and the composition of the caseload. Program success will be enhanced through effective coordination at regional and local levels, involving employers, labor representatives, educators, community leaders, local governments, and social service providers.

(2) The department, through its regional offices, shall collaborate with employers, recipients, frontline workers, educational institutions, labor, private industry councils, the work force training and education coordinating board, community rehabilitation employment programs, employment and training agencies, local governments, the employment security department, and community action agencies to develop work programs that are effective and work in their communities. For planning purposes, the department shall collect and make accessible to regional offices successful work program models from around the United States, including the employment partnership program, apprenticeship programs, microcredit, microenterprise, self-employment, and W-2 Wisconsin works. Work programs shall incorporate local volunteer citizens in their planning and implementation phases to ensure community relevance and success.

(3) To reduce administrative costs and to ensure equal state-wide access to services, the department may develop contracts for state-wide welfare-to-work services. These state-wide contracts shall support regional flexibility and ensure that resources follow local labor market opportunities and recipients' needs.

(4) The secretary shall establish WorkFirst service areas for purposes of planning WorkFirst programs and for distributing WorkFirst resources. Service areas shall reflect department regions.

(5) By July 31st of each odd-numbered year, a plan for the WorkFirst program shall be developed for each region. The plan shall be prepared in consultation with local and regional sources, adapting the state-wide WorkFirst program to achieve maximum effect for the participants and the communities within which they reside.

Local consultation shall include to the greatest extent possible input from local and regional planning bodies for social services and work force development. The regional and local administrator shall consult with employers of various sizes, labor representatives, training and education providers, program participants, economic development organizations, community organizations, tribes, and local governments in the preparation of the service area plan.

(6) The secretary has final authority in plan approval or modification. Regional program implementation may deviate from the state-wide program if specified in a service area plan, as approved by the secretary.

NEW SECTION. Sec. 316. WORK PROGRAM CONTRACTS. (1) It is the intent of the legislature that the department is authorized to engage in competitive contracting using performance-based contracts to provide all work activities authorized in chapter . . . , Laws of 1997 (this act), including the job search component authorized in section 312 of this act.

(2) The department may use competitive performance-based contracting to select which vendors will participate in the WorkFirst program. Performance-based contracts shall be awarded based on factors that include but are not limited to the criteria listed in section 702 of this act, past performance of the contractor, demonstrated ability to perform the contract effectively, financial strength of the contractor, and merits of the proposal for services submitted by the contractor. Contracts shall be made without regard to whether the contractor is a public or private entity.

(3) The department may contract for an evaluation of the competitive contracting practices and outcomes to be performed by an independent entity with expertise in government privatization and competitive strategies. The evaluation shall include quarterly progress reports to the fiscal committees of the legislature and to the governor, starting at the first quarter after the effective date of the first competitive contract and ending two years after the effective date of the first competitive contract.

(4) The department shall seek independent assistance in developing contracting strategies to implement this section. Assistance may include but is not limited to development of contract language, design of requests for proposal, developing full cost information on government services, evaluation of bids, and providing for equal competition between private and public entities.

NEW SECTION. Sec. 317. PLACEMENT BONUSES. In the case of service providers that are not public agencies, initial placement bonuses of no greater than five hundred dollars may be provided by the department for service entities responsible for placing recipients in an unsubsidized job for a minimum of twelve weeks, and the following additional bonuses shall also be provided:

- (1) A percent of the initial bonus if the job pays double the minimum wage;
- (2) A percent of the initial bonus if the job provides health care;
- (3) A percent of the initial bonus if the job includes employer-provided child care needed by the recipient; and

(4) A percent of the initial bonus if the recipient is continuously employed for two years.

***NEW SECTION. Sec. 318.** *No collective bargaining agreement may be entered into, extended, or renewed after the effective date of this section that prevents or restricts the authority of the department of social and health services to exercise the powers granted under sections 312 through 317 of this act and RCW 74.04.050.*

*Sec. 318 was vetoed. See message at end of chapter.

***Sec. 319.** *RCW 74.04.050 and 1981 1st ex.s. c 6 s 3 are each amended to read as follows:*

(1) *The department shall serve as the single state agency to administer public assistance. The department is hereby empowered and authorized to cooperate in the administration of such federal laws, consistent with the public assistance laws of this state, as may be necessary to qualify for federal funds for:*

~~((1))~~ **(a)** *Medical assistance;*

~~((2) Aid to dependent children.)~~ **(b)** *Temporary assistance for needy families;*

~~((3))~~ **(c)** *Child welfare services; and*

~~((4))~~ **(d)** *Any other programs of public assistance for which provision for federal grants or funds may from time to time be made.*

(2) *The state hereby accepts and assents to all the present provisions of the federal law under which federal grants or funds, goods, commodities and services are extended to the state for the support of programs administered by the department, and to such additional legislation as may subsequently be enacted as is not inconsistent with the purposes of this title, authorizing public welfare and assistance activities. The provisions of this title shall be so administered as to conform with federal requirements with respect to eligibility for the receipt of federal grants or funds.*

The department shall periodically make application for federal grants or funds and submit such plans, reports and data, as are required by any act of congress as a condition precedent to the receipt of federal funds for such assistance. The department shall make and enforce such rules and regulations as shall be necessary to insure compliance with the terms and conditions of such federal grants or funds.

(3) *The department may contract with public and private entities for administrative services for the following programs and functions: (a) Temporary assistance for needy families; (b) general assistance; (c) refugee services; (d) facilitation of eligibility for federal supplemental security income benefits; (e) medical assistance eligibility; and (f) food stamps.*

*Sec. 319 was vetoed. See message at end of chapter.

***Sec. 320.** *RCW 41.06.380 and 1979 ex.s. c 46 s 2 are each amended to read as follows:*

(1) Nothing contained in this chapter shall prohibit any department, as defined in RCW 41.06.020, from purchasing services by contract with individuals or business entities if such services were regularly purchased by valid contract by such department prior to April 23, 1979: PROVIDED, That no such contract may be executed or renewed if it would have the effect of terminating classified employees or classified employee positions existing at the time of the execution or renewal of the contract.

(2) Nothing in this chapter shall be construed to prohibit the department of social and health services from carrying out the provisions of sections 312 through 318 of this act and RCW 74.04.050.

*Sec. 320 was vetoed. See message at end of chapter.

NEW SECTION. Sec. 321. FUNDING RESTRICTIONS. The department of social and health services shall operate the Washington WorkFirst program authorized under sections 301, 302, 307, 308, 310 through 318, 323 through 326, and 401 through 403 of this act, RCW 74.13.0903 and 74.25.040, and chapter 74.12 RCW within the following constraints:

(1) The full amount of the temporary assistance for needy families block grant, plus qualifying state expenditures as appropriated in the biennial operating budget, shall be appropriated to the department each year in the biennial appropriations act to carry out the provisions of the program authorized in sections 301, 302, 307, 308, 310 through 318, 323 through 326, and 401 through 403 of this act, RCW 74.13.0903 and 74.25.040, and chapter 74.12 RCW.

(2) The department may expend funds defined in subsection (1) of this section in any manner that will effectively accomplish the outcome measures defined in section 702 of this act. No more than fifteen percent of the amount provided in subsection (1) of this section may be spent for administrative purposes. For the purpose of this subsection, "administrative purposes" does not include expenditures for information technology and computerization needed for tracking and monitoring required by P.L. 104-193. The department shall not increase grant levels to recipients of the program authorized in sections 301, 302, 307, 308, 310 through 318, and 323 through 326 of this act and chapter 74.12 RCW.

(3) The department shall implement strategies that accomplish the outcome measures identified in section 702 of this act that are within the funding constraints in this section. Specifically, the department shall implement strategies that will cause the number of cases in the program authorized in sections 301, 302, 307, 308, 310 through 318, and 323 through 326 of this act and chapter 74.12 RCW to decrease by at least fifteen percent during the 1997-99 hiennium and by at least five percent in the subsequent biennium. The department may transfer appropriation authority between funding categories within the economic services program in order to carry out the requirements of this subsection.

(4) The department shall monitor expenditures against the appropriation levels provided for in subsection (1) of this section. The department shall quarterly make a determination as to whether expenditure levels will exceed available funding and

communicate its finding to the legislature. If the determination indicates that expenditures will exceed funding at the end of the fiscal year, the department shall take all necessary actions to ensure that all services provided under this chapter shall be made available only to the extent of the availability and level of appropriation made by the legislature.

NEW SECTION. Sec. 322. The following acts or parts of acts are each repealed:

- (1) RCW 74.25.010 and 1994 c 299 s 6 & 1991 c 126 s 5;
- (2) RCW 74.25.020 and 1993 c 312 s 7, 1992 c 165 s 3, & 1991 c 126 s 6;
- (3) RCW 74.25.030 and 1991 c 126 s 7;
- (4) RCW 74.25.900 and 1991 c 126 s 8; and
- (5) RCW 74.25.901 and 1991 c 126 s 9.

NEW SECTION. Sec. 323. A new section is added to chapter 43.330 RCW to read as follows:

ENTREPRENEURIAL ASSISTANCE—DEPARTMENT OF COMMUNITY, TRADE, AND ECONOMIC DEVELOPMENT. (1) The department shall ensure that none of its rules or practices act to exclude recipients of temporary assistance for needy families from any small business loan opportunities or entrepreneurial assistance it makes available through its community development block grant program or otherwise provides using state or federal resources. The department shall encourage local administrators of microlending programs using public funds to conduct outreach activities to encourage recipients of temporary assistance for needy families to explore self-employment as an option. The department shall compile information on private and public sources of entrepreneurial assistance and loans for start-up businesses and provide the department of social and health services with the information for dissemination to recipients of temporary assistance for needy families.

(2) The department shall, as part of its industrial recruitment efforts, work with the work force training and education coordinating board to identify the skill sets needed by companies locating in the state. The department shall provide the department of social and health services with the information about the companies' needs in order that recipients of public assistance and service providers assisting such recipients through training and placement programs may be informed and respond accordingly. The department shall work with the state board for community and technical colleges, the job skills program, the employment security department, and other employment and training programs to facilitate the inclusion of recipients of temporary assistance for needy families in relevant training that would make them good employees for recruited firms.

(3) The department shall perform the duties under this section within available funds.

NEW SECTION. Sec. 324. **JOB ASSISTANCE—DEPARTMENT OF SOCIAL AND HEALTH SERVICES.** The department shall:

(1) Notify recipients of temporary assistance for needy families that self-employment is one method of leaving state assistance. The department shall provide its regional offices, recipients of temporary assistance for needy families, and any contractors providing job search, training, or placement services notification of programs available in the state for entrepreneurial training, technical assistance, and loans available for start-up businesses;

(2) Provide recipients of temporary assistance for needy families and service providers assisting such recipients through training and placement programs with information it receives about the skills and training required by firms locating in the state;

(3) Encourage recipients of temporary assistance for needy families that are in need of basic skills to seek out programs that integrate basic skills training with occupational training and workplace experience.

NEW SECTION. Sec. 325. WAGE SUBSIDY PROGRAM. The department shall establish a wage subsidy program for recipients of temporary assistance for needy families. The department shall give preference in job placements to private sector employers that have agreed to participate in the wage subsidy program. The department shall identify characteristics of employers who can meet the employment goals stated in section 702 of this act. The department shall use these characteristics in identifying which employers may participate in the program. The department shall adopt rules for the participation of recipients of temporary assistance for needy families in the wage subsidy program. Participants in the program established under this section may not be employed if: (1) The employer has terminated the employment of any current employee or otherwise caused an involuntary reduction of its work force in order to fill the vacancy so created with the participant; or (2) the participant displaces or partially displaces current employees. Employers providing positions created under this section shall meet the requirements of chapter 49.46 RCW. This section shall not diminish or result in the infringement of obligations or rights under chapters 41.06, 41.56, and 49.36 RCW and the national labor relations act, 29 U.S.C. Ch. 7. The department shall establish such local and state-wide advisory boards, including business and labor representatives, as it deems appropriate to assist in the implementation of the wage subsidy program. Once the recipient is hired, the wage subsidy shall be authorized for up to nine months.

NEW SECTION. Sec. 326. COMMUNITY SERVICE PROGRAM. The department shall establish the community service program to provide the experience of work for recipients of public assistance. The program is intended to promote a strong work ethic for participating public assistance recipients. Under this program, public assistance recipients are required to volunteer to work for charitable nonprofit organizations and public agencies, or engage in another activity designed to benefit the recipient, the recipient's family, or the recipient's community, as determined by the department on a case-by-case basis. Participants in a community service or work experience program established by this chapter are

deemed employees for the purpose of chapter 49.17 RCW. The cost of premiums under Title 51 RCW shall be paid for by the department for participants in a community service or work experience program. Participants in a community service or work experience program may not be placed if: (1) An employer has terminated the employment of any current employee or otherwise caused an involuntary reduction of its work force in order to fill the vacancy so created with the participant; or (2) the participant displaces or partially displaces current employees.

Sec. 327. RCW 74.12A.020 and 1993 c 312 s 8 are each amended to read as follows:

The department (~~may~~) shall provide grants to community action agencies or other local nonprofit organizations to provide job opportunities and basic skills training program participants with transitional support services, one-to-one assistance, case management, and job retention services.

***NEW SECTION.** *Sec. 328. A new section is added to chapter 74.12 RCW to read as follows:*

A grant provided under the temporary assistance for needy families program shall be provided on a pro rata basis to the extent the recipient complies with mandated work and work activity requirements.

*Sec. 328 was vetoed. See message at end of chapter.

***NEW SECTION.** *Sec. 329. A new section is added to chapter 74.12 RCW to read as follows:*

In determining eligibility for the temporary assistance for needy families program of an assistance unit under this title, if a household member is excluded from an assistance unit based on residency, alienage, or citizenship of the household member, the department shall allocate the full amount of the household's income to the assistance unit without deducting an amount for the support of the household member.

*Sec. 329 was vetoed. See message at end of chapter.

IV. CHILD CARE

NEW SECTION. *Sec. 401. The legislature finds that informed choice is consistent with individual responsibility and that parents should be given a range of options for available child care while participating in the program.*

***NEW SECTION.** *Sec. 402. CHILD CARE. (1) Within available funds, the department shall administer a single, integrated child care program which may serve families with incomes up to one hundred seventy-five percent of the federal poverty level.*

(2) All families participating in the child care program shall have equal access to the child care of their choice. However, the child care providers must comply with applicable licensing rules if they are required by law to comply with those rules.

(3) The minimum copayment per family shall be at least ten dollars per month. Child care shall be provided on a sliding scale but may not be provided for any family whose income equals or exceeds one hundred seventy-five percent of the federal poverty level adjusted for family size on an annual income basis. For families with income between seventy-four and one hundred percent of the federal poverty level adjusted for family size, the monthly child care copayment shall be thirty percent of earned income in excess of seventy-four percent of federal poverty level adjusted for family size. For families with income at or above one hundred percent of the federal poverty level adjusted for family size, the copay shall be a minimum of one hundred dollars per month. For families with income between one hundred one and one hundred thirty percent of the federal poverty level adjusted for family size, the monthly copay shall be twenty-nine percent of earned income in excess of seventy-four percent of the federal poverty level adjusted for family size. For families with income between one hundred thirty-one and one hundred seventy-five percent of the federal poverty level adjusted for family size, the copay shall be fifty percent of earned income above one hundred percent of the federal poverty level adjusted for family size.

(4) All compensable child care services authorized in this section shall be paid for through vouchers. Vouchers shall be provided to recipients and may only be used to purchase child care through the program created in this section.

*Sec. 402 was vetoed. See message at end of chapter.

NEW SECTION. Sec. 403. (1) The legislature finds that to comply with P.L. 104-193 section 407(e)(2), Washington is obligated to provide appropriate and affordable child care for recipients of temporary assistance for needy families. To comply with this federal requirement and to avoid possible fiscal sanctions, the legislature intends to determine what constitutes affordable, accessible child care in Washington.

(2) The Washington institute for public policy shall conduct a study of reasonable, affordable child care subsidy rates that are realistic for low-income working families. The institute for public policy shall review child care subsidy rates in use in other jurisdictions and shall model the economic impact of child care subsidy rates on low-income families. The institute for public policy shall report its findings and recommendations to the legislature no later than December 15, 1997.

Sec. 404. RCW 74.13.0903 and 1993 c 453 s 2 are each amended to read as follows:

The office of child care policy is established to operate under the authority of the department of social and health services. The duties and responsibilities of the office include, but are not limited to, the following, within appropriated funds:

(1) Staff and assist the child care coordinating committee in the implementation of its duties under RCW 74.13.090;

(2) Work in conjunction with the state-wide child care resource and referral network as well as local governments, nonprofit organizations, businesses, and

community child care advocates to create local child care resource and referral organizations. These organizations may carry out needs assessments, resource development, provider training, technical assistance, and parent information and training;

(3) Actively seek public and private money for distribution as grants to the state-wide child care resource and referral network and to existing or potential local child care resource and referral organizations;

(4) Adopt rules regarding the application for and distribution of grants to local child care resource and referral organizations. The rules shall, at a minimum, require an applicant to submit a plan for achieving the following objectives:

(a) Provide parents with information about child care resources, including location of services and subsidies;

(b) Carry out child care provider recruitment and training programs, including training under RCW 74.25.040;

(c) Offer support services, such as parent and provider seminars, toy-lending libraries, and substitute banks;

(d) Provide information for businesses regarding child care supply and demand;

(e) Advocate for increased public and private sector resources devoted to child care; ~~((and))~~

(f) Provide technical assistance to employers regarding employee child care services; and

(g) Serve recipients of temporary assistance for needy families and working parents with incomes at or below household incomes of one hundred seventy-five percent of the federal poverty line;

(5) Provide staff support and technical assistance to the state-wide child care resource and referral network and local child care resource and referral organizations;

(6) Maintain a state-wide child care licensing data bank and work with department of social and health services licensors to provide information to local child care resource and referral organizations about licensed child care providers in the state;

(7) Through the state-wide child care resource and referral network and local resource and referral organizations, compile data about local child care needs and availability for future planning and development;

(8) Coordinate with the state-wide child care resource and referral network and local child care resource and referral organizations for the provision of training and technical assistance to child care providers; and

(9) Collect and assemble information regarding the availability of insurance and of federal and other child care funding to assist state and local agencies, businesses, and other child care providers in offering child care services.

Sec. 405. RCW 74.25.040 and 1994 c 299 s 8 are each amended to read as follows:

(1) Recipients of ~~((aid to families with dependent children))~~ temporary assistance for needy families who are ~~((not))~~ employed or participating in ((an education or work training program)) a work activity under section 312 of this act may volunteer ~~((to))~~ or work in a licensed child care facility ~~((, or other willing volunteer work site))~~. Licensed child care facilities participating in this effort shall provide care for the recipient's children and provide for the development of positive child care skills.

(2) The department shall train two hundred fifty recipients of temporary assistance for needy families to become family child care providers or child care center teachers. The department shall offer the training in rural and urban communities. The department shall adopt rules to implement the child care training program in this section.

(3) Recipients trained under this section shall provide child care services to clients of the department for two years following the completion of their child care training.

V. TEEN PARENTS

A. PERMISSIBLE LIVING SITUATIONS

Sec. 501. RCW 74.12.255 and 1994 c 299 s 33 are each amended to read as follows:

(1) The department shall determine, after consideration of all relevant factors and in consultation with the applicant, the most appropriate living situation for applicants under eighteen years of age, unmarried, and either pregnant or having a dependent child or children in the applicant's care. An appropriate living situation((s)) shall include a place of residence that is maintained by the applicant's parents, parent, legal guardian, or other adult relative as their or his or her own home((, or other)) and that the department finds would provide an appropriate supportive living arrangement ((supervised by an adult where feasible and consistent with federal regulations under 45 C.F.R. chapter II, section 233.107)). It also includes a living situation maintained by an agency that is licensed under chapter 74.15 RCW that the department finds would provide an appropriate supportive living arrangement. Grant assistance shall not be provided under this chapter if the applicant does not reside in the most appropriate living situation, as determined by the department.

(2) ~~((An applicant under eighteen years of age who is either pregnant or has a dependent child and is not living in a situation described in subsection (1) of this section shall be))~~ An unmarried minor parent or pregnant minor applicant residing in the most appropriate living situation, as provided under subsection (1) of this section, is presumed to be unable to manage adequately the funds paid to the minor or on behalf of the dependent child or children and, unless the ((teenage custodial parent demonstrates otherwise)) minor provides sufficient evidence to rebut the presumption, shall be subject to the protective payee requirements provided for under RCW 74.12.250 and 74.08.280.

(3) The department shall consider any statements or opinions by either parent of the ~~((teen-recipient))~~ unmarried minor parent or pregnant minor applicant as to an appropriate living situation for the ~~((teen))~~ minor and his or her children, whether in the parental home or other situation. If the parents or a parent of the ~~((teen-head-of-household-applicant-for-assistance))~~ minor request, they or he or she shall be entitled to a hearing in juvenile court regarding ~~((the-fitness-and-suitability-of-their-home-as-the-top-priority-choice))~~ designation of the parental home or other relative placement as the most appropriate living situation for the pregnant or parenting ~~((teen-applicant-for-assistance))~~ minor.

The department shall provide the parents ~~((shall-have))~~ or parent with the opportunity to make a showing~~((,-based-on-the-preponderance-of-the-evidence,-))~~ that the parental home, or home of the other relative placement, is the most appropriate living situation. It shall be presumed in any administrative or judicial proceeding conducted under this subsection that the parental home or other relative placement requested by the parents or parent is the most appropriate living situation. This presumption is rebuttable.

(4) In cases in which the ~~((head-of-household-is-under-eighteen-years-of-age;-))~~ minor is unmarried~~((;-))~~ and unemployed, ~~((and-requests-information-on-adoption;-))~~ the department shall, as part of the determination of the appropriate living situation, make an affirmative effort to provide current and positive information about adoption including referral to community-based organizations for counseling and provide information about the manner in which adoption works, its benefits for unmarried, unemployed minor parents and their children, and the meaning and availability of open adoption.

(5) For the purposes of this section, "most appropriate living situation" shall not include a living situation including an adult male who fathered the qualifying child and is found to meet the elements of rape of a child as set forth in RCW 9A.44.079.

Sec. 502. RCW 74.04.0052 and 1994 c 299 s 34 are each amended to read as follows:

(1) The department shall determine, after consideration of all relevant factors and in consultation with the applicant, the most appropriate living situation for applicants under eighteen years of age, unmarried, and pregnant who are eligible for general assistance as defined in RCW 74.04.005(6)(a)(ii)(A). An appropriate living situation~~((s))~~ shall include a place of residence that is maintained by the applicant's parents, parent, legal guardian, or other adult relative as their or his or her own home~~((,-or-other))~~ and that the department finds would provide an appropriate supportive living arrangement ~~((supervised-by-an-adult-where-feasible-and-consistent-with-federal-regulations-under-45-C.F.R. chapter-II, section-233.107)).~~ It also includes a living situation maintained by an agency that is licensed under chapter 74.15 RCW that the department finds would provide an appropriate supportive living arrangement. Grant assistance shall not be provided

under this chapter if the applicant does not reside in the most appropriate living situation, as determined by the department.

(2) ~~((An applicant under eighteen years of age who is pregnant and is not living in a situation described in subsection (1) of this section shall be))~~ A pregnant minor residing in the most appropriate living situation, as provided under subsection (1) of this section, is presumed to be unable to manage adequately the funds paid to the minor or on behalf of the dependent child or children and, unless the ((teenage custodial parent demonstrates otherwise)) minor provides sufficient evidence to rebut the presumption, shall be subject to the protective payee requirements provided for under RCW 74.12.250 and 74.08.280.

(3) The department shall consider any statements or opinions by either parent of the ~~((teen recipient))~~ unmarried minor parent or pregnant minor applicant as to an appropriate living situation for the ~~((teen))~~ minor, whether in the parental home or other situation. If the parents or a parent of the ~~((teen head of household applicant for assistance))~~ minor request, they or he or she shall be entitled to a hearing in juvenile court regarding ~~((the fitness and suitability of their home as the top priority choice))~~ designation of the parental home or other relative placement as the most appropriate living situation for the pregnant or parenting ~~((teen applicant for assistance))~~ minor.

The department shall provide the parents ((shall have)) or parent with the opportunity to make a showing((- based on the preponderance of the evidence,)) that the parental home, or home of the other relative placement, is the most appropriate living situation. It shall be presumed in any administrative or judicial proceeding conducted under this subsection that the parental home or other relative placement requested by the parents or parent is the most appropriate living situation. This presumption is rebuttable.

(4) In cases in which the ~~((head of household is under eighteen years of age,))~~ minor is unmarried((:)) and unemployed, ((and requests information on adoption,)) the department shall, as part of the determination of the appropriate living situation, provide information about adoption including referral to community-based organizations ~~((for))~~ providing counseling.

(5) For the purposes of this section, "most appropriate living situation" shall not include a living situation including an adult male who fathered the qualifying child and is found to meet the elements of rape of a child as set forth in RCW 9A.44.079.

NEW SECTION. Sec. 503. TEEN PARENT REQUIREMENTS. All applicants under the age of eighteen years who are approved for assistance and, within one hundred eighty days after the date of federal certification of the Washington temporary assistance for needy families program, all unmarried minor parents or pregnant minor applicants shall, as a condition of receiving benefits, actively progress toward the completion of a high school diploma or a GED.

B. GRANDPARENT LIABILITY

***NEW SECTION.** *Sec. 504. UNMARRIED MINOR PARENT—ELIGIBILITY. The unmarried minor parent and the minor's child shall be considered to be part of the household of the minor's parents or parent for purposes of determining eligibility for temporary assistance for needy families and general assistance for pregnant women as defined in RCW 74.04.005(6)(a)(ii)(A); and as such, the income and resources of the entire household are considered to be available to support the unmarried minor and his or her child.*

*Sec. 504 was vetoed. See message at end of chapter.

Sec. 505. RCW 13.34.160 and 1993 c 358 s 2 are each amended to read as follows:

(1) In an action brought under this chapter, the court may inquire into the ability of the parent or parents of the child to pay child support and may enter an order of child support as set forth in chapter 26.19 RCW. The court may enforce the same by execution, or in any way in which a court of equity may enforce its decrees. All child support orders entered pursuant to this chapter shall be in compliance with the provisions of RCW 26.23.050.

(2) For purposes of this section, if a dependent child's parent is an unmarried minor parent or pregnant minor applicant, then the parent or parents of the minor shall also be deemed a parent or parents of the dependent child. However, liability for child support under this subsection only exists if the parent or parents of the unmarried minor parent or pregnant minor applicant are provided the opportunity for a hearing on their ability to provide support. Any child support order requiring such a parent or parents to provide support for the minor parent's child may be effective only until the minor parent reaches eighteen years of age.

Sec. 506. RCW 74.12.250 and 1963 c 228 s 21 are each amended to read as follows:

If the department, after investigation, finds that any applicant for assistance under this chapter or any recipient of funds under ((an aid to families with dependent children grant)) this chapter would not use, or is not utilizing, the grant adequately for the needs of ((the)) his or her child or children or would dissipate the grant or is ((otherwise)) dissipating such grant, or would be or is unable to manage adequately the funds paid on behalf of said child and that to provide or continue ((said)) payments to ((him)) the applicant or recipient would be contrary to the welfare of the child, the department may make such payments to another individual who is interested in or concerned with the welfare of such child and relative: PROVIDED, That the department shall provide such counseling and other services as are available and necessary to develop greater ability on the part of the relative to manage funds in such manner as to protect the welfare of the family. Periodic review of each case shall be made by the department to determine if said relative is able to resume management of the assistance grant. If after a reasonable period of time the payments to the relative cannot be resumed, the

department may request the attorney general to file a petition in the superior court for the appointment of a guardian for the child or children. Such petition shall set forth the facts warranting such appointment. Notice of the hearing on such petition shall be served upon the recipient and the department not less than ten days before the date set for such hearing. Such petition may be filed with the clerk of superior court and all process issued and served without payment of costs. If upon the hearing of such petition the court is satisfied that it is for the best interest of the child or children, and all parties concerned, that a guardian be appointed, he shall order the appointment, and may require the guardian to render to the court a detailed itemized account of expenditures of such assistance payments at such time as the court may deem advisable.

It is the intention of this section that the guardianship herein provided for shall be a special and limited guardianship solely for the purpose of safeguarding the assistance grants made to dependent children. Such guardianship shall terminate upon the termination of such assistance grant, or sooner on order of the court, upon good cause shown.

VI. ILLEGITIMACY PREVENTION AND ABSTINENCE PROMOTION

Sec. 601. RCW 74.12.410 and 1994 c 299 s 3 are each amended to read as follows:

(1) At time of application or reassessment under this chapter the department shall offer or contract for family planning information and assistance, including alternatives to abortion, and any other available locally based teen pregnancy prevention programs, to prospective and current recipients of aid to families with dependent children.

(2) The department shall work in cooperation with the superintendent of public instruction to reduce the rate of illegitimate births and abortions in Washington state.

(3) The department of health shall maximize federal funding by timely application for federal funds available under P.L. 104-193 and Title V of the federal social security act, 42 U.S.C. 701 et seq., as amended, for the establishment of qualifying abstinence education and motivation programs. The department of health shall contract, by competitive bid, with entities qualified to provide abstinence education and motivation programs in the state.

(4) The department of health shall seek and accept local matching funds to the maximum extent allowable from qualified abstinence education and motivation programs.

(5)(a) For purposes of this section, "qualifying abstinence education and motivation programs" are those bidders with experience in the conduct of the types of abstinence education and motivation programs set forth in Title V of the federal social security act, 42 U.S.C. Sec. 701 et seq., as amended.

(b) The application for federal funds, contracting for abstinence education and motivation programs and performance of contracts under this section are subject

to review and oversight by a joint committee of the legislature, composed of four legislative members, appointed by each of the two caucuses in each house.

VII. DEPARTMENT OF SOCIAL AND HEALTH SERVICES ACCOUNTABILITY

NEW SECTION. Sec. 701. It is the intent of the legislature that the Washington WorkFirst program focus on work and on personal responsibility for recipients. The program shall be evaluated among other evaluations, through a limited number of outcome measures designed to hold each community service office and economic services region accountable for program success.

NEW SECTION. Sec. 702. OUTCOME MEASURES. (1) The WorkFirst program shall develop outcome measures for use in evaluating the WorkFirst program authorized in chapter . . . , Laws of 1997 (this act), which may include but are not limited to:

- (a) Caseload reduction;
- (b) Recidivism to caseload after two years;
- (c) Job retention;
- (d) Earnings;
- (e) Reduction in average grant through increased recipient earnings; and
- (f) Placement of recipients into private sector, unsubsidized jobs.

(2) The department shall require that contractors for WorkFirst services collect outcome measure information and report outcome measures to the department regularly. The department shall develop benchmarks that compare outcome measure information from all contractors to provide a clear indication of the most effective contractors. Benchmark information shall be published quarterly and provided to the legislature, the governor, and all contractors for WorkFirst services.

NEW SECTION. Sec. 703. EVALUATION. Every WorkFirst office, region, contract, employee, and contractor shall be evaluated using the criteria in section 702 of this act. The department shall award contracts to the highest performing entities according to the criteria in section 702 of this act. The department may provide for bonuses to offices, regions, and employees with the best outcomes according to measures in section 702 of this act.

NEW SECTION. Sec. 704. OUTCOME MEASURES--REPORT. The department shall provide a report to the appropriate committees of the legislature on achievement of the outcome measures by region and contract on an annual basis, no later than January 15th of each year, beginning in 1999. The report shall include how the department is using the outcome measure information obtained under section 702 of this act to manage the WorkFirst program.

NEW SECTION. Sec. 705. A new section is added to chapter 44.28 RCW to read as follows:

WORKFIRST PROGRAM STUDY. (1) The joint legislative audit and review committee shall conduct an evaluation of the effectiveness of the WorkFirst program described in chapter . . . , Laws of 1997 (this act), including the job

opportunities and basic skills training program and any approved private, county, or local government WorkFirst program. The evaluation shall assess the success of the program in assisting clients to become employed and to reduce their use of temporary assistance for needy families. The study shall include but not be limited to the following:

(a) An assessment of employment outcomes, including hourly wages, hours worked, and total earnings, for clients;

(b) A comparison of temporary assistance for needy families outcomes, including grant amounts and program exits, for clients; and

(c) An audit of the performance-based contract for each private nonprofit contractor for job opportunities and basic skills training program services. The joint legislative audit and review committee may contract with the Washington institute for public policy for appropriate portions of the evaluation required by this section.

(2) Administrative data shall be provided by the department of social and health services, the employment security department, the state board for community and technical colleges, local governments, and private contractors. The department of social and health services shall require contractors to provide administrative and outcome data needed for this study as a condition of contract compliance.

****NEW SECTION. Sec. 706. PATERNITY ESTABLISHMENT. In order to be eligible for temporary assistance for needy families, applicants shall, at the time of application for assistance, provide the names of both parents of their child or children, whether born or unborn.***

*Sec. 706 was vetoed. See message at end of chapter.

VIII. LICENSE SUSPENSION AND CHILD SUPPORT ENFORCEMENT

A. LICENSE SUSPENSION

NEW SECTION. Sec. 801. It is the intent of the legislature to provide a strong incentive for persons owing child support to make timely payments, and to cooperate with the department of social and health services to establish an appropriate schedule for the payment of any arrears. To further ensure that child support obligations are met, sections 801 through 890 of this act establish a program by which certain licenses may be suspended or not renewed if a person is one hundred eighty days or more in arrears on child support payments.

In the implementation and management of this program, it is the legislature's intent that the objective of the department of social and health services be to obtain payment in full of arrears, or where that is not possible, to enter into agreements with delinquent obligors to make timely support payments and make reasonable payments towards the arrears. The legislature intends that if the obligor refuses to cooperate in establishing a fair and reasonable payment schedule for arrears or refuses to make timely support payments, the department shall proceed with

certification to a licensing entity or the department of licensing that the person is not in compliance with a child support order.

***NEW SECTION. Sec. 802.** A new section is added to chapter 74.20A RCW to read as follows:

(1) The department may serve upon a responsible parent a notice informing the responsible parent of the department's intent to submit the parent's name to the department of licensing and any appropriate licensing entity as a licensee who is not in compliance with a child support order. The department shall attach a copy of the responsible parent's child support order to the notice. Service of the notice must be by certified mail, return receipt requested. If service by certified mail is not successful, service shall be by personal service.

(2) The notice of noncompliance must include the address and telephone number of the department's division of child support office that issues the notice and must inform the responsible parent that:

(a) The parent may request an adjudicative proceeding to contest the issue of compliance with the child support order. The only issues that may be considered at the adjudicative proceeding are whether the parent is required to pay child support under a child support order and whether the parent is in compliance with that order;

(b) A request for an adjudicative proceeding shall be in writing and must be received by the department within twenty days of the date of service of the notice;

(c) If the parent requests an adjudicative proceeding within twenty days of service, the department will stay action to certify the parent to the department of licensing and any licensing entity for noncompliance with a child support order pending entry of a written decision after the adjudicative proceeding;

(d) If the parent does not request an adjudicative proceeding within twenty days of service and remains in noncompliance with a child support order, the department will certify the parent's name to the department of licensing and any appropriate licensing entity for noncompliance with a child support order;

(e) The department will stay action to certify the parent to the department of licensing and any licensing entity for noncompliance if the parent agrees to make timely payments of current support and agrees to a reasonable payment schedule for payment of the arrears. It is the parent's responsibility to contact in person or by mail the department's division of child support office indicated on the notice within twenty days of service of the notice to arrange for a payment schedule. The department may stay certification for up to thirty days after contact from a parent to arrange for a payment schedule;

(f) If the department certifies the responsible parent to the department of licensing and a licensing entity for noncompliance with a child support order, the licensing entity will suspend or not renew the parent's license and the department of licensing will suspend or not renew any driver's license that the parent holds until the parent provides the department of licensing and the licensing entity with

a release from the department stating that the responsible parent is in compliance with the child support order;

(g) If the department certifies the responsible parent as a person who is in noncompliance with a child support order, the department of fish and wildlife will suspend the fishing license, hunting license, commercial fishing license, or any other license issued under chapters 77.32, 77.28, and 75.25 RCW that the responsible parent may possess. Notice from the department of licensing that a responsible parent's driver's license has been suspended shall serve as notice of the suspension of a license issued under chapters 77.32 and 75.25 RCW;

(h) Suspension of a license will affect insurability if the responsible parent's insurance policy excludes coverage for acts occurring after the suspension of a license;

(i) If after receiving the notice of noncompliance with a child support order, the responsible parent files a motion to modify support with the court or requests the department to amend a support obligation established by an administrative decision, or if a motion for modification of a court or administrative order for child support is pending, the department or the court may stay action to certify the parent to the department of licensing and any licensing entity for noncompliance with a child support order. A stay shall not exceed six months unless the department finds good cause. The responsible parent has the obligation to notify the department that a modification proceeding is pending and provide a copy of the motion or request for modification; and

(j) If the responsible parent subsequently becomes in compliance with the child support order, the department will promptly provide the parent with a release stating that the parent is in compliance with the order, and the parent may request that the licensing entity or the department of licensing reinstate the suspended license.

(3) A responsible parent may request an adjudicative proceeding upon service of the notice described in subsection (1) of this section. The request for an adjudicative proceeding must be received by the department within twenty days of service. The request must be in writing and indicate the current mailing address and daytime phone number, if available, of the responsible parent. The proceedings under this subsection shall be conducted in accordance with the requirements of chapter 34.05 RCW. The issues that may be considered at the adjudicative proceeding are limited to whether:

(a) The person named as the responsible parent is the responsible parent;

(b) The responsible parent is required to pay child support under a child support order; and

(c) The responsible parent is in compliance with the order.

(4) The decision resulting from the adjudicative proceeding must be in writing and inform the responsible parent of his or her rights to review. The parent's copy of the decision may be sent by regular mail to the parent's most recent address of record.

(5) If a responsible parent contacts the department's division of child support office indicated on the notice of noncompliance within twenty days of service of the notice and requests arrangement of a payment schedule, the department shall stay the certification of noncompliance during negotiation of the schedule for payment of arrears. In no event shall the stay continue for more than thirty days from the date of contact by the parent. The department shall establish a schedule for payment of arrears that is fair and reasonable, and that considers the financial situation of the responsible parent and the needs of all children who rely on the responsible parent for support. At the end of the thirty days, if no payment schedule has been agreed to in writing and the department has acted in good faith, the department shall proceed with certification of noncompliance.

(6) If a responsible parent timely requests an adjudicative proceeding pursuant to subsection (4) of this section, the department may not certify the name of the parent to the department of licensing or a licensing entity for noncompliance with a child support order unless the adjudicative proceeding results in a finding that the responsible parent is not in compliance with the order.

(7) The department may certify to the department of licensing and any appropriate licensing entity the name of a responsible parent who is not in compliance with a child support order or a residential or visitation order if:

(a) The responsible parent does not timely request an adjudicative proceeding upon service of a notice issued under subsection (1) of this section and is not in compliance with a child support order twenty-one days after service of the notice;

(b) An adjudicative proceeding results in a decision that the responsible parent is not in compliance with a child support order;

(c) The court enters a judgment on a petition for judicial review that finds the responsible parent is not in compliance with a child support order;

(d) The department and the responsible parent have been unable to agree on a fair and reasonable schedule of payment of the arrears;

(e) The responsible parent fails to comply with a payment schedule established pursuant to subsection (5) of this section; or

(f) The department is ordered to certify the responsible parent by a court order under section 887 of this act.

The department shall send by regular mail a copy of any certification of noncompliance filed with the department of licensing or a licensing entity to the responsible parent at the responsible parent's most recent address of record.

(8) The department of licensing and a licensing entity shall, without undue delay, notify a responsible parent certified by the department under subsection (7) of this section that the parent's driver's license or other license has been suspended because the parent's name has been certified by the department as a responsible parent who is not in compliance with a child support order or a residential or visitation order.

(9) When a responsible parent who is served notice under subsection (1) of this section subsequently complies with the child support order, or when the

department receives a court order under section 886 of this act stating that the parent is in compliance with a residential or visitation order, the department shall promptly provide the parent with a release stating that the responsible parent is in compliance with the order. A copy of the release shall be transmitted by the department to the appropriate licensing entities.

(10) The department may adopt rules to implement and enforce the requirements of this section. The department shall deliver a copy of rules adopted to implement and enforce this section to the legislature by June 30, 1998.

(11) Nothing in this section prohibits a responsible parent from filing a motion to modify support with the court or from requesting the department to amend a support obligation established by an administrative decision. If there is a reasonable likelihood that a pending motion or request will significantly change the amount of the child support obligation, the department or the court may stay action to certify the responsible parent to the department of licensing and any licensing entity for noncompliance with a child support order. A stay shall not exceed six months unless the department finds good cause to extend the stay. The responsible parent has the obligation to notify the department that a modification proceeding is pending and provide a copy of the motion or request for modification.

(12) The department of licensing and a licensing entity may renew, reinstate, or otherwise extend a license in accordance with the licensing entity's or the department of licensing's rules after the licensing entity or the department of licensing receives a copy of the release specified in subsection (9) of this section. The department of licensing and a licensing entity may waive any applicable requirement for reissuance, renewal, or other extension if it determines that the imposition of that requirement places an undue burden on the person and that waiver of the requirement is consistent with the public interest.

(13) The procedures in chapter . . . , Laws of 1997 (this act) constitute the exclusive administrative remedy for contesting the establishment of noncompliance with a child support order and suspension of a license under this section, and satisfy the requirements of RCW 34.05.422.

*Sec. 802 was partially vetoed. See message at end of chapter.

NEW SECTION. Sec. 803. A new section is added to chapter 74.20A RCW to read as follows:

(1) The department and all of the various licensing entities subject to section 802 of this act shall enter into such agreements as are necessary to carry out the requirements of the license suspension program established in section 802 of this act.

(2) The department and all licensing entities subject to section 802 of this act shall compare data to identify responsible parents who may be subject to the provisions of chapter . . . , Laws of 1997 (this act). The comparison may be conducted electronically, or by any other means that is jointly agreeable between the department and the particular licensing entity. The data shared shall be limited to those items necessary to implementation of chapter . . . , Laws of 1997 (this act).

The purpose of the comparison shall be to identify current licensees who are not in compliance with a child support order, and to provide to the department the following information regarding those licensees:

- (a) Name;
- (b) Date of birth;
- (c) Address of record;
- (d) Federal employer identification number and social security number;
- (e) Type of license;
- (f) Effective date of license or renewal;
- (g) Expiration date of license; and
- (h) Active or inactive status.

NEW SECTION. Sec. 804. A new section is added to chapter 74.20A RCW to read as follows:

(1) In furtherance of the public policy of increasing collection of child support and to assist in evaluation of the program established in section 802 of this act, the department shall report the following to the legislature and the governor on December 1, 1998, and annually thereafter:

(a) The number of responsible parents identified as licensees subject to section 802 of this act;

(b) The number of responsible parents identified by the department as not in compliance with a child support order;

(c) The number of notices of noncompliance served upon responsible parents by the department;

(d) The number of responsible parents served a notice of noncompliance who request an adjudicative proceeding;

(e) The number of adjudicative proceedings held, and the results of the adjudicative proceedings;

(f) The number of responsible parents certified to the department of licensing or licensing entities for noncompliance with a child support order, and the number of each type of licenses that were suspended;

(g) The costs incurred in the implementation and enforcement of section 802 of this act and an estimate of the amount of child support collected due to the department under section 802 of this act;

(h) Any other information regarding this program that the department feels will assist in evaluation of the program;

(i) Recommendations for the addition of specific licenses in the program or exclusion of specific licenses from the program, and reasons for such recommendations; and

(j) Any recommendations for statutory changes necessary for the cost-effective management of the program.

(2) To assist in evaluation of the program established in section 802 of this act, the office of the administrator for the courts shall report the following to the legislature and the governor on December 1, 1998, and annually thereafter:

(a) The number of motions for contempt for violation of a visitation or residential order filed under RCW 26.09.160(3);

(b) The number of parents found in contempt under RCW 26.09.160(3); and

(c) The number of parents whose licenses were suspended under RCW 26.09.160(3).

(3) This section expires December 2, 2002.

Sec. 805. RCW 74.20A.020 and 1990 1st ex.s. c 2 s 15 are each amended to read as follows:

Unless a different meaning is plainly required by the context, the following words and phrases as hereinafter used in this chapter and chapter 74.20 RCW shall have the following meanings:

(1) "Department" means the state department of social and health services.

(2) "Secretary" means the secretary of the department of social and health services, ((his)) the secretary's designee or authorized representative.

(3) "Dependent child" means any person:

(a) Under the age of eighteen who is not self-supporting, married, or a member of the armed forces of the United States; or

(b) Over the age of eighteen for whom a court order for support exists.

(4) "Support obligation" means the obligation to provide for the necessary care, support, and maintenance, including medical expenses, of a dependent child or other person as required by statutes and the common law of this or another state.

(5) "Superior court order" means any judgment, decree, or order of the superior court of the state of Washington, or a court of comparable jurisdiction of another state, establishing the existence of a support obligation and ordering payment of a set or determinable amount of support moneys to satisfy the support obligation. For purposes of RCW 74.20A.055, orders for support which were entered under the uniform reciprocal enforcement of support act by a state where the responsible parent no longer resides shall not preclude the department from establishing an amount to be paid as current and future support.

(6) "Administrative order" means any determination, finding, decree, or order for support pursuant to RCW 74.20A.055, or by an agency of another state pursuant to a substantially similar administrative process, establishing the existence of a support obligation and ordering the payment of a set or determinable amount of support moneys to satisfy the support obligation.

(7) "Responsible parent" means a natural parent, adoptive parent, or stepparent of a dependent child or a person who has signed an affidavit acknowledging paternity which has been filed with the state office of vital statistics.

(8) "Stepparent" means the present spouse of the person who is either the mother, father, or adoptive parent of a dependent child, and such status shall exist until terminated as provided for in RCW 26.16.205.

(9) "Support moneys" means any moneys or in-kind providings paid to satisfy a support obligation whether denominated as child support, spouse support, alimony, maintenance, or any other such moneys intended to satisfy an obligation

for support of any person or satisfaction in whole or in part of arrears or delinquency on such an obligation.

(10) "Support debt" means any delinquent amount of support moneys which is due, owing, and unpaid under a superior court order or an administrative order, a debt for the payment of expenses for the reasonable or necessary care, support, and maintenance, including medical expenses, of a dependent child or other person for whom a support obligation is owed; or a debt under RCW 74.20A.100 or 74.20A.270. Support debt also includes any accrued interest, fees, or penalties charged on a support debt, and attorneys fees and other costs of litigation awarded in an action to establish and enforce a support obligation or debt.

(11) "State" means any state or political subdivision, territory, or possession of the United States, the District of Columbia, and the Commonwealth of Puerto Rico.

(12) "Account" means a demand deposit account, checking or negotiable withdrawal order account, savings account, time deposit account, or money-market mutual fund account.

(13) "Child support order" means a superior court order or an administrative order.

(14) "Financial institution" means:

(a) A depository institution, as defined in section 3(c) of the federal deposit insurance act;

(b) An institution-affiliated party, as defined in section 3(u) of the federal deposit insurance act;

(c) Any federal or state credit union, as defined in section 101 of the federal credit union act, including an institution-affiliated party of such credit union, as defined in section 206(r) of the federal deposit insurance act; or

(d) Any benefit association, insurance company, safe deposit company, money-market mutual fund, or similar entity.

(15) "License" means a license, certificate, registration, permit, approval, or other similar document issued by a licensing entity to a licensee evidencing admission to or granting authority to engage in a profession, occupation, business, industry, recreational pursuit, or the operation of a motor vehicle. "License" does not mean the tax registration or certification issued under Title 82 RCW by the department of revenue.

(16) "Licensee" means any individual holding a license, certificate, registration, permit, approval, or other similar document issued by a licensing entity evidencing admission to or granting authority to engage in a profession, occupation, business, industry, recreational pursuit, or the operation of a motor vehicle.

(17) "Licensing entity" includes any department, board, commission, or other organization authorized to issue, renew, suspend, or revoke a license authorizing an individual to engage in a business, occupation, profession, industry, recreational pursuit, or the operation of a motor vehicle, and includes the Washington state

supreme court, to the extent that a rule has been adopted by the court to implement suspension of licenses related to the practice of law.

(18) "Noncompliance with a child support order" for the purposes of the license suspension program authorized under section 802 of this act means a responsible parent has:

(a) Accumulated arrears totaling more than six months of child support payments;

(b) Failed to make payments pursuant to a written agreement with the department towards a support arrearage in an amount that exceeds six months of payments; or

(c) Failed to make payments required by a superior court order or administrative order towards a support arrearage in an amount that exceeds six months of payments.

(19) "Noncompliance with a residential or visitation order" means that a court has found the parent in contempt of court under RCW 26.09.160(3) for failure to comply with a residential provision of a court-ordered parenting plan.

Sec. 806. RCW 46.20.291 and 1993 c 501 s 4 are each amended to read as follows:

The department is authorized to suspend the license of a driver upon a showing by its records or other sufficient evidence that the licensee:

(1) Has committed an offense for which mandatory revocation or suspension of license is provided by law;

(2) Has, by reckless or unlawful operation of a motor vehicle, caused or contributed to an accident resulting in death or injury to any person or serious property damage;

(3) Has been convicted of offenses against traffic regulations governing the movement of vehicles, or found to have committed traffic infractions, with such frequency as to indicate a disrespect for traffic laws or a disregard for the safety of other persons on the highways;

(4) Is incompetent to drive a motor vehicle under RCW 46.20.031(3); ~~((or))~~

(5) Has failed to respond to a notice of traffic infraction, failed to appear at a requested hearing, violated a written promise to appear in court, or has failed to comply with the terms of a notice of traffic infraction or citation, as provided in RCW 46.20.289; ~~((or))~~

(6) Has committed one of the prohibited practices relating to drivers' licenses defined in RCW 46.20.336; or

(7) Has been certified by the department of social and health services as a person who is not in compliance with a child support order or a residential or visitation order as provided in section 802 of this act.

Sec. 807. RCW 46.20.311 and 1995 c 332 s 11 are each amended to read as follows:

(1) The department shall not suspend a driver's license or privilege to drive a motor vehicle on the public highways for a fixed period of more than one year,

except as specifically permitted under RCW 46.20.342 or other provision of law. Except for a suspension under RCW 46.20.289 ((and)), 46.20.291(5), or section 802 of this act, whenever the license or driving privilege of any person is suspended by reason of a conviction, a finding that a traffic infraction has been committed, pursuant to chapter 46.29 RCW, or pursuant to RCW 46.20.291 or 46.20.308, the suspension shall remain in effect until the person gives and thereafter maintains proof of financial responsibility for the future as provided in chapter 46.29 RCW. If the suspension is the result of a violation of RCW 46.61.502 or 46.61.504, the department shall determine the person's eligibility for licensing based upon the reports provided by the alcoholism agency or probation department designated under RCW 46.61.5056 and shall deny reinstatement until enrollment and participation in an approved program has been established and the person is otherwise qualified. Whenever the license or driving privilege of any person is suspended as a result of certification of noncompliance with a child support order under chapter 74.20A RCW or a residential or visitation order, the suspension shall remain in effect until the person provides a release issued by the department of social and health services stating that the person is in compliance with the order. The department shall not issue to the person a new, duplicate, or renewal license until the person pays a reissue fee of twenty dollars. If the suspension is the result of a violation of RCW 46.61.502 or 46.61.504, or is the result of administrative action under RCW 46.20.308, the reissue fee shall be fifty dollars.

(2) Any person whose license or privilege to drive a motor vehicle on the public highways has been revoked, unless the revocation was for a cause which has been removed, is not entitled to have the license or privilege renewed or restored until: (a) After the expiration of one year from the date the license or privilege to drive was revoked; (b) after the expiration of the applicable revocation period provided by RCW 46.20.3101 or 46.61.5055; (c) after the expiration of two years for persons convicted of vehicular homicide; or (d) after the expiration of the applicable revocation period provided by RCW 46.20.265. After the expiration of the appropriate period, the person may make application for a new license as provided by law together with a reissue fee in the amount of twenty dollars, but if the revocation is the result of a violation of RCW 46.20.308, 46.61.502, or 46.61.504, the reissue fee shall be fifty dollars. If the revocation is the result of a violation of RCW 46.61.502 or 46.61.504, the department shall determine the person's eligibility for licensing based upon the reports provided by the alcoholism agency or probation department designated under RCW 46.61.5056 and shall deny reissuance of a license, permit, or privilege to drive until enrollment and participation in an approved program has been established and the person is otherwise qualified. Except for a revocation under RCW 46.20.265, the department shall not then issue a new license unless it is satisfied after investigation of the driving ability of the person that it will be safe to grant the privilege of driving a motor vehicle on the public highways, and until the person

gives and thereafter maintains proof of financial responsibility for the future as provided in chapter 46.29 RCW. For a revocation under RCW 46.20.265, the department shall not issue a new license unless it is satisfied after investigation of the driving ability of the person that it will be safe to grant that person the privilege of driving a motor vehicle on the public highways.

(3) Whenever the driver's license of any person is suspended pursuant to Article IV of the nonresident violators compact or RCW 46.23.020 or 46.20.289 or 46.20.291(5), the department shall not issue to the person any new or renewal license until the person pays a reissue fee of twenty dollars. If the suspension is the result of a violation of the laws of this or any other state, province, or other jurisdiction involving (a) the operation or physical control of a motor vehicle upon the public highways while under the influence of intoxicating liquor or drugs, or (b) the refusal to submit to a chemical test of the driver's blood alcohol content, the reissue fee shall be fifty dollars.

NEW SECTION. Sec. 808. A new section is added to chapter 48.22 RCW to read as follows:

In the event that the department of licensing suspends a driver's license solely for the nonpayment of child support as provided in chapter 74.20A RCW or for noncompliance with a residential or visitation order as provided in chapter 26.09 RCW, any provision in the driver's motor vehicle liability insurance policy excluding insurance coverage for an unlicensed driver shall not apply to the driver for ninety days from the date of suspension. When a driver's license is suspended under chapter 74.20A RCW, the driving record for the suspended driver shall include a notation that explains the reason for the suspension.

NEW SECTION. Sec. 809. The legislature intends that the license suspension program established in chapter 74.20A RCW be implemented fairly to ensure that child support obligations are met and that parents comply with residential and visitation orders. However, being mindful of the separations of powers and responsibilities among the branches of government, the legislature strongly encourages the state supreme court to adopt rules providing for suspension and denial of licenses related to the practice of law to those individuals who are in noncompliance with a support order or a residential or visitation order.

NEW SECTION. Sec. 810. A new section is added to chapter 2.48 RCW to read as follows:

The Washington state supreme court may provide by rule that no person who has been certified by the department of social and health services as a person who is in noncompliance with a support order or a residential or visitation order as provided in section 802 of this act may be admitted to the practice of law in this state, and that any member of the Washington state bar association who has been certified by the department of social and health services as a person who is in noncompliance with a support order or a residential or visitation order as provided in section 802 of this act shall be immediately suspended from membership. The court's rules may provide for review of an application for admission or

reinstatement of membership after the department of social and health services has issued a release stating that the person is in compliance with the order.

NEW SECTION. Sec. 811. A new section is added to chapter 18.04 RCW to read as follows:

The board shall immediately suspend the certificate or license of a person who has been certified pursuant to section 802 of this act by the department of social and health services as a person who is not in compliance with a support order or a residential or visitation order. If the person has continued to meet all other requirements for reinstatement during the suspension, reissuance of the license or certificate shall be automatic upon the board's receipt of a release issued by the department of social and health services stating that the licensee is in compliance with the order.

Sec. 812. RCW 18.04.335 and 1992 c 103 s 13 are each amended to read as follows:

(1) Upon application in writing and after hearing pursuant to notice, the board may:

~~((+))~~ (a) Modify the suspension of, or reissue a certificate or license to, an individual whose certificate has been revoked or suspended; or

~~((2))~~ (b) Modify the suspension of, or reissue a license to a firm whose license has been revoked, suspended, or which the board has refused to renew.

(2) In the case of suspension for failure to comply with a support order under chapter 74.20A RCW or a residential or visitation order under chapter 26.09 RCW, if the person has continued to meet all other requirements for reinstatement during the suspension, reissuance of a certificate or license shall be automatic upon the board's receipt of a release issued by the department of social and health services stating that the individual is in compliance with the order.

NEW SECTION. Sec. 813. A new section is added to chapter 18.08 RCW to read as follows:

The board shall immediately suspend the certificate of registration or certificate of authorization to practice architecture of a person who has been certified pursuant to section 802 of this act by the department of social and health services as a person who is not in compliance with a support order or a residential or visitation order. If the person has continued to meet other requirements for reinstatement during the suspension, reissuance of the certificate shall be automatic upon the board's receipt of a release issued by the department of social and health services stating that the individual is in compliance with the order.

Sec. 814. RCW 18.11.160 and 1986 c 324 s 12 are each amended to read as follows:

(1) No license shall be issued by the department to any person who has been convicted of forgery, embezzlement, obtaining money under false pretenses, extortion, criminal conspiracy, fraud, theft, receiving stolen goods, unlawful issuance of checks or drafts, or other similar offense, or to any partnership of

which the person is a member, or to any association or corporation of which the person is an officer or in which as a stockholder the person has or exercises a controlling interest either directly or indirectly.

(2) The following shall be grounds for denial, suspension, or revocation of a license, or imposition of an administrative fine by the department:

- (a) Misrepresentation or concealment of material facts in obtaining a license;
- (b) Underreporting to the department of sales figures so that the auctioneer or auction company surety bond is in a lower amount than required by law;
- (c) Revocation of a license by another state;
- (d) Misleading or false advertising;
- (e) A pattern of substantial misrepresentations related to auctioneering or auction company business;
- (f) Failure to cooperate with the department in any investigation or disciplinary action;
- (g) Nonpayment of an administrative fine prior to renewal of a license;
- (h) Aiding an unlicensed person to practice as an auctioneer or as an auction company; and
- (i) Any other violations of this chapter.

(3) The department shall immediately suspend the license of a person who has been certified pursuant to section 802 of this act by the department of social and health services as a person who is not in compliance with a support order or a residential or visitation order. If the person has continued to meet all other requirements for reinstatement during the suspension, reissuance of the license shall be automatic upon the department's receipt of a release issued by the department of social and health services stating that the licensee is in compliance with the order.

NEW SECTION. Sec. 815. A new section is added to chapter 18.16 RCW to read as follows:

The department shall immediately suspend the license of a person who has been certified pursuant to section 802 of this act by the department of social and health services as a person who is not in compliance with a support order or a residential or visitation order. If the person has continued to meet all other requirements for reinstatement during the suspension, reissuance of the license shall be automatic upon the department's receipt of a release issued by the department of social and health services stating that the licensee is in compliance with the order.

NEW SECTION. Sec. 816. A new section is added to chapter 18.20 RCW to read as follows:

The department shall immediately suspend the license of a person who has been certified pursuant to section 802 of this act by the department of social and health services as a person who is not in compliance with a support order or a residential or visitation order. If the person has continued to meet all other requirements for reinstatement during the suspension, reissuance of the license

shall be automatic upon the department's receipt of a release issued by the department of social and health services stating that the licensee is in compliance with the order.

Sec. 817. RCW 18.27.060 and 1983 1st ex.s. c 2 s 19 are each amended to read as follows:

(1) A certificate of registration shall be valid for one year and shall be renewed on or before the expiration date. The department shall issue to the applicant a certificate of registration upon compliance with the registration requirements of this chapter.

(2) If the department approves an application, it shall issue a certificate of registration to the applicant. The certificate shall be valid for:

(a) One year;

(b) Until the bond expires; or

(c) Until the insurance expires, whichever comes first. The department shall place the expiration date on the certificate.

(3) A contractor may supply a short-term bond or insurance policy to bring its registration period to the full one year.

(4) If a contractor's surety bond or other security has an unsatisfied judgment against it or is canceled, or if the contractor's insurance policy is canceled, the contractor's registration shall be automatically suspended on the effective date of the impairment or cancellation. The department shall give notice of the suspension to the contractor.

(5) The department shall immediately suspend the certificate of registration of a contractor who has been certified by the department of social and health services as a person who is not in compliance with a support order or a residential or visitation order as provided in section 802 of this act. The certificate of registration shall not be reissued or renewed unless the person provides to the department a release from the department of social and health services stating that he or she is in compliance with the order and the person has continued to meet all other requirements for certification during the suspension.

NEW SECTION. Sec. 818. A new section is added to chapter 18.28 RCW to read as follows:

The department shall immediately suspend the license of a person who has been certified pursuant to section 802 of this act by the department of social and health services as a person who is not in compliance with a support order or a residential or visitation order. If the person has continued to meet all other requirements for reinstatement during the suspension, reissuance of the license shall be automatic upon the department's receipt of a release issued by the department of social and health services stating that the licensee is in compliance with the order.

Sec. 819. RCW 18.39.181 and 1996 c 217 s 7 are each amended to read as follows:

The director shall have the following powers and duties:

- (1) To issue all licenses provided for under this chapter;
- (2) To renew licenses under this chapter;
- (3) To collect all fees prescribed and required under this chapter; (~~and~~)
- (4) To immediately suspend the license of a person who has been certified pursuant to section 802 of this act by the department of social and health services as a person who is not in compliance with a support order or a residential or visitation order; and
- (5) To keep general books of record of all official acts, proceedings, and transactions of the department of licensing while acting under this chapter.

NEW SECTION. Sec. 820. A new section is added to chapter 18.39 RCW to read as follows:

In the case of suspension for failure to comply with a support order under chapter 74.20A RCW or a residential or visitation order under chapter 26.09 RCW, if the person has continued to meet all other requirements for reinstatement during the suspension, reissuance of a license shall be automatic upon the director's receipt of a release issued by the department of social and health services stating that the individual is in compliance with the order.

NEW SECTION. Sec. 821. A new section is added to chapter 18.43 RCW to read as follows:

The board shall immediately suspend the registration of a person who has been certified pursuant to section 802 of this act by the department of social and health services as a person who is not in compliance with a support order or a residential or visitation order. If the person has continued to meet all other requirements for membership during the suspension, reissuance of the certificate of registration shall be automatic upon the board's receipt of a release issued by the department of social and health services stating that the person is in compliance with the order.

NEW SECTION. Sec. 822. A new section is added to chapter 18.44 RCW to read as follows:

The department shall immediately suspend the certificate of registration of a person who has been certified pursuant to section 802 of this act by the department of social and health services as a person who is not in compliance with a support order or a residential or visitation order. If the person has continued to meet all other requirements for certification during the suspension, reissuance of the certificate shall be automatic upon the department's receipt of a release issued by the department of social and health services stating that the person is in compliance with the order.

Sec. 823. RCW 18.46.050 and 1991 c 3 s 101 are each amended to read as follows:

(1) The department may deny, suspend, or revoke a license in any case in which it finds that there has been failure or refusal to comply with the requirements established under this chapter or the rules adopted under it.

(2) The department shall immediately suspend the license of a person who has been certified pursuant to section 802 of this act by the department of social and health services as a person who is not in compliance with a support order or a residential or visitation order. If the person has continued to meet all other requirements for reinstatement during the suspension, reissuance of the license shall be automatic upon the department's receipt of a release issued by the department of social and health services stating that the person is in compliance with the order.

RCW 43.70.115 governs notice of a license denial, revocation, suspension, or modification and provides the right to an adjudicative proceeding but shall not apply to actions taken under subsection (2) of this section.

NEW SECTION. Sec. 824. A new section is added to chapter 18.51 RCW to read as follows:

The department shall immediately suspend the license of a person who has been certified pursuant to section 802 of this act by the department of social and health services, division of support, as a person who is not in compliance with a child support order or a residential or visitation order. If the person has continued to meet all other requirements for reinstatement during the suspension, reissuance of the license shall be automatic upon the department's receipt of a release issued by the division of child support stating that the person is in compliance with the order.

NEW SECTION. Sec. 825. A new section is added to chapter 18.76 RCW to read as follows:

The department shall immediately suspend the certification of a poison center medical director or a poison information specialist who has been certified pursuant to section 802 of this act by the department of social and health services as a person who is not in compliance with a support order or a residential or visitation order. If the person has continued to meet all other requirements for certification during the suspension, reissuance of the certification shall be automatic upon the department's receipt of a release issued by the department of social and health services stating that the person is in compliance with the order.

NEW SECTION. Sec. 826. A new section is added to chapter 18.85 RCW to read as follows:

The director shall immediately suspend the license of a broker or salesperson who has been certified pursuant to section 802 of this act by the department of social and health services as a person who is not in compliance with a support order or a residential or visitation order. If the person has continued to meet all other requirements for reinstatement during the suspension, reissuance of the license shall be automatic upon the director's receipt of a release issued by the department of social and health services stating that the person is in compliance with the order.

Sec. 827. RCW 18.96.120 and 1969 ex.s. c 158 s 12 are each amended to read as follows:

(1) The director may refuse to renew, or may suspend or revoke, a certificate of registration to use the titles landscape architect, landscape architecture, or landscape architectural in this state upon the following grounds:

((1)) (a) The holder of the certificate of registration is impersonating a practitioner or former practitioner.

((2)) (b) The holder of the certificate of registration is guilty of fraud, deceit, gross negligence, gross incompetency or gross misconduct in the practice of landscape architecture.

((3)) (c) The holder of the certificate of registration permits his seal to be affixed to any plans, specifications or drawings that were not prepared by him or under his personal supervision by employees subject to his direction and control.

((4)) (d) The holder of the certificate has committed fraud in applying for or obtaining a certificate.

(2) The director shall immediately suspend the certificate of registration of a landscape architect who has been certified pursuant to section 802 of this act by the department of social and health services as a person who is not in compliance with a support order or a residential or visitation order. If the person has continued to meet all other requirements for certification during the suspension, reissuance of the certificate of registration shall be automatic upon the director's receipt of a release issued by the department of social and health services stating that the person is in compliance with the order.

Sec. 828. RCW 18.104.110 and 1993 c 387 s 18 are each amended to read as follows:

(1) In cases other than those relating to the failure of a licensee to renew a license, the director may suspend or revoke a license issued pursuant to this chapter for any of the following reasons:

((1)) (a) For fraud or deception in obtaining the license;

((2)) (b) For fraud or deception in reporting under RCW 18.104.050;

((3)) (c) For violating the provisions of this chapter, or of any lawful rule or regulation of the department or the department of health.

(2) The director shall immediately suspend any license issued under this chapter if the holder of the license has been certified pursuant to section 802 of this act by the department of social and health services as a person who is not in compliance with a support order or a residential or visitation order. If the person has continued to meet all other requirements for reinstatement during the suspension, reissuance of the license shall be automatic upon the director's receipt of a release issued by the department of social and health services stating that the person is in compliance with the order.

(3) No license shall be suspended for more than six months, except that a suspension under section 802 of this act shall continue until the department

receives a release issued by the department of social and health services stating that the person is in compliance with the order.

(4) No person whose license is revoked shall be eligible to apply for a license for one year from the effective date of the final order of revocation.

NEW SECTION. Sec. 829. A new section is added to chapter 18.106 RCW to read as follows:

The department shall immediately suspend any certificate of competency issued under this chapter if the holder of the certificate has been certified pursuant to section 802 of this act by the department of social and health services as a person who is not in compliance with a support order or a residential or visitation order. If the person has continued to meet all other requirements for certification during the suspension, reissuance of the certificate of competency shall be automatic upon the department's receipt of a release issued by the department of social and health services stating that the person is in compliance with the order.

NEW SECTION. Sec. 830. A new section is added to chapter 18.130 RCW to read as follows:

The secretary shall immediately suspend the license of any person subject to this chapter who has been certified by the department of social and health services as a person who is not in compliance with a support order or a residential or visitation order as provided in section 802 of this act.

Sec. 831. RCW 18.130.150 and 1984 c 279 s 15 are each amended to read as follows:

A person whose license has been suspended or revoked under this chapter may petition the disciplining authority for reinstatement after an interval as determined by the disciplining authority in the order. The disciplining authority shall hold hearings on the petition and may deny the petition or may order reinstatement and impose terms and conditions as provided in RCW 18.130.160 and issue an order of reinstatement. The disciplining authority may require successful completion of an examination as a condition of reinstatement.

A person whose license has been suspended for noncompliance with a support order or a residential or visitation order under section 802 of this act may petition for reinstatement at any time by providing the secretary a release issued by the department of social and health services stating that the person is in compliance with the order. If the person has continued to meet all other requirements for reinstatement during the suspension, the secretary shall automatically reissue the person's license upon receipt of the release, and payment of a reinstatement fee, if any.

NEW SECTION. Sec. 832. A new section is added to chapter 18.140 RCW to read as follows:

The director shall immediately suspend any license or certificate issued under this chapter if the holder has been certified pursuant to section 802 of this act by the department of social and health services as a person who is not in compliance

with a support order or a residential or visitation order. If the person has continued to meet all other requirements for reinstatement during the suspension, reissuance of the license or certificate shall be automatic upon the director's receipt of a release issued by the department of social and health services stating that the person is in compliance with the order.

NEW SECTION. Sec. 833. A new section is added to chapter 18.145 RCW to read as follows:

The director shall immediately suspend any certificate issued under this chapter if the holder has been certified pursuant to section 802 of this act by the department of social and health services as a person who is not in compliance with a support order or a residential or visitation order. If the person has continued to meet all other requirements for certification during the suspension, reissuance of the certificate shall be automatic upon the director's receipt of a release issued by the department of social and health services stating that the person is in compliance with the order.

Sec. 834. RCW 18.160.080 and 1990 c 177 s 10 are each amended to read as follows:

(1) The state director of fire protection may refuse to issue or renew or may suspend or revoke the privilege of a licensed fire protection sprinkler system contractor or the certificate of a certificate of competency holder to engage in the fire protection sprinkler system business or in lieu thereof, establish penalties as prescribed by Washington state law, for any of the following reasons:

(a) Gross incompetency or gross negligence in the preparation of technical drawings, installation, repair, alteration, maintenance, inspection, service, or addition to fire protection sprinkler systems;

(b) Conviction of a felony;

(c) Fraudulent or dishonest practices while engaging in the fire protection sprinkler systems business;

(d) Use of false evidence or misrepresentation in an application for a license or certificate of competency;

(e) Permitting his or her license to be used in connection with the preparation of any technical drawings which have not been prepared by him or her personally or under his or her immediate supervision, or in violation of this chapter; or

(f) Knowingly violating any provisions of this chapter or the regulations issued thereunder.

(2) The state director of fire protection shall revoke the license of a licensed fire protection sprinkler system contractor or the certificate of a certificate of competency holder who engages in the fire protection sprinkler system business while the license or certificate of competency is suspended.

(3) The state director of fire protection shall immediately suspend any license or certificate issued under this chapter if the holder has been certified pursuant to section 802 of this act by the department of social and health services as a person who is not in compliance with a support order or a residential or visitation order.

If the person has continued to meet all other requirements for issuance or reinstatement during the suspension, issuance or reissuance of the license or certificate shall be automatic upon the director's receipt of a release issued by the department of social and health services stating that the person is in compliance with the order.

(4) Any licensee or certificate of competency holder who is aggrieved by an order of the state director of fire protection suspending or revoking a license may, within thirty days after notice of such suspension or revocation, appeal under chapter 34.05 RCW. This subsection does not apply to actions taken under subsection (3) of this section.

Sec. 835. RCW 18.165.160 and 1995 c 277 s 34 are each amended to read as follows:

The following acts are prohibited and constitute grounds for disciplinary action, assessing administrative penalties, or denial, suspension, or revocation of any license under this chapter, as deemed appropriate by the director:

(1) Knowingly violating any of the provisions of this chapter or the rules adopted under this chapter;

(2) Knowingly making a material misstatement or omission in the application for or renewal of a license or firearms certificate, including falsifying requested identification information;

(3) Not meeting the qualifications set forth in RCW 18.165.030, 18.165.040, or 18.165.050;

(4) Failing to return immediately on demand a firearm issued by an employer;

(5) Carrying a firearm in the performance of his or her duties if not the holder of a valid armed private investigator license, or carrying a firearm not meeting the provisions of this chapter while in the performance of his or her duties;

(6) Failing to return immediately on demand company identification, badges, or other items issued to the private investigator by an employer;

(7) Making any statement that would reasonably cause another person to believe that the private investigator is a sworn peace officer;

(8) Divulging confidential information obtained in the course of any investigation to which he or she was assigned;

(9) Acceptance of employment that is adverse to a client or former client and relates to a matter about which a licensee has obtained confidential information by reason of or in the course of the licensee's employment by the client;

(10) Conviction of a gross misdemeanor or felony or the commission of any act involving moral turpitude, dishonesty, or corruption whether the act constitutes a crime or not. If the act constitutes a crime, conviction in a criminal proceeding is not a condition precedent to disciplinary action. Upon such a conviction, however, the judgment and sentence is conclusive evidence at the ensuing disciplinary hearing of the guilt of the license holder or applicant of the crime described in the indictment or information, and of the person's violation of the statute on which it is based. For the purposes of this section, conviction includes

all instances in which a plea of guilty or nolo contendere is the basis for the conviction and all proceedings in which the sentence has been deferred or suspended;

(11) Advertising that is false, fraudulent, or misleading;

(12) Incompetence or negligence that results in injury to a person or that creates an unreasonable risk that a person may be harmed;

(13) Suspension, revocation, or restriction of the individual's license to practice the profession by competent authority in any state, federal, or foreign jurisdiction, a certified copy of the order, stipulation, or agreement being conclusive evidence of the revocation, suspension, or restriction;

(14) Failure to cooperate with the director by:

(a) Not furnishing any necessary papers or documents requested by the director for purposes of conducting an investigation for disciplinary action, denial, suspension, or revocation of a license under this chapter;

(b) Not furnishing in writing a full and complete explanation covering the matter contained in a complaint filed with the department; or

(c) Not responding to subpoenas issued by the director, whether or not the recipient of the subpoena is the accused in the proceeding;

(15) Failure to comply with an order issued by the director or an assurance of discontinuance entered into with the director;

(16) Aiding or abetting an unlicensed person to practice if a license is required;

(17) Misrepresentation or fraud in any aspect of the conduct of the business or profession;

(18) Failure to adequately supervise employees to the extent that the public health or safety is at risk;

(19) Interference with an investigation or disciplinary proceeding by willful misrepresentation of facts before the director or the director's authorized representative, or by the use of threats or harassment against any client or witness to prevent them from providing evidence in a disciplinary proceeding or any other legal action;

(20) Assigning or transferring any license issued pursuant to the provisions of this chapter, except as provided in RCW 18.165.050;

(21) Assisting a client to locate, trace, or contact a person when the investigator knows that the client is prohibited by any court order from harassing or contacting the person whom the investigator is being asked to locate, trace, or contact, as it pertains to domestic violence, stalking, or minor children;

(22) Failure to maintain bond or insurance; ~~((or))~~

(23) Failure to have a qualifying principal in place; or

(24) Being certified as not in compliance with a support order or a residential or visitation order as provided in section 802 of this act.

NEW SECTION. Sec. 836. A new section is added to chapter 18.165 RCW to read as follows:

The director shall immediately suspend a license issued under this chapter if the holder has been certified pursuant to section 802 of this act by the department of social and health services as a person who is not in compliance with a support order or a residential or visitation order. If the person has continued to meet all other requirements for reinstatement during the suspension, reissuance of the license shall be automatic upon the director's receipt of a release issued by the department of social and health services stating that the person is in compliance with the order.

Sec. 837. RCW 18.170.170 and 1995 c 277 s 12 are each amended to read as follows:

In addition to the provisions of section 838 of this act, the following acts are prohibited and constitute grounds for disciplinary action, assessing administrative penalties, or denial, suspension, or revocation of any license under this chapter, as deemed appropriate by the director:

(1) Knowingly violating any of the provisions of this chapter or the rules adopted under this chapter;

(2) Practicing fraud, deceit, or misrepresentation in any of the private security activities covered by this chapter;

(3) Knowingly making a material misstatement or omission in the application for a license or firearms certificate;

(4) Not meeting the qualifications set forth in RCW 18.170.030, 18.170.040, or 18.170.060;

(5) Failing to return immediately on demand a firearm issued by an employer;

(6) Carrying a firearm in the performance of his or her duties if not the holder of a valid armed private security guard license, or carrying a firearm not meeting the provisions of this chapter while in the performance of his or her duties;

(7) Failing to return immediately on demand any uniform, badge, or other item of equipment issued to the private security guard by an employer;

(8) Making any statement that would reasonably cause another person to believe that the private security guard is a sworn peace officer;

(9) Divulging confidential information that may compromise the security of any premises, or valuables shipment, or any activity of a client to which he or she was assigned;

(10) Conviction of a gross misdemeanor or felony or the commission of any act involving moral turpitude, dishonesty, or corruption whether the act constitutes a crime or not. If the act constitutes a crime, conviction in a criminal proceeding is not a condition precedent to disciplinary action. Upon such a conviction, however, the judgment and sentence is conclusive evidence at the ensuing disciplinary hearing of the guilt of the license holder or applicant of the crime described in the indictment or information, and of the person's violation of the statute on which it is based. For the purposes of this section, conviction includes all instances in which a plea of guilty or nolo contendere is the basis for the

conviction and all proceedings in which the sentence has been deferred or suspended;

(11) Misrepresentation or concealment of a material fact in obtaining a license or in reinstatement thereof;

(12) Advertising that is false, fraudulent, or misleading;

(13) Incompetence or negligence that results in injury to a person or that creates an unreasonable risk that a person may be harmed;

(14) Suspension, revocation, or restriction of the individual's license to practice the profession by competent authority in any state, federal, or foreign jurisdiction, a certified copy of the order, stipulation, or agreement being conclusive evidence of the revocation, suspension, or restriction;

(15) Failure to cooperate with the director by:

(a) Not furnishing any necessary papers or documents requested by the director for purposes of conducting an investigation for disciplinary action, denial, suspension, or revocation of a license under this chapter;

(b) Not furnishing in writing a full and complete explanation covering the matter contained in a complaint filed with the department; or

(c) Not responding to subpoenas issued by the director, whether or not the recipient of the subpoena is the accused in the proceeding;

(16) Failure to comply with an order issued by the director or an assurance of discontinuance entered into with the disciplining authority;

(17) Aiding or abetting an unlicensed person to practice if a license is required;

(18) Misrepresentation or fraud in any aspect of the conduct of the business or profession;

(19) Failure to adequately supervise employees to the extent that the public health or safety is at risk;

(20) Interference with an investigation or disciplinary proceeding by willful misrepresentation of facts before the director or the director's authorized representative, or by the use of threats or harassment against a client or witness to prevent them from providing evidence in a disciplinary proceeding or any other legal action;

(21) Assigning or transferring any license issued pursuant to the provisions of this chapter, except as provided in RCW 18.170.060;

(22) Failure to maintain insurance; and

(23) Failure to have a qualifying principal in place.

NEW SECTION. Sec. 838. A new section is added to chapter 18.170 RCW to read as follows:

The director shall immediately suspend any license issued under this chapter if the holder has been certified pursuant to section 802 of this act by the department of social and health services as a person who is not in compliance with a support order or a residential or visitation order. If the person has continued to meet all other requirements for reinstatement during the suspension, reissuance of the

license shall be automatic upon the director's receipt of a release issued by the department of social and health services stating that the person is in compliance with the order.

NEW SECTION. Sec. 839. A new section is added to chapter 18.175 RCW to read as follows:

The director shall immediately suspend a certificate of registration issued under this chapter if the holder has been certified pursuant to section 802 of this act by the department of social and health services as a person who is not in compliance with a support order or a residential or visitation order. If the person has continued to meet all other requirements for certification during the suspension, reissuance of the certificate shall be automatic upon the director's receipt of a release issued by the department of social and health services stating that the person is in compliance with the order.

NEW SECTION. Sec. 840. A new section is added to chapter 18.185 RCW to read as follows:

The director shall immediately suspend any license issued under this chapter if the holder has been certified pursuant to section 802 of this act by the department of social and health services as a person who is not in compliance with a support order or a residential or visitation order. If the person has continued to meet all other requirements for reinstatement during the suspension, reissuance of the license shall be automatic upon the director's receipt of a release issued by the department of social and health services stating that the person is in compliance with the order.

Sec. 841. RCW 43.20A.205 and 1989 c 175 s 95 are each amended to read as follows:

This section governs the denial of an application for a license or the suspension, revocation, or modification of a license by the department.

(1) The department shall give written notice of the denial of an application for a license to the applicant or his or her agent. The department shall give written notice of revocation, suspension, or modification of a license to the licensee or his or her agent. The notice shall state the reasons for the action. The notice shall be personally served in the manner of service of a summons in a civil action or shall be given in ~~((an other))~~ another manner that shows proof of receipt.

(2) Except as otherwise provided in this subsection and in subsection (4) of this section, revocation, suspension, or modification is effective twenty-eight days after the licensee or the agent receives the notice.

(a) The department may make the date the action is effective later than twenty-eight days after receipt. If the department does so, it shall state the effective date in the written notice given the licensee or agent.

(b) The department may make the date the action is effective sooner than twenty-eight days after receipt when necessary to protect the public health, safety, or welfare. When the department does so, it shall state the effective date and the

reasons supporting the effective date in the written notice given to the licensee or agent.

(c) When the department has received certification pursuant to chapter 74.20A RCW from the division of child support that the licensee is a person who is not in compliance with a support order or an order from court stating that the licensee is in noncompliance with a residential or visitation order under chapter 26.09 RCW, the department shall provide that the suspension is effective immediately upon receipt of the suspension notice by the licensee.

(3) Except for licensees suspended for noncompliance with a support order under chapter 74.20A RCW or a residential or visitation order under chapter 26.09 RCW, a license applicant or licensee who is aggrieved by a department denial, revocation, suspension, or modification has the right to an adjudicative proceeding. The proceeding is governed by the Administrative Procedure Act, chapter 34.05 RCW. The application must be in writing, state the basis for contesting the adverse action, include a copy of the adverse notice, be served on and received by the department within twenty-eight days of the license applicant's or licensee's receiving the adverse notice, and be served in a manner that shows proof of receipt.

(4)(a) If the department gives a licensee twenty-eight or more days notice of revocation, suspension, or modification and the licensee files an appeal before its effective date, the department shall not implement the adverse action until the final order has been entered. The presiding or reviewing officer may permit the department to implement part or all of the adverse action while the proceedings are pending if the appellant causes an unreasonable delay in the proceeding, if the circumstances change so that implementation is in the public interest, or for other good cause.

(b) If the department gives a licensee less than twenty-eight days notice of revocation, suspension, or modification and the licensee timely files a sufficient appeal, the department may implement the adverse action on the effective date stated in the notice. The presiding or reviewing officer may order the department to stay implementation of part or all of the adverse action while the proceedings are pending if staying implementation is in the public interest or for other good cause.

NEW SECTION. Sec. 842. A new section is added to chapter 28A.410 RCW to read as follows:

Any certificate or permit authorized under this chapter or chapter 28A.405 RCW shall be suspended by the authority authorized to grant the certificate or permit if the department of social and health services certifies that the person is not in compliance with a support order or a residential or visitation order as provided in section 802 of this act. If the person continues to meet other requirements for reinstatement during the suspension, reissuance of the certificate or permit shall be automatic after the person provides the authority a release issued by the department of social and health services stating that the person is in compliance with the order.

Sec. 843. RCW 43.70.115 and 1991 c 3 s 377 are each amended to read as follows:

This section governs the denial of an application for a license or the suspension, revocation, or modification of a license by the department. This section does not govern actions taken under chapter 17.130 RCW.

(1) The department shall give written notice of the denial of an application for a license to the applicant or his or her agent. The department shall give written notice of revocation, suspension, or modification of a license to the licensee or his or her agent. The notice shall state the reasons for the action. The notice shall be personally served in the manner of service of a summons in a civil action or shall be given in ~~((an other [another]))~~ another manner that shows proof of receipt.

(2) Except as otherwise provided in this subsection and in subsection (4) of this section, revocation, suspension, or modification is effective twenty-eight days after the licensee or the agent receives the notice.

(a) The department may make the date the action is effective later than twenty-eight days after receipt. If the department does so, it shall state the effective date in the written notice given the licensee or agent.

(b) The department may make the date the action is effective sooner than twenty-eight days after receipt when necessary to protect the public health, safety, or welfare. When the department does so, it shall state the effective date and the reasons supporting the effective date in the written notice given to the licensee or agent.

(c) When the department has received certification pursuant to chapter 74.20A RCW from the department of social and health services that the licensee is a person who is not in compliance with a child support order or an order from a court stating that the licensee is in noncompliance with a residential or visitation order under chapter 26.09 RCW, the department shall provide that the suspension is effective immediately upon receipt of the suspension notice by the licensee.

(3) Except for licensees suspended for noncompliance with a child support order under chapter 74.20A RCW or noncompliance with a residential or visitation order under chapter 26.09 RCW, a license applicant or licensee who is aggrieved by a department denial, revocation, suspension, or modification has the right to an adjudicative proceeding. The proceeding is governed by the Administrative Procedure Act, chapter 34.05 RCW. The application must be in writing, state the basis for contesting the adverse action, include a copy of the adverse notice, be served on and received by the department within twenty-eight days of the license applicant's or licensee's receiving the adverse notice, and be served in a manner that shows proof of receipt.

(4)(a) If the department gives a licensee twenty-eight or more days notice of revocation, suspension, or modification and the licensee files an appeal before its effective date, the department shall not implement the adverse action until the final order has been entered. The presiding or reviewing officer may permit the department to implement part or all of the adverse action while the proceedings are pending if the appellant causes an unreasonable delay in the proceeding, if the

circumstances change so that implementation is in the public interest, or for other good cause.

(b) If the department gives a licensee less than twenty-eight days notice of revocation, suspension, or modification and the licensee timely files a sufficient appeal, the department may implement the adverse action on the effective date stated in the notice. The presiding or reviewing officer may order the department to stay implementation of part or all of the adverse action while the proceedings are pending if staying implementation is in the public interest or for other good cause.

Sec. 844. RCW 19.28.310 and 1996 c 241 s 5 are each amended to read as follows:

(1) The department has the power, in case of serious noncompliance with the provisions of this chapter, to revoke or suspend for such a period as it determines, any electrical contractor license or electrical contractor administrator certificate issued under this chapter. The department shall notify the holder of the license or certificate of the revocation or suspension by certified mail. A revocation or suspension is effective twenty days after the holder receives the notice. Any revocation or suspension is subject to review by an appeal to the board. The filing of an appeal stays the effect of a revocation or suspension until the board makes its decision. The appeal shall be filed within twenty days after notice of the revocation or suspension is given by certified mail sent to the address of the holder of the license or certificate as shown on the application for the license or certificate, and shall be effected by filing a written notice of appeal with the department, accompanied by a certified check for two hundred dollars, which shall be returned to the holder of the license or certificate if the decision of the department is not sustained by the board. The hearing shall be conducted in accordance with chapter 34.05 RCW. If the board sustains the decision of the department, the two hundred dollars shall be applied by the department to the payment of the per diem and expenses of the members of the board incurred in the matter, and any balance remaining after payment of per diem and expenses shall be paid into the electrical license fund.

(2) The department shall immediately suspend the license or certificate of a person who has been certified pursuant to section 802 of this act by the department of social and health services as a person who is not in compliance with a support order or a residential or visitation order. If the person has continued to meet all other requirements for reinstatement during the suspension, reissuance of the license or certificate shall be automatic upon the department's receipt of a release issued by the department of social and health services stating that the licensee is in compliance with the order.

Sec. 845. RCW 19.28.580 and 1988 c 81 s 15 are each amended to read as follows:

(1) The department may revoke any certificate of competency upon the following grounds:

(a) The certificate was obtained through error or fraud;

(b) The holder thereof is judged to be incompetent to work in the electrical construction trade as a journeyman electrician or specialty electrician;

(c) The holder thereof has violated any of the provisions of RCW 19.28.510 through 19.28.620 or any rule adopted under this chapter.

(2) Before any certificate of competency shall be revoked, the holder shall be given written notice of the department's intention to do so, mailed by registered mail, return receipt requested, to the holder's last known address. The notice shall enumerate the allegations against the holder, and shall give the holder the opportunity to request a hearing before the board. At the hearing, the department and the holder may produce witnesses and give testimony. The hearing shall be conducted in accordance with chapter 34.05 RCW. The board shall render its decision based upon the testimony and evidence presented, and shall notify the parties immediately upon reaching its decision. A majority of the board shall be necessary to render a decision.

(3) The department shall immediately suspend the license or certificate of a person who has been certified pursuant to section 802 of this act by the department of social and health services as a person who is not in compliance with a support order or a residential or visitation order. If the person has continued to meet all other requirements for reinstatement during the suspension, reissuance of the license or certificate shall be automatic upon the department's receipt of a release issued by the department of social and health services stating that the licensee is in compliance with the order.

Sec. 846. RCW 19.30.060 and 1985 c 280 s 6 are each amended to read as follows:

Any person may protest the grant or renewal of a license under this section. The director may revoke, suspend, or refuse to issue or renew any license when it is shown that:

(1) The farm labor contractor or any agent of the contractor has violated or failed to comply with any of the provisions of this chapter;

(2) The farm labor contractor has made any misrepresentations or false statements in his or her application for a license;

(3) The conditions under which the license was issued have changed or no longer exist;

(4) The farm labor contractor, or any agent of the contractor, has violated or wilfully aided or abetted any person in the violation of, or failed to comply with, any law of the state of Washington regulating employment in agriculture, the payment of wages to farm employees, or the conditions, terms, or places of employment affecting the health and safety of farm employees, which is applicable to the business activities, or operations of the contractor in his or her capacity as a farm labor contractor;

(5) The farm labor contractor or any agent of the contractor has in recruiting farm labor solicited or induced the violation of any then existing contract of employment of such laborers; or

(6) The farm labor contractor or any agent of the contractor has an unsatisfied judgment against him or her in any state or federal court, arising out of his or her farm labor contracting activities.

The director shall immediately suspend the license or certificate of a person who has been certified pursuant to section 802 of this act by the department of social and health services as a person who is not in compliance with a support order or a residential or visitation order. If the person has continued to meet all other requirements for reinstatement during the suspension, reissuance of the license or certificate shall be automatic upon the director's receipt of a release issued by the department of social and health services stating that the licensee is in compliance with the order.

Sec. 847. RCW 19.16.120 and 1994 c 195 s 3 are each amended to read as follows:

In addition to other provisions of this chapter, any license issued pursuant to this chapter or any application therefor may be denied, not renewed, revoked, or suspended, or in lieu of or in addition to suspension a licensee may be assessed a civil, monetary penalty in an amount not to exceed one thousand dollars:

(1) If an individual applicant or licensee is less than eighteen years of age or is not a resident of this state.

(2) If an applicant or licensee is not authorized to do business in this state.

(3) If the application or renewal forms required by this chapter are incomplete, fees required under RCW 19.16.140 and 19.16.150, if applicable, have not been paid, and the surety bond or cash deposit or other negotiable security acceptable to the director required by RCW 19.16.190, if applicable, has not been filed or renewed or is canceled.

(4) If any individual applicant, owner, officer, director, or managing employee of a nonindividual applicant or licensee:

(a) Shall have knowingly made a false statement of a material fact in any application for a collection agency license or an out-of-state collection agency license or renewal thereof, or in any data attached thereto and two years have not elapsed since the date of such statement;

(b) Shall have had a license to engage in the business of a collection agency or out-of-state collection agency denied, not renewed, suspended, or revoked by this state, any other state, or foreign country, for any reason other than the nonpayment of licensing fees or failure to meet bonding requirements: PROVIDED, That the terms of this subsection shall not apply if:

(i) Two years have elapsed since the time of any such denial, nonrenewal, or revocation; or

(ii) The terms of any such suspension have been fulfilled;

(c) Has been convicted in any court of any felony involving forgery, embezzlement, obtaining money under false pretenses, larceny, extortion, or conspiracy to defraud and is incarcerated for that offense or five years have not elapsed since the date of such conviction;

(d) Has had any judgment entered against him in any civil action involving forgery, embezzlement, obtaining money under false pretenses, larceny, extortion, or conspiracy to defraud and five years have not elapsed since the date of the entry of the final judgment in said action: PROVIDED, That in no event shall a license be issued unless the judgment debt has been discharged;

(e) Has had his license to practice law suspended or revoked and two years have not elapsed since the date of such suspension or revocation, unless he has been relicensed to practice law in this state;

(f) Has had any judgment entered against him or it under the provisions of RCW 19.86.080 or 19.86.090 involving a violation or violations of RCW 19.86.020 and two years have not elapsed since the entry of the final judgment: PROVIDED, That in no event shall a license be issued unless the terms of such judgment, if any, have been fully complied with: PROVIDED FURTHER, That said judgment shall not be grounds for denial, suspension, nonrenewal, or revocation of a license unless the judgment arises out of and is based on acts of the applicant, owner, officer, director, managing employee, or licensee while acting for or as a collection agency or an out-of-state collection agency;

(g) Has petitioned for bankruptcy, and two years have not elapsed since the filing of said petition;

(h) Shall be insolvent in the sense that his or its liabilities exceed his or its assets or in the sense that he or it cannot meet his or its obligations as they mature;

(i) Has failed to pay any civil, monetary penalty assessed in accordance with RCW 19.16.351 or 19.16.360 within ten days after the assessment becomes final;

(j) Has knowingly failed to comply with, or violated any provisions of this chapter or any rule or regulation issued pursuant to this chapter, and two years have not elapsed since the occurrence of said noncompliance or violation; or

(k) Has been found by a court of competent jurisdiction to have violated the federal fair debt collection practices act, 15 U.S.C. Sec. 1692 et seq., or the Washington state consumer protection act, chapter 19.86 RCW, and two years have not elapsed since that finding.

Except as otherwise provided in this section, any person who is engaged in the collection agency business as of January 1, 1972 shall, upon filing the application, paying the fees, and filing the surety bond or cash deposit or other negotiable security in lieu of bond required by this chapter, be issued a license ((hereunder)) under this chapter.

The director shall immediately suspend the license or certificate of a person who has been certified pursuant to section 802 of this act by the department of social and health services as a person who is not in compliance with a support order or a residential or visitation order. If the person has continued to meet all other requirements for reinstatement during the suspension, reissuance of the license or certificate shall be automatic upon the director's receipt of a release issued by the department of social and health services stating that the licensee is in compliance with the order.

Sec. 848. RCW 19.31.130 and 1969 ex.s. c 228 s 13 are each amended to read as follows:

(1) In accordance with the provisions of chapter 34.05 RCW as now or as hereafter amended, the director may by order deny, suspend or revoke the license of any employment agency if he finds that the applicant or licensee:

~~((1))~~ (a) Was previously the holder of a license issued under this chapter, which was revoked for cause and never reissued by the director, or which license was suspended for cause and the terms of the suspension have not been fulfilled;

~~((2))~~ (b) Has been found guilty of any felony within the past five years involving moral turpitude, or for any misdemeanor concerning fraud or conversion, or suffering any judgment in any civil action involving wilful fraud, misrepresentation or conversion;

~~((3))~~ (c) Has made a false statement of a material fact in his application or in any data attached thereto;

~~((4))~~ (d) Has violated any provisions of this chapter, or failed to comply with any rule or regulation issued by the director pursuant to this chapter.

(2) The director shall immediately suspend the license or certificate of a person who has been certified pursuant to section 802 of this act by the department of social and health services as a person who is not in compliance with a support order or a residential or visitation order. If the person has continued to meet all other requirements for reinstatement during the suspension, reissuance of the license or certificate shall be automatic upon the director's receipt of a release issued by the department of social and health services stating that the licensee is in compliance with the order.

Sec. 849. RCW 19.32.060 and 1943 c 117 s 5 are each amended to read as follows:

(1) The director of agriculture may cancel or suspend any such license if he finds after proper investigation that (a) the licensee has violated any provision of this chapter or of any other law of this state relating to the operation of refrigerated lockers or of the sale of any human food in connection therewith, or any regulation effective under any act the administration of which is in the charge of the department of agriculture, or (b) the licensed refrigerated locker premises or any equipment used therein or in connection therewith is in an unsanitary condition and the licensee has failed or refused to remedy the same within ten days after receipt from the director of agriculture of written notice to do so.

(2) No license shall be revoked or suspended by the director without delivery to the licensee of a written statement of the charge involved and an opportunity to answer such charge within ten days from the date of such notice.

(3) Any order made by the director suspending or revoking any license may be reviewed by certiorari in the superior court of the county in which the licensed premises are located, within ten days from the date notice in writing of the director's order revoking or suspending such license has been served upon him.

(4) The director shall immediately suspend the license or certificate of a person who has been certified pursuant to section 802 of this act by the department of social and health services as a person who is not in compliance with a support order or a residential or visitation order. If the person has continued to meet all other requirements for reinstatement during the suspension, reissuance of the license or certificate shall be automatic upon the director's receipt of a release issued by the department of social and health services stating that the licensee is in compliance with the order.

Sec. 850. RCW 19.105.380 and 1988 c 159 s 14 are each amended to read as follows:

(1) A registration or an application for registration of camping resort contracts or renewals thereof may by order be denied, suspended, or revoked if the director finds that:

(a) The advertising, sales techniques, or trade practices of the applicant, registrant, or its affiliate or agent have been or are deceptive, false, or misleading;

(b) The applicant or registrant has failed to file copies of the camping resort contract form under RCW 19.105.360;

(c) The applicant, registrant, or affiliate has failed to comply with any provision of this chapter, the rules adopted or the conditions of a permit granted under this chapter, or a stipulation or final order previously entered into by the operator or issued by the department under this chapter;

(d) The applicant's, registrant's, or affiliate's offering of camping resort contracts has worked or would work a fraud upon purchasers or owners of camping resort contracts;

(e) The camping resort operator or any officer, director, or affiliate of the camping resort operator has been within the last five years convicted of or pleaded nolo contendere to any misdemeanor or felony involving conversion, embezzlement, theft, fraud, or dishonesty, has been enjoined from or had any civil penalty assessed for a finding of dishonest dealing or fraud in a civil suit, or been found to have engaged in any violation of any act designed to protect consumers, or has been engaged in dishonest practices in any industry involving sales to consumers;

(f) The applicant or registrant has represented or is representing to purchasers in connection with the offer or sale of a camping resort contract that a camping resort property, facility, amenity camp site, or other development is planned, promised, or required, and the applicant or registrant has not provided the director with a security or assurance of performance as required by this chapter;

(g) The applicant or registrant has not provided or is no longer providing the director with the necessary security arrangements to assure future availability of titles or properties as required by this chapter or agreed to in the permit to market;

(h) The applicant or registrant is or has been employing unregistered salespersons or offering or proposing a membership referral program not in compliance with this chapter;

(i) The applicant or registrant has breached any escrow, impound, reserve account, or trust arrangement or the conditions of an order or permit to market required by this chapter;

(j) The applicant or registrant has breached any stipulation or order entered into in settlement of the department's filing of a previous administrative action;

(k) The applicant or registrant has filed or caused to be filed with the director any document or affidavit, or made any statement during the course of a registration or exemption procedure with the director, that is materially untrue or misleading;

(l) The applicant or registrant has engaged in a practice of failing to provide the written disclosures to purchasers or prospective purchasers as required under this chapter;

(m) The applicant, registrant, or any of its officers, directors, or employees, if the operator is other than a natural person, have wilfully done, or permitted any of their salespersons or agents to do, any of the following:

(i) Engage in a pattern or practice of making untrue or misleading statements of a material fact, or omitting to state a material fact;

(ii) Employ any device, scheme, or artifice to defraud purchasers or members;

(iii) Engage in a pattern or practice of failing to provide the written disclosures to purchasers or prospective purchasers as required under this chapter;

(n) The applicant or registrant has failed to provide a bond, letter of credit, or other arrangement to assure delivery of promised gifts, prizes, awards, or other items of consideration, as required under this chapter, breached such a security arrangement, or failed to maintain such a security arrangement in effect because of a resignation or loss of a trustee, impound, or escrow agent;

(o) The applicant or registrant has engaged in a practice of selling contracts using material amendments or codicils that have not been filed or are the consequences of breaches or alterations in previously filed contracts;

(p) The applicant or registrant has engaged in a practice of selling or proposing to sell contracts in a ratio of contracts to sites available in excess of that filed in the affidavit required by this chapter;

(q) The camping resort operator has withdrawn, has the right to withdraw, or is proposing to withdraw from use all or any portion of any camping resort property devoted to the camping resort program, unless:

(i) Adequate provision has been made to provide within a reasonable time thereafter a substitute property in the same general area that is at least as desirable for the purpose of camping and outdoor recreation;

(ii) The property is withdrawn because, despite good faith efforts by the camping resort operator, a nonaffiliate of the camping resort has exercised a right of withdrawal from use by the camping resort (such as withdrawal following expiration of a lease of the property to the camping resort) and the terms of the withdrawal right have been disclosed in writing to all purchasers at or prior to the time of any sales of camping resort contracts after the camping resort has

represented to purchasers that the property is or will be available for camping or recreation purposes;

(iii) The specific date upon which the withdrawal becomes effective has been disclosed in writing to all purchasers and members prior to the time of any sales of camping resort contracts after the camping resort has represented to purchasers that the property is or will be available for camping or recreation purposes;

(iv) The rights of members and owners of the camping resort contracts under the express terms of the camping resort contract have expired, or have been specifically limited, upon the lapse of a stated or determinable period of time, and the director by order has found that the withdrawal is not otherwise inconsistent with the protection of purchasers or the desire of the majority of the owners of camping resort contracts, as expressed in their previously obtained vote of approval;

(r) The format, form, or content of the written disclosures provided therein is not complete, full, or materially accurate, or statements made therein are materially false, misleading, or deceptive;

(s) The applicant or registrant has failed or declined to respond to any subpoena lawfully issued and served by the department under this chapter;

(t) The applicant or registrant has failed to file an amendment for a material change in the manner or at the time required under this chapter or its implementing rules;

(u) The applicant or registrant has filed voluntarily or been placed involuntarily into a federal bankruptcy or is proposing to do so; or

(v) A camping resort operator's rights or interest in a campground has been terminated by foreclosure or the operations in a camping resort have been terminated in a manner contrary to contract provisions.

(2) Any applicant or registrant who has violated subsection (1)(a), (b), (c), (f), (h), (i), (j), (l), (m), or (n) of this section may be fined by the director in an amount not to exceed one thousand dollars for each such violation. Proceedings seeking such fines shall be held in accordance with chapter 34.05 RCW and may be filed either separately or in conjunction with other administrative proceedings to deny, suspend, or revoke registrations authorized under this chapter. Fines collected from such proceedings shall be deposited in the state general fund.

(3) An operator, registrant, or applicant against whom administrative or legal proceedings have been filed shall be responsible for and shall reimburse the state, by payment into the general fund, for all administrative and legal costs actually incurred by the department in issuing, processing, and conducting any such administrative or legal proceeding authorized under this chapter that results in a final legal or administrative determination of any type or degree in favor of the department.

(4) No order may be entered under this section without appropriate prior notice to the applicant or registrant of opportunity for a hearing and written findings of fact and conclusions of law, except that the director may by order

summarily deny an application for registration or renewal under any of the above subsections and may summarily suspend or revoke a registration under subsection (l)(d), (f), (g), (h), (i), (k), (l), (m), and (n) of this section. No fine may be imposed by summary order.

(5) The proceedings to deny an application or renewal, suspend or revoke a registration or permit, whether summarily or otherwise, or impose a fine shall be held in accordance with chapter 34.05 RCW.

(6) The director may enter into assurances of discontinuance in lieu of issuing a statement of charges or a cease and desist order or conducting a hearing under this chapter. The assurances shall consist of a statement of the law in question and an agreement not to violate the stated provision. The applicant or registrant shall not be required to admit to any violation of the law, nor shall the assurance be construed as such an admission. Violating or breaching an assurance under this subsection is grounds for suspension or revocation of registration or imposition of a fine.

(7) The director shall immediately suspend the license or certificate of a person who has been certified pursuant to section 802 of this act by the department of social and health services as a person who is not in compliance with a support order or a residential or visitation order. If the person has continued to meet all other requirements for reinstatement during the suspension, reissuance of the license or certificate shall be automatic upon the director's receipt of a release issued by the department of social and health services stating that the licensee is in compliance with the order.

Sec. 851. RCW 19.105.440 and 1988 c 159 s 21 are each amended to read as follows:

(1) A salesperson may apply for registration by filing in a complete and readable form with the director an application form provided by the director which includes the following:

(a) A statement whether or not the applicant within the past five years has been convicted of, pleaded nolo contendere to, or been ordered to serve probation for a period of a year or more for any misdemeanor or felony involving conversion, embezzlement, theft, fraud, or dishonesty or the applicant has been enjoined from, had any civil penalty assessed for, or been found to have engaged in any violation of any act designed to protect consumers;

(b) A statement fully describing the applicant's employment history for the past five years and whether or not any termination of employment during the last five years was the result of any theft, fraud, or act of dishonesty;

(c) A consent to service comparable to that required of operators under this chapter; and

(d) Required filing fees.

(2) The director may by order deny, suspend, or revoke a camping resort salesperson's registration or application for registration under this chapter or the person's license or application under chapter 18.85 RCW, or impose a fine on such

persons not exceeding two hundred dollars per violation, if the director finds that the order is necessary for the protection of purchasers or owners of camping resort contracts and the applicant or registrant is guilty of:

(a) Obtaining registration by means of fraud, misrepresentation, or concealment, or through the mistake or inadvertence of the director;

(b) Violating any of the provisions of this chapter or any lawful rules adopted by the director pursuant thereto;

(c) Being convicted in a court of competent jurisdiction of this or any other state, or federal court, of forgery, embezzlement, obtaining money under false pretenses, bribery, larceny, extortion, conspiracy to defraud, or any similar offense or offenses. For the purposes of this section, "being convicted" includes all instances in which a plea of guilty or nolo contendere is the basis for the conviction, and all proceedings in which the sentence has been deferred or suspended;

(d) Making, printing, publishing, distributing, or causing, authorizing, or knowingly permitting the making, printing, publication, or distribution of false statements, descriptions, or promises of such character as to reasonably induce any person to act thereon, if the statements, descriptions, or promises purport to be made or to be performed by either the applicant or registrant and the applicant or registrant then knew or, by the exercise of reasonable care and inquiry, could have known, of the falsity of the statements, descriptions, or promises;

(e) Knowingly committing, or being a party to, any material fraud, misrepresentation, concealment, conspiracy, collusion, trick, scheme, or device whereby any other person lawfully relies upon the work, representation, or conduct of the applicant or registrant;

(f) Failing, upon demand, to disclose to the director or the director's authorized representatives acting by authority of law any information within his or her knowledge or to produce for inspection any document, book or record in his or her possession, which is material to the salesperson's registration or application for registration;

(g) Continuing to sell camping resort contracts in a manner whereby the interests of the public are endangered, if the director has, by order in writing, stated objections thereto;

(h) Committing any act of fraudulent or dishonest dealing or a crime involving moral turpitude, and a certified copy of the final holding of any court of competent jurisdiction in such matter shall be conclusive evidence in any hearing under this chapter;

(i) Misrepresentation of membership in any state or national association; or

(j) Discrimination against any person in hiring or in sales activity on the basis of race, color, creed, or national origin, or violating any state or federal antidiscrimination law.

(3) No order may be entered under this section without appropriate prior notice to the applicant or registrant of opportunity for a hearing and written

findings of fact and conclusions of law, except that the director may by order summarily deny an application for registration under this section.

(4) The proceedings to deny an application or renewal, suspend or revoke a registration or permit, whether summarily or otherwise, or impose a fine shall be held in accordance with chapter 34.05 RCW.

(5) The director, subsequent to any complaint filed against a salesperson or pursuant to an investigation to determine violations, may enter into stipulated assurances of discontinuances in lieu of issuing a statement of charges or a cease and desist order or conducting a hearing. The assurance shall consist of a statement of the law in question and an agreement not to violate the stated provision. The salesperson shall not be required to admit to any violation of the law, nor shall the assurance be construed as such an admission. Violation of an assurance under this subsection is grounds for a disciplinary action, a suspension of registration, or a fine not to exceed one thousand dollars.

(6) The director may by rule require such further information or conditions for registration as a camping resort salesperson, including qualifying examinations and fingerprint cards prepared by authorized law enforcement agencies, as the director deems necessary to protect the interests of purchasers.

(7) Registration as a camping resort salesperson shall be effective for a period of one year unless the director specifies otherwise or the salesperson transfers employment to a different registrant. Registration as a camping resort salesperson shall be renewed annually, or at the time of transferring employment, whichever occurs first, by the filing of a form prescribed by the director for that purpose.

(8) It is unlawful for a registrant of camping resort contracts to employ or a person to act as a camping resort salesperson covered under this section unless the salesperson has in effect with the department and displays a valid registration in a conspicuous location at each of the sales offices at which the salesperson is employed. It is the responsibility of both the operator and the salesperson to notify the department when and where a salesperson is employed, his or her responsibilities and duties, and when the salesperson's employment or reported duties are changed or terminated.

(9) The director shall immediately suspend the license or certificate of a person who has been certified pursuant to section 802 of this act by the department of social and health services as a person who is not in compliance with a support order or a residential or visitation order. If the person has continued to meet all other requirements for reinstatement during the suspension, reissuance of the license or certificate shall be automatic upon the director's receipt of a release issued by the department of social and health services stating that the licensee is in compliance with the order.

Sec. 852. RCW 19.138.130 and 1996 c 180 s 6 are each amended to read as follows:

(1) The director may deny, suspend, or revoke the registration of a seller of travel if the director finds that the applicant:

(a) Was previously the holder of a registration issued under this chapter, and the registration was revoked for cause and never reissued by the director, or the registration was suspended for cause and the terms of the suspension have not been fulfilled;

(b) Has been found guilty of a felony within the past five years involving moral turpitude, or of a misdemeanor concerning fraud or conversion, or suffers a judgment in a civil action involving willful fraud, misrepresentation, or conversion;

(c) Has made a false statement of a material fact in an application under this chapter or in data attached to it;

(d) Has violated this chapter or failed to comply with a rule adopted by the director under this chapter;

(e) Has failed to display the registration as provided in this chapter;

(f) Has published or circulated a statement with the intent to deceive, misrepresent, or mislead the public; or

(g) Has committed a fraud or fraudulent practice in the operation and conduct of a travel agency business, including, but not limited to, intentionally misleading advertising.

(2) If the seller of travel is found in violation of this chapter or in violation of the consumer protection act, chapter 19.86 RCW, by the entry of a judgment or by settlement of a claim, the director may revoke the registration of the seller of travel, and the director may reinstate the registration at the director's discretion.

(3) The director shall immediately suspend the license or certificate of a person who has been certified pursuant to section 802 of this act by the department of social and health services as a person who is not in compliance with a support order or a residential or visitation order. If the person has continued to meet all other requirements for reinstatement during the suspension, reissuance of the license or certificate shall be automatic upon the director's receipt of a release issued by the department of social and health services stating that the licensee is in compliance with the order.

Sec. 853. RCW 19.158.050 and 1989 c 20 s 5 are each amended to read as follows:

(1) In order to maintain or defend a lawsuit or do any business in this state, a commercial telephone solicitor must be registered with the department of licensing. Prior to doing business in this state, a commercial telephone solicitor shall register with the department of licensing. Doing business in this state includes both commercial telephone solicitation from a location in Washington and solicitation of purchasers located in Washington.

(2) The department of licensing, in registering commercial telephone solicitors, shall have the authority to require the submission of information necessary to assist in identifying and locating a commercial telephone solicitor, including past business history, prior judgments, and such other information as may be useful to purchasers.

(3) The department of licensing shall issue a registration number to the commercial telephone solicitor.

(4) It is a violation of this chapter for a commercial telephone solicitor to:

(a) Fail to maintain a valid registration;

(b) Advertise that one is registered as a commercial telephone solicitor or to represent that such registration constitutes approval or endorsement by any government or governmental office or agency;

(c) Provide inaccurate or incomplete information to the department of licensing when making a registration application; or

(d) Represent that a person is registered or that such person has a valid registration number when such person does not.

(5) An annual registration fee shall be assessed by the department of licensing, the amount of which shall be determined at the discretion of the director of the department of licensing, and which shall be reasonably related to the cost of administering the provisions of this chapter.

(6) The department shall immediately suspend the license or certificate of a person who has been certified pursuant to section 802 of this act by the department of social and health services as a person who is not in compliance with a support order or a residential or visitation order. If the person has continued to meet all other requirements for reinstatement during the suspension, reissuance of the license or certificate shall be automatic upon the department's receipt of a release issued by the department of social and health services stating that the licensee is in compliance with the order.

Sec. 854. RCW 19.166.040 and 1995 c 60 s 2 are each amended to read as follows:

(1) An application for registration as an international student exchange visitor placement organization shall be submitted in the form prescribed by the secretary of state. The application shall include:

(a) Evidence that the organization meets the standards established by the secretary of state under RCW 19.166.050;

(b) The name, address, and telephone number of the organization, its chief executive officer, and the person within the organization who has primary responsibility for supervising placements within the state;

(c) The organization's unified business identification number, if any;

(d) The organization's United States Information Agency number, if any;

(e) Evidence of council on standards for international educational travel listing, if any;

(f) Whether the organization is exempt from federal income tax; and

(g) A list of the organization's placements in Washington for the previous academic year including the number of students placed, their home countries, the school districts in which they were placed, and the length of their placements.

(2) The application shall be signed by the chief executive officer of the organization and the person within the organization who has primary responsibility

for supervising placements within Washington. If the secretary of state determines that the application is complete, the secretary of state shall file the application and the applicant is registered.

(3) International student exchange visitor placement organizations that have registered shall inform the secretary of state of any changes in the information required under subsection (1) of this section within thirty days of the change.

(4) Registration shall be renewed annually as established by rule by the office of the secretary of state.

(5) The office of the secretary of state shall immediately suspend the license or certificate of a person who has been certified pursuant to section 802 of this act by the department of social and health services as a person who is not in compliance with a support order or a residential or visitation order. If the person has continued to meet all other requirements for reinstatement during the suspension, reissuance of the license or certificate shall be automatic upon the office of the secretary of state's receipt of a release issued by the department of social and health services stating that the licensee is in compliance with the order.

NEW SECTION. Sec. 855. A new section is added to chapter 20.01 RCW to read as follows:

The director shall immediately suspend the license or certificate of a person who has been certified pursuant to section 802 of this act by the department of social and health services as a person who is not in compliance with a support order or a residential or visitation order. If the person has continued to meet all other requirements for reinstatement during the suspension, reissuance of the license or certificate shall be automatic upon the director's receipt of a release issued by the department of social and health services stating that the licensee is in compliance with the order.

Sec. 856. RCW 21.20.110 and 1994 c 256 s 10 are each amended to read as follows:

The director may by order deny, suspend, or revoke registration of any broker-dealer, salesperson, investment adviser representative, or investment adviser; censure or fine the registrant or an officer, director, partner, or person occupying similar functions for a registrant; or restrict or limit a registrant's function or activity of business for which registration is required in this state; if the director finds that the order is in the public interest and that the applicant or registrant or, in the case of a broker-dealer or investment adviser, any partner, officer, or director:

(1) Has filed an application for registration under this section which, as of its effective date, or as of any date after filing in the case of an order denying effectiveness, was incomplete in any material respect or contained any statement which was, in the light of the circumstances under which it was made, false, or misleading with respect to any material fact;

(2) Has willfully violated or willfully failed to comply with any provision of this chapter or a predecessor act or any rule or order under this chapter or a

predecessor act, or any provision of chapter 21.30 RCW or any rule or order thereunder;

(3) Has been convicted, within the past five years, of any misdemeanor involving a security, or a commodity contract or commodity option as defined in RCW 21.30.010, or any aspect of the securities or investment commodities business, or any felony involving moral turpitude;

(4) Is permanently or temporarily enjoined by any court of competent jurisdiction from engaging in or continuing any conduct or practice involving any aspect of the securities or investment commodities business;

(5) Is the subject of an order of the director denying, suspending, or revoking registration as a broker-dealer, salesperson, investment adviser, or investment adviser representative;

(6) Is the subject of an order entered within the past five years by the securities administrator of any other state or by the federal securities and exchange commission denying or revoking registration as a broker-dealer or salesperson, or a commodity broker-dealer or sales representative, or the substantial equivalent of those terms as defined in this chapter or by the commodity futures trading commission denying or revoking registration as a commodity merchant as defined in RCW 21.30.010, or is the subject of an order of suspension or expulsion from membership in or association with a self-regulatory organization registered under the securities exchange act of 1934 or the federal commodity exchange act, or is the subject of a United States post office fraud order; but (a) the director may not institute a revocation or suspension proceeding under this clause more than one year from the date of the order relied on, and (b) the director may not enter any order under this clause on the basis of an order unless that order was based on facts which would currently constitute a ground for an order under this section;

(7) Has engaged in dishonest or unethical practices in the securities or investment commodities business;

(8) Is insolvent, either in the sense that his or her liabilities exceed his or her assets or in the sense that he or she cannot meet his or her obligations as they mature; but the director may not enter an order against a broker-dealer or investment adviser under this clause without a finding of insolvency as to the broker-dealer or investment adviser;

(9) Has not complied with a condition imposed by the director under RCW 21.20.100, or is not qualified on the basis of such factors as training, experience, or knowledge of the securities business; or

(10)(a) Has failed to supervise reasonably a salesperson or an investment adviser representative. For the purposes of this subsection, no person fails to supervise reasonably another person, if:

(i) There are established procedures, and a system for applying those procedures, that would reasonably be expected to prevent and detect, insofar as practicable, any violation by another person of this chapter, or a rule or order under this chapter; and

(ii) The supervising person has reasonably discharged the duties and obligations required by these procedures and system without reasonable cause to believe that another person was violating this chapter or rules or orders under this chapter.

(b) The director may issue a summary order pending final determination of a proceeding under this section upon a finding that it is in the public interest and necessary or appropriate for the protection of investors. The director may not impose a fine under this section except after notice and opportunity for hearing. The fine imposed under this section may not exceed five thousand dollars for each act or omission that constitutes the basis for issuing the order.

The director shall immediately suspend the license or certificate of a person who has been certified pursuant to section 802 of this act by the department of social and health services as a person who is not in compliance with a support order or a residential or visitation order. If the person has continued to meet all other requirements for reinstatement during the suspension, reissuance of the license or certificate shall be automatic upon the director's receipt of a release issued by the department of social and health services stating that the licensee is in compliance with the order.

NEW SECTION. Sec. 857. A new section is added to chapter 48.17 RCW to read as follows:

The commissioner shall immediately suspend the license or certificate of a person who has been certified pursuant to section 802 of this act by the department of social and health services as a person who is not in compliance with a support order or a residential or visitation order. If the person has continued to meet all other requirements for reinstatement during the suspension, reissuance of the license or certificate shall be automatic upon the commissioner's receipt of a release issued by the department of social and health services stating that the licensee is in compliance with the order.

NEW SECTION. Sec. 858. A new section is added to chapter 74.15 RCW to read as follows:

The secretary shall immediately suspend the license or certificate of a person who has been certified pursuant to section 802 of this act by the department of social and health services as a person who is not in compliance with a support order or a residential or visitation order. If the person has continued to meet all other requirements for reinstatement during the suspension, reissuance of the license or certificate shall be automatic upon the secretary's receipt of a release issued by the department of social and health services stating that the licensee is in compliance with the order.

NEW SECTION. Sec. 859. A new section is added to chapter 47.68 RCW to read as follows:

The department shall immediately suspend the license or certificate of a person who has been certified pursuant to section 802 of this act by the department of social and health services as a person who is not in compliance with a support

order or a residential or visitation order. If the person has continued to meet all other requirements for reinstatement during the suspension, reissuance of the license or certificate shall be automatic upon the department's receipt of a release issued by the department of social and health services stating that the licensee is in compliance with the order.

NEW SECTION. Sec. 860. A new section is added to chapter 71.12 RCW to read as follows:

The department of health shall immediately suspend the license or certificate of a person who has been certified pursuant to section 802 of this act by the department of social and health services as a person who is not in compliance with a support order or a residential or visitation order. If the person has continued to meet all other requirements for reinstatement during the suspension, reissuance of the license or certificate shall be automatic upon the department of health's receipt of a release issued by the department of social and health services stating that the licensee is in compliance with the order.

NEW SECTION. Sec. 861. A new section is added to chapter 66.20 RCW to read as follows:

The board shall immediately suspend the license of a person who has been certified pursuant to section 802 of this act by the department of social and health services as a person who is not in compliance with a support order or a residential or visitation order. If the person has continued to meet all other requirements for reinstatement during the suspension, reissuance of the license shall be automatic upon the board's receipt of a release issued by the department of social and health services stating that the licensee is in compliance with the order.

NEW SECTION. Sec. 862. A new section is added to chapter 66.24 RCW to read as follows:

The board shall immediately suspend the license of a person who has been certified pursuant to section 802 of this act by the department of social and health services as a person who is not in compliance with a support order or a residential or visitation order. If the person has continued to meet all other requirements for reinstatement during the suspension, reissuance of the license shall be automatic upon the board's receipt of a release issued by the department of social and health services stating that the licensee is in compliance with the order.

NEW SECTION. Sec. 863. A new section is added to chapter 88.02 RCW to read as follows:

The department shall immediately suspend the vessel registration or vessel dealer's registration of a person who has been certified pursuant to section 802 of this act by the department of social and health services as a person who is not in compliance with a support order or a residential or visitation order. If the person has continued to meet all other requirements for reinstatement during the suspension, reissuance of the registration shall be automatic upon the department's

receipt of a release issued by the department of social and health services stating that the licensee is in compliance with the order.

Sec. 864. RCW 67.08.100 and 1993 c 278 s 20 are each amended to read as follows:

(1) The department may grant annual licenses upon application in compliance with the rules and regulations prescribed by the director, and the payment of the fees, the amount of which is to be set by the director in accordance with RCW 43.24.086, prescribed to promoters, managers, referees, boxers, wrestlers, and seconds: PROVIDED, That the provisions of this section shall not apply to contestants or participants in strictly amateur contests and/or fraternal organizations and/or veterans' organizations chartered by congress or the defense department or any bona fide athletic club which is a member of the Pacific northwest association of the amateur athletic union of the United States, holding and promoting athletic contests and where all funds are used primarily for the benefit of their members.

(2) Any such license may be revoked by the department for any cause which it shall deem sufficient.

(3) No person shall participate or serve in any of the above capacities unless licensed as provided in this chapter.

(4) The referee for any boxing contest shall be designated by the department from among such licensed referees.

(5) The referee for any wrestling exhibition or show shall be provided by the promoter and licensed by the department.

(6) The department shall immediately suspend the license or certificate of a person who has been certified pursuant to section 802 of this act by the department of social and health services as a person who is not in compliance with a support order or a residential or visitation order. If the person has continued to meet all other requirements for reinstatement during the suspension, reissuance of the license or certificate shall be automatic upon the department's receipt of a release issued by the department of social and health services stating that the licensee is in compliance with the order.

Sec. 865. RCW 19.02.100 and 1991 c 72 s 8 are each amended to read as follows:

(1) The department shall not issue or renew a master license to any person if:

(a) The person does not have a valid tax registration, if required;

(b) The person is a corporation delinquent in fees or penalties owing to the secretary of state or is not validly registered under Title 23B RCW, chapter 18.100 RCW, Title 24 RCW, and any other statute now or hereafter adopted which gives corporate or business licensing responsibilities to the secretary of state; or

(c) The person has not submitted the sum of all fees and deposits required for the requested individual license endorsements, any outstanding master license delinquency fee, or other fees and penalties to be collected through the system.

(2) Nothing in this section shall prevent registration by the state of an employer for the purpose of paying an employee of that employer industrial insurance or unemployment insurance benefits.

(3) The department shall immediately suspend the license or certificate of a person who has been certified pursuant to section 802 of this act by the department of social and health services as a person who is not in compliance with a support order or a residential or visitation order. If the person has continued to meet all other requirements for reinstatement during the suspension, reissuance of the license or certificate shall be automatic upon the department's receipt of a release issued by the department of social and health services stating that the licensee is in compliance with the order.

Sec. 866. RCW 43.24.080 and 1979 c 158 s 99 are each amended to read as follows:

Except as provided in section 869 of this act, at the close of each examination the department of licensing shall prepare the proper licenses, where no further fee is required to be paid, and issue licenses to the successful applicants signed by the director and notify all successful applicants, where a further fee is required, of the fact that they are entitled to receive such license upon the payment of such further fee to the department of licensing and notify all applicants who have failed to pass the examination of that fact.

Sec. 867. RCW 43.24.110 and 1986 c 259 s 149 are each amended to read as follows:

Except as provided in section 869 of this act, whenever there is filed in a matter under the jurisdiction of the director of licensing any complaint charging that the holder of a license has been guilty of any act or omission which by the provisions of the law under which the license was issued would warrant the revocation thereof, verified in the manner provided by law, the director of licensing shall request the governor to appoint, and the governor shall appoint within thirty days of the request, two qualified practitioners of the profession or calling of the person charged, who, with the director or his duly appointed representative, shall constitute a committee to hear and determine the charges and, in case the charges are sustained, impose the penalty provided by law. In addition, the governor shall appoint a consumer member of the committee.

The decision of any three members of such committee shall be the decision of the committee.

The appointed members of the committee shall be compensated in accordance with RCW 43.03.240 and shall be reimbursed for their travel expenses, in accordance with RCW 43.03.050 and 43.03.060.

Sec. 868. RCW 43.24.120 and 1987 c 202 s 212 are each amended to read as follows:

Except as provided in section 869 of this act, any person feeling aggrieved by the refusal of the director to issue a license, or to renew one, or by the revocation or suspension of a license shall have a right of appeal to superior court from the

decision of the director of licensing, which shall be taken, prosecuted, heard, and determined in the manner provided in chapter 34.05 RCW.

The decision of the superior court may be reviewed by the supreme court or the court of appeals in the same manner as other civil cases.

NEW SECTION. Sec. 869. A new section is added to chapter 43.24 RCW to read as follows:

The department shall immediately suspend any license issued by the department of licensing of a person who has been certified pursuant to section 802 of this act by the department of social and health services as a person who is not in compliance with a support order or a residential or visitation order. If the person has continued to meet all other requirements for reinstatement during the suspension, reissuance of the license shall be automatic upon the department's receipt of a release issued by the department of social and health services stating that the licensee is in compliance with the order.

Sec. 870. RCW 70.74.110 and 1988 c 198 s 5 are each amended to read as follows:

All persons engaged in the manufacture of explosives, or any process involving explosives, or where explosives are used as a component part in the manufacture of any article or device, on ~~((the date when this 1969 amendatory act takes effect))~~ August 11, 1969, shall within sixty days thereafter, and all persons engaging in the manufacture of explosives, or any process involving explosives, or where explosives are used as a component part in the manufacture of any article or device after ~~((this act takes effect))~~ August 11, 1969, shall, before so engaging, make an application in writing, subscribed to by such person or his agent, to the department of labor and industries, the application stating:

- (1) Location of place of manufacture or processing;
- (2) Kind of explosives manufactured, processed or used;
- (3) The distance that such explosives manufacturing building is located or intended to be located from the other factory buildings, magazines, inhabited buildings, railroads and highways and public utility transmission systems;
- (4) The name and address of the applicant;
- (5) The reason for desiring to manufacture explosives;
- (6) The applicant's citizenship, if the applicant is an individual;
- (7) If the applicant is a partnership, the names and addresses of the partners, and their citizenship;
- (8) If the applicant is an association or corporation, the names and addresses of the officers and directors thereof, and their citizenship; and
- (9) Such other pertinent information as the director of labor and industries shall require to effectuate the purpose of this chapter.

There shall be kept in the main office on the premises of each explosives manufacturing plant a plan of said plant showing the location of all explosives manufacturing buildings and the distance they are located from other factory buildings where persons are employed and from magazines, and these plans shall

at all times be open to inspection by duly authorized inspectors of the department of labor and industries. The superintendent of each plant shall upon demand of said inspector furnish the following information:

(a) The maximum amount and kind of explosive material which is or will be present in each building at one time.

(b) The nature and kind of work carried on in each building and whether or not said buildings are surrounded by natural or artificial barricades.

Except as provided in RCW 70.74.370, the department of labor and industries shall as soon as possible after receiving such application cause an inspection to be made of the explosives manufacturing plant, and if found to be in accordance with RCW 70.74.030 and 70.74.050 and 70.74.061, such department shall issue a license to the person applying therefor showing compliance with the provisions of this chapter if the applicant demonstrates that either the applicant or the officers, agents or employees of the applicant are sufficiently experienced in the manufacture of explosives and the applicant meets the qualifications for a license under RCW 70.74.360. Such license shall continue in full force and effect until expired, suspended, or revoked by the department pursuant to this chapter.

Sec. 871. RCW 70.74.130 and 1988 c 198 s 7 are each amended to read as follows:

Every person desiring to engage in the business of dealing in explosives shall apply to the department of labor and industries for a license therefor. Said application shall state, among other things:

- (1) The name and address of applicant;
- (2) The reason for desiring to engage in the business of dealing in explosives;
- (3) Citizenship, if an individual applicant;
- (4) If a partnership, the names and addresses of the partners and their citizenship;
- (5) If an association or corporation, the names and addresses of the officers and directors thereof and their citizenship; and
- (6) Such other pertinent information as the director of labor and industries shall require to effectuate the purpose of this chapter.

Except as provided in RCW 70.74.370, the department of labor and industries shall issue the license if the applicant demonstrates that either the applicant or the principal officers, agents, or employees of the applicant are experienced in the business of dealing in explosives, possess suitable facilities therefor, have not been convicted of any crime that would warrant revocation or nonrenewal of a license under this chapter, and have never had an explosives-related license revoked under this chapter or under similar provisions of any other state.

Sec. 872. RCW 70.74.370 and 1988 c 198 s 4 are each amended to read as follows:

- (1) The department of labor and industries shall revoke and not renew the license of any person holding a manufacturer, dealer, purchaser, user, or storage

license upon conviction of any of the following offenses, which conviction has become final:

(a) A violent offense as defined in RCW 9.94A.030;

(b) A crime involving perjury or false swearing, including the making of a false affidavit or statement under oath to the department of labor and industries in an application or report made pursuant to this title;

(c) A crime involving bomb threats;

(d) A crime involving a schedule I or II controlled substance, or any other drug or alcohol related offense, unless such other drug or alcohol related offense does not reflect a drug or alcohol dependency. However, the department of labor and industries may condition renewal of the license to any convicted person suffering a drug or alcohol dependency who is participating in an alcoholism or drug recovery program acceptable to the department of labor and industries and has established control of their alcohol or drug dependency. The department of labor and industries shall require the licensee to provide proof of such participation and control;

(e) A crime relating to possession, use, transfer, or sale of explosives under this chapter or any other chapter of the Revised Code of Washington.

(2) The department of labor and industries shall revoke the license of any person adjudged to be mentally ill or insane, or to be incompetent due to any mental disability or disease. The director shall not renew the license until the person has been restored to competency.

(3) The department of labor and industries is authorized to suspend, for a period of time not to exceed six months, the license of any person who has violated this chapter or the rules promulgated pursuant to this chapter.

(4) The department of labor and industries may revoke the license of any person who has repeatedly violated this chapter or the rules promulgated pursuant to this chapter, or who has twice had his or her license suspended under this chapter.

(5) The department of labor and industries shall immediately suspend the license or certificate of a person who has been certified pursuant to section 802 of this act by the department of social and health services as a person who is not in compliance with a support order or a residential or visitation order. If the person has continued to meet all other requirements for reinstatement during the suspension, reissuance of the license or certificate shall be automatic upon the department of labor and industries' receipt of a release issued by the department of social and health services stating that the licensee is in compliance with the order.

(6) Upon receipt of notification by the department of labor and industries of revocation or suspension, a licensee must surrender immediately to the department any or all such licenses revoked or suspended.

Sec. 873. RCW 66.24.010 and 1995 c 232 s 1 are each amended to read as follows:

(1) Every license shall be issued in the name of the applicant, and the holder thereof shall not allow any other person to use the license.

(2) For the purpose of considering any application for a license, the board may cause an inspection of the premises to be made, and may inquire into all matters in connection with the construction and operation of the premises. For the purpose of reviewing any application for a license and for considering the denial, suspension or revocation of any license, the liquor control board may consider any prior criminal conduct of the applicant and the provisions of RCW 9.95.240 and of chapter 9.96A RCW shall not apply to such cases. The board may, in its discretion, grant or refuse the license applied for. Authority to approve an uncontested or unopposed license may be granted by the board to any staff member the board designates in writing. Conditions for granting such authority shall be adopted by rule. No retail license of any kind may be issued to:

(a) A person who has not resided in the state for at least one month prior to making application, except in cases of licenses issued to dining places on railroads, boats, or aircraft;

(b) A copartnership, unless all of the members thereof are qualified to obtain a license, as provided in this section;

(c) A person whose place of business is conducted by a manager or agent, unless such manager or agent possesses the same qualifications required of the licensee; or

(d) A corporation, unless it was created under the laws of the state of Washington or holds a certificate of authority to transact business in the state of Washington.

(3)(a) The board may, in its discretion, subject to the provisions of RCW 66.08.150, suspend or cancel any license; and all rights of the licensee to keep or sell liquor thereunder shall be suspended or terminated, as the case may be.

(b) The board shall immediately suspend the license or certificate of a person who has been certified pursuant to section 802 of this act by the department of social and health services as a person who is not in compliance with a support order or a residential or visitation order. If the person has continued to meet all other requirements for reinstatement during the suspension, reissuance of the license or certificate shall be automatic upon the board's receipt of a release issued by the department of social and health services stating that the licensee is in compliance with the order.

(c) The board may request the appointment of administrative law judges under chapter 34.12 RCW who shall have power to administer oaths, issue subpoenas for the attendance of witnesses and the production of papers, books, accounts, documents, and testimony, examine witnesses, and to receive testimony in any inquiry, investigation, hearing, or proceeding in any part of the state, under such rules and regulations as the board may adopt.

(d) Witnesses shall be allowed fees and mileage each way to and from any such inquiry, investigation, hearing, or proceeding at the rate authorized by RCW

34.05.446, as now or hereafter amended. Fees need not be paid in advance of appearance of witnesses to testify or to produce books, records, or other legal evidence.

(e) In case of disobedience of any person to comply with the order of the board or a subpoena issued by the board, or any of its members, or administrative law judges, or on the refusal of a witness to testify to any matter regarding which he or she may be lawfully interrogated, the judge of the superior court of the county in which the person resides, on application of any member of the board or administrative law judge, shall compel obedience by contempt proceedings, as in the case of disobedience of the requirements of a subpoena issued from said court or a refusal to testify therein.

(4) Upon receipt of notice of the suspension or cancellation of a license, the licensee shall forthwith deliver up the license to the board. Where the license has been suspended only, the board shall return the license to the licensee at the expiration or termination of the period of suspension. The board shall notify all vendors in the city or place where the licensee has its premises of the suspension or cancellation of the license; and no employee may allow or cause any liquor to be delivered to or for any person at the premises of that licensee.

(5)(a) At the time of the original issuance of a class H license, the board shall prorate the license fee charged to the new licensee according to the number of calendar quarters, or portion thereof, remaining until the first renewal of that license is required.

(b) Unless sooner canceled, every license issued by the board shall expire at midnight of the thirtieth day of June of the fiscal year for which it was issued. However, if the board deems it feasible and desirable to do so, it may establish, by rule pursuant to chapter 34.05 RCW, a system for staggering the annual renewal dates for any and all licenses authorized by this chapter. If such a system of staggered annual renewal dates is established by the board, the license fees provided by this chapter shall be appropriately prorated during the first year that the system is in effect.

(6) Every license issued under this section shall be subject to all conditions and restrictions imposed by this title or by the regulations in force from time to time. All conditions and restrictions imposed by the board in the issuance of an individual license shall be listed on the face of the individual license along with the trade name, address, and expiration date.

(7) Every licensee shall post and keep posted its license, or licenses, in a conspicuous place on the premises.

(8) Before the board shall issue a license to an applicant it shall give notice of such application to the chief executive officer of the incorporated city or town, if the application be for a license within an incorporated city or town, or to the county legislative authority, if the application be for a license outside the boundaries of incorporated cities or towns; and such incorporated city or town, through the official or employee selected by it, or the county legislative authority or the official

or employee selected by it, shall have the right to file with the board within twenty days after date of transmittal of such notice, written objections against the applicant or against the premises for which the license is asked, and shall include with such objections a statement of all facts upon which such objections are based, and in case written objections are filed, may request and the liquor control board may in its discretion hold a formal hearing subject to the applicable provisions of Title 34 RCW. Upon the granting of a license under this title the board shall send a duplicate of the license or written notification to the chief executive officer of the incorporated city or town in which the license is granted, or to the county legislative authority if the license is granted outside the boundaries of incorporated cities or towns.

(9) Before the board issues any license to any applicant, it shall give (a) due consideration to the location of the business to be conducted under such license with respect to the proximity of churches, schools, and public institutions and (b) written notice by certified mail of the application to churches, schools, and public institutions within five hundred feet of the premises to be licensed. The board shall issue no beer retailer license class A, B, D, or E or wine retailer license class C or F or class H license covering any premises not now licensed, if such premises are within five hundred feet of the premises of any tax-supported public elementary or secondary school measured along the most direct route over or across established public walks, streets, or other public passageway from the outer property line of the school grounds to the nearest public entrance of the premises proposed for license, and if, after receipt by the school or public institution of the notice as provided in this subsection, the board receives written notice, within twenty days after posting such notice, from an official representative or representatives of the school within five hundred feet of said proposed licensed premises, indicating to the board that there is an objection to the issuance of such license because of proximity to a school. For the purpose of this section, church shall mean a building erected for and used exclusively for religious worship and schooling or other activity in connection therewith. No liquor license may be issued or reissued by the board to any motor sports facility or licensee operating within the motor sports facility unless the motor sports facility enforces a program reasonably calculated to prevent alcohol or alcoholic beverages not purchased within the facility from entering the facility and such program is approved by local law enforcement agencies. It is the intent under this subsection that a retail license shall not be issued by the board where doing so would, in the judgment of the board, adversely affect a private school meeting the requirements for private schools under Title 28A RCW, which school is within five hundred feet of the proposed licensee. The board shall fully consider and give substantial weight to objections filed by private schools. If a license is issued despite the proximity of a private school, the board shall state in a letter addressed to the private school the board's reasons for issuing the license.

(10) The restrictions set forth in subsection (9) of this section shall not prohibit the board from authorizing the assumption of existing licenses now located within the restricted area by other persons or licenses or relocations of existing licensed premises within the restricted area. In no case may the licensed premises be moved closer to a church or school than it was before the assumption or relocation.

(11) Nothing in this section prohibits the board, in its discretion, from issuing a temporary retail or wholesaler license to an applicant assuming an existing retail or wholesaler license to continue the operation of the retail or wholesaler premises during the period the application for the license is pending and when the following conditions exist:

(a) The licensed premises has been operated under a retail or wholesaler license within ninety days of the date of filing the application for a temporary license;

(b) The retail or wholesaler license for the premises has been surrendered pursuant to issuance of a temporary operating license;

(c) The applicant for the temporary license has filed with the board an application to assume the retail or wholesaler license at such premises to himself or herself; and

(d) The application for a temporary license is accompanied by a temporary license fee established by the board by rule.

A temporary license issued by the board under this section shall be for a period not to exceed sixty days. A temporary license may be extended at the discretion of the board for an additional sixty-day period upon payment of an additional fee and upon compliance with all conditions required in this section.

Refusal by the board to issue or extend a temporary license shall not entitle the applicant to request a hearing. A temporary license may be canceled or suspended summarily at any time if the board determines that good cause for cancellation or suspension exists. RCW 66.08.130 and chapter 34.05 RCW shall apply to temporary licenses.

Application for a temporary license shall be on such form as the board shall prescribe. If an application for a temporary license is withdrawn before issuance or is refused by the board, the fee which accompanied such application shall be refunded in full.

Sec. 874. RCW 43.63B.040 and 1994 c 284 s 19 are each amended to read as follows:

(1) The department shall issue a certificate of manufactured home installation to an applicant who has taken the training course, passed the examination, paid the fees, and in all other respects ~~((meets))~~ meets the qualifications. The certificate shall bear the date of issuance, a certification identification number, and is renewable every three years upon application and completion of a continuing education program as determined by the department. A renewal fee shall be assessed for each certificate. If a person fails to renew a certificate by the renewal date, the person must retake the examination and pay the examination fee.

(2) The certificate of manufactured home installation provided for in this chapter grants the holder the right to engage in manufactured home installation throughout the state, without any other installer certification.

(3) The department shall immediately suspend the license or certificate of a person who has been certified pursuant to section 802 of this act by the department of social and health services as a person who is not in compliance with a support order or a residential or visitation order. If the person has continued to meet all other requirements for reinstatement during the suspension, reissuance of the license or certificate shall be automatic upon the department's receipt of a release issued by the department of social and health services stating that the licensee is in compliance with the order.

Sec. 875. RCW 70.95D.040 and 1989 c 431 s 68 are each amended to read as follows:

(1) The department shall establish a process to certify incinerator and landfill operators. To the greatest extent possible, the department shall rely on the certification standards and procedures developed by national organizations and the federal government.

(2) Operators shall be certified if they:

- (a) Attend the required training sessions;
- (b) Successfully complete required examinations; and
- (c) Pay the prescribed fee.

(3) By January 1, 1991, the department shall adopt rules to require incinerator and appropriate landfill operators to:

(a) Attend a training session concerning the operation of the relevant type of landfill or incinerator;

(b) Demonstrate sufficient skill and competency for proper operation of the incinerator or landfill by successfully completing an examination prepared by the department; and

(c) Renew the certificate of competency at reasonable intervals established by the department.

(4) The department shall provide for the collection of fees for the issuance and renewal of certificates. These fees shall be sufficient to recover the costs of the certification program.

(5) The department shall establish an appeals process for the denial or revocation of a certificate.

(6) The department shall establish a process to automatically certify operators who have received comparable certification from another state, the federal government, a local government, or a professional association.

(7) Upon July 23, 1989, and prior to January 1, 1992, the owner or operator of an incinerator or landfill may apply to the department for interim certification. Operators shall receive interim certification if they:

(a) Have received training provided by a recognized national organization, educational institution, or the federal government that is acceptable to the department; or

(b) Have received individualized training in a manner approved by the department; and

(c) Have successfully completed any required examinations.

(8) No interim certification shall be valid after January 1, 1992, and interim certification shall not automatically qualify operators for certification pursuant to subsections (2) through (4) of this section.

(9) The department shall immediately suspend the license or certificate of a person who has been certified pursuant to section 802 of this act by the department of social and health services as a person who is not in compliance with a support order or a residential or visitation order. If the person has continued to meet all other requirements for reinstatement during the suspension, reissuance of the license or certificate shall be automatic upon the department's receipt of a release issued by the department of social and health services stating that the licensee is in compliance with the order.

NEW SECTION. Sec. 876. A new section is added to chapter 70.95B RCW to read as follows:

The director shall immediately suspend the license or certificate of a person who has been certified pursuant to section 802 of this act by the department of social and health services as a person who is not in compliance with a support order or a residential or visitation order. If the person has continued to meet all other requirements for reinstatement during the suspension, reissuance of the license or certificate shall be automatic upon the director's receipt of a release issued by the department of social and health services stating that the licensee is in compliance with the order.

Sec. 877. RCW 17.21.130 and 1994 c 283 s 15 are each amended to read as follows:

Any license, permit, or certification provided for in this chapter may be revoked or suspended, and any license, permit, or certification application may be denied by the director for cause. If the director suspends a license under this chapter with respect to activity of a continuing nature under chapter 34.05 RCW, the director may elect to suspend the license for a subsequent license year during a period that coincides with the period commencing thirty days before and ending thirty days after the date of the incident or incidents giving rise to the violation.

The director shall immediately suspend the license or certificate of a person who has been certified pursuant to section 802 of this act by the department of social and health services as a person who is not in compliance with a support order or a residential or visitation order. If the person has continued to meet all other requirements for reinstatement during the suspension, reissuance of the license or certificate shall be automatic upon the director's receipt of a release

issued by the department of social and health services stating that the licensee is in compliance with the order.

Sec. 878. RCW 64.44.060 and 1990 c 213 s 7 are each amended to read as follows:

(1) After January 1, 1991, a contractor may not perform decontamination, demolition, or disposal work unless issued a certificate by the state department of health. The department shall establish performance standards for contractors by rule in accordance with chapter 34.05 RCW, the administrative procedure act. The department shall train and test, or may approve courses to train and test, contractors and their employees on the essential elements in assessing property used as an illegal drug manufacturing or storage site to determine hazard reduction measures needed, techniques for adequately reducing contaminants, use of personal protective equipment, methods for proper demolition, removal, and disposal of contaminated property, and relevant federal and state regulations. Upon successful completion of the training, the contractor or employee shall be certified.

(2) The department may require the successful completion of annual refresher courses provided or approved by the department for the continued certification of the contractor or employee.

(3) The department shall provide for reciprocal certification of any individual trained to engage in decontamination, demolition, or disposal work in another state when the prior training is shown to be substantially similar to the training required by the department. The department may require such individuals to take an examination or refresher course before certification.

(4) The department may deny, suspend, or revoke a certificate for failure to comply with the requirements of this chapter or any rule adopted pursuant to this chapter. A certificate may be denied, suspended, or revoked on any of the following grounds:

(a) Failing to perform decontamination, demolition, or disposal work under the supervision of trained personnel;

(b) Failing to file a work plan;

(c) Failing to perform work pursuant to the work plan;

(d) Failing to perform work that meets the requirements of the department;

((or))

(e) The certificate was obtained by error, misrepresentation, or fraud; or

(f) If the person has been certified pursuant to section 802 of this act by the department of social and health services as a person who is not in compliance with a support order or a residential or visitation order. If the person has continued to meet all other requirements for reinstatement during the suspension, reissuance of the license or certificate shall be automatic upon the department's receipt of a release issued by the department of social and health services stating that the person is in compliance with the order.

(5) A contractor who violates any provision of this chapter may be assessed a fine not to exceed five hundred dollars for each violation.

(6) The department of health shall prescribe fees as provided for in RCW 43.70.250 for the issuance and renewal of certificates, the administration of examinations, and for the review of training courses.

(7) The decontamination account is hereby established in the state treasury. All fees collected under this chapter shall be deposited in this account. Moneys in the account may only be spent after appropriation for costs incurred by the department in the administration and enforcement of this chapter.

Sec. 879. RCW 19.146.220 and 1996 c 103 s 1 are each amended to read as follows:

(1) The director shall enforce all laws and rules relating to the licensing of mortgage brokers, grant or deny licenses to mortgage brokers, and hold hearings.

(2) The director may impose the following sanctions:

(a) Deny applications for licenses for: (i) Violations of orders, including cease and desist orders issued under this chapter; or (ii) any violation of RCW 19.146.050 or 19.146.0201 (1) through (9);

(b) Suspend or revoke licenses for:

(i) False statements or omission of material information on the application that, if known, would have allowed the director to deny the application for the original license;

(ii) Failure to pay a fee required by the director or maintain the required bond;

(iii) Failure to comply with any directive or order of the director; or

(iv) Any violation of RCW 19.146.050, 19.146.0201 (1) through (9) or (13), 19.146.205(3), or 19.146.265;

(c) Impose fines on the licensee, employee or loan originator of the licensee, or other person subject to this chapter for:

(i) Any violations of RCW 19.146.0201 (1) through (9) or (13), 19.146.030 through 19.146.090, 19.146.200, 19.146.205(3), or 19.146.265; or

(ii) Failure to comply with any directive or order of the director;

(d) Issue orders directing a licensee, its employee or loan originator, or other person subject to this chapter to:

(i) Cease and desist from conducting business in a manner that is injurious to the public or violates any provision of this chapter; or

(ii) Pay restitution to an injured borrower; or

(e) Issue orders removing from office or prohibiting from participation in the conduct of the affairs of a licensed mortgage broker, or both, any officer, principal, employee, or loan originator of any licensed mortgage broker or any person subject to licensing under this chapter for:

(i) Any violation of 19.146.0201 (1) through (9) or (13), 19.146.030 through 19.146.090, 19.146.200, 19.146.205(3), or 19.146.265; or

(ii) False statements or omission of material information on the application that, if known, would have allowed the director to deny the application for the original license;

(iii) Conviction of a gross misdemeanor involving dishonesty or financial misconduct or a felony after obtaining a license; or

(iv) Failure to comply with any directive or order of the director.

(3) Each day's continuance of a violation or failure to comply with any directive or order of the director is a separate and distinct violation or failure.

(4) The director shall establish by rule standards for licensure of applicants licensed in other jurisdictions. Every licensed mortgage broker that does not maintain a physical office within the state must maintain a registered agent within the state to receive service of any lawful process in any judicial or administrative noncriminal suit, action, or proceeding, against the licensed mortgage broker which arises under this chapter or any rule or order under this chapter, with the same force and validity as if served personally on the licensed mortgage broker. Service upon the registered agent shall be effective if the plaintiff, who may be the director in a suit, action, or proceeding instituted by him or her, sends notice of the service and a copy of the process by registered mail to the defendant or respondent at the last address of the respondent or defendant on file with the director. In any judicial action, suit, or proceeding arising under this chapter or any rule or order adopted under this chapter between the department or director and a licensed mortgage broker who does not maintain a physical office in this state, venue shall be exclusively in the superior court of Thurston county.

(5) The director shall immediately suspend the license or certificate of a person who has been certified pursuant to section 802 of this act by the department of social and health services as a person who is not in compliance with a support order or a residential or visitation order. If the person has continued to meet all other requirements for reinstatement during the suspension, reissuance of the license or certificate shall be automatic upon the director's receipt of a release issued by the department of social and health services stating that the licensee is in compliance with the order.

NEW SECTION. Sec. 880. A new section is added to chapter 75.25 RCW to read as follows:

(1) Licenses issued pursuant to this chapter shall be invalid for any period in which a person is certified by the department of social and health services or a court of competent jurisdiction as a person in noncompliance with a support order or residential or visitation order. Fisheries patrol officers, ex officio fisheries patrol officers, and authorized fisheries employees shall enforce this section through checks of the department of licensing's computer data base. A listing on the department of licensing's data base that an individual's license is currently suspended pursuant to RCW 46.20.291(7) shall be prima facie evidence that the individual is in noncompliance with a support order or residential or visitation order. Presentation of a written release issued by the department of social and health services or a court stating that the person is in compliance with an order shall serve as prima facie proof of compliance with a support order, residential order, or visitation order.

(2) It is unlawful to purchase, obtain, or possess a license required by this chapter during any period in which a license is suspended.

NEW SECTION. **Sec. 881.** A new section is added to chapter 77.32 RCW to read as follows:

(1) Licenses, tags, and stamps issued pursuant to this chapter shall be invalid for any period in which a person is certified by the department of social and health services or a court of competent jurisdiction as a person in noncompliance with a support order or residential or visitation order. Wildlife agents and ex officio wildlife agents shall enforce this section through checks of the department of licensing's computer data base. A listing on the department of licensing's data base that an individual's license is currently suspended pursuant to RCW 46.20.291(7) shall be prima facie evidence that the individual is in noncompliance with a support order or residential or visitation order. Presentation of a written release issued by the department of social and health services stating that the person is in compliance with an order shall serve as prima facie proof of compliance with a support order, residential order, or visitation order.

(2) It is unlawful to purchase, obtain, or possess a license required by this chapter during any period in which a license is suspended.

NEW SECTION. **Sec. 882.** A new section is added to chapter 75.28 RCW to read as follows:

(1) The department shall immediately suspend the license of a person who has been certified pursuant to section 402 of this act by the department of social and health services as a person who is not in compliance with a support order or a residential or visitation order.

(2) A listing on the department of licensing's data base that an individual's license is currently suspended pursuant to RCW 46.20.291(7) shall be prima facie evidence that the individual is in noncompliance with a support order or residential or visitation order. Presentation of a written release issued by the department of social and health services or a court stating that the person is in compliance with an order shall serve as proof of compliance.

Sec. 883. RCW 75.28.010 and 1993 c 340 s 2 are each amended to read as follows:

(1) Except as otherwise provided by this title, it is unlawful to engage in any of the following activities without a license or permit issued by the director:

- (a) Commercially fish for or take food fish or shellfish;
- (b) Deliver food fish or shellfish taken in offshore waters;
- (c) Operate a charter boat or commercial fishing vessel engaged in a fishery;
- (d) Engage in processing or wholesaling food fish or shellfish; or
- (e) Act as a guide for salmon for personal use in freshwater rivers and streams, other than that part of the Columbia river below the bridge at Longview.

(2) No person may engage in the activities described in subsection (1) of this section unless the licenses or permits required by this title are in the person's

possession, and the person is the named license holder or an alternate operator designated on the license and the person's license is not suspended.

(3) A valid Oregon license that is equivalent to a license under this title is valid in the concurrent waters of the Columbia river if the state of Oregon recognizes as valid the equivalent Washington license. The director may identify by rule what Oregon licenses are equivalent.

(4) No license or permit is required for the production or harvesting of private sector cultured aquatic products as defined in RCW 15.85.020 or for the delivery, processing, or wholesaling of such aquatic products. However, if a means of identifying such products is required by rules adopted under RCW 15.85.060, the exemption from licensing or permit requirements established by this subsection applies only if the aquatic products are identified in conformance with those rules.

NEW SECTION. Sec. 884. A new section is added to chapter 75.30 RCW to read as follows:

(1) A license renewed under the provisions of this chapter that has been suspended under section 882 of this act shall be subject to the following provisions:

(a) A license renewal fee shall be paid as a condition of maintaining a current license; and

(b) The department shall waive any other license requirements, unless the department determines that the license holder has had sufficient opportunity to meet these requirements.

(2) The provisions of subsection (1) of this section shall apply only to a license that has been suspended under section 882 of this act for a period of twelve months or less. A license holder shall forfeit a license subject to this chapter and may not recover any license renewal fees previously paid if the license holder does not meet the requirements of section 802(9) of this act within twelve months of license suspension.

NEW SECTION. Sec. 885. (1) The director of the department of fish and wildlife and the director of the department of information services shall jointly develop a comprehensive, state-wide implementation plan for the automated issuance, revocation, and general administration of hunting, fishing, and recreational licenses administered under the authority of the department of fish and wildlife to ensure compliance with the license suspension requirements in section 802 of this act.

(2) The plan shall detail the implementation steps necessary to effectuate the automated administration of hunting, fishing, and recreational licenses and shall include recommendations regarding all costs and equipment associated with the plan.

(3) The plan shall be submitted to the legislature for review by September 1, 1997.

***NEW SECTION.** Sec. 886. A new section is added to chapter 26.09 RCW to read as follows:

(1) Unless the context clearly requires otherwise, the definitions in this section apply in this section.

(a) "License" means a license, certificate, registration, permit, approval, or other similar document issued by a licensing entity evidencing admission to or granting authority to engage in a profession, occupation, business, or industry. "License" does not mean the tax registration or certification issued under Title 82 RCW by the department of revenue.

(b) "Licensee" means any individual holding a license, certificate, registration, permit, approval, or other similar document issued by a licensing entity evidencing admission to or granting authority to engage in a profession, occupation, business, or industry.

(c) "Licensing entity" includes any department, board, commission, or other organization of the state authorized to issue, renew, suspend, or revoke a license authorizing an individual to engage in a business, occupation, profession, or industry, and the Washington state bar association.

(d) "Noncompliance with a residential or visitation order" means that a court has found the parent in contempt of court, under RCW 26.09.160 for failure to comply with a residential provision of a court-ordered parenting plan on two occasions within three years.

(e) "Residential or visitation order" means the residential schedule or visitation schedule contained in a court-ordered parenting plan.

(2) If a court determines under RCW 26.09.160 that a parent is not in compliance with a provision of a residential or visitation order under RCW 26.09.160, the court shall enter an order directed to the department of social and health services to certify the parent as in noncompliance with a residential or visitation order. The order shall contain the noncomplying parent's name, address, and social security number, and shall indicate whether the obligor is believed to be a licensee of any licensing entity. The court clerk shall forward the order to the department of social and health services.

(3) Once the parent whose license is suspended has complied with the requirements of the court's order under RCW 26.09.160, or at an earlier date if the court deems it appropriate, the parent whose license is suspended may petition the court to set a review hearing to determine whether the noncomplying parent is in compliance with the residential or visitation order. If the court determines that the parent is in compliance with the residential or visitation order, the court shall enter an order directing the department of social and health services to issue a release to the parent and to the appropriate license entities.

*Sec. 886 was vetoed. See message at end of chapter.

*Sec. 887. RCW 26.09.160 and 1991 c 367 s 4 are each amended to read as follows:

(1) The performance of parental functions and the duty to provide child support are distinct responsibilities in the care of a child. If a party fails to

comply with a provision of a decree or temporary order of injunction, the obligation of the other party to make payments for support or maintenance or to permit contact with children is not suspended. An attempt by a parent, in either the negotiation or the performance of a parenting plan, to condition one aspect of the parenting plan upon another, to condition payment of child support upon an aspect of the parenting plan, to refuse to pay ordered child support, to refuse to perform the duties provided in the parenting plan, or to hinder the performance by the other parent of duties provided in the parenting plan, shall be deemed bad faith and shall be punished by the court by holding the party in contempt of court and by awarding to the aggrieved party reasonable attorneys' fees and costs incidental in bringing a motion for contempt of court.

(2)(a) A motion may be filed to initiate a contempt action to coerce a parent to comply with an order establishing residential provisions for a child. If the court finds there is reasonable cause to believe the parent has not complied with the order, the court may issue an order to show cause why the relief requested should not be granted.

(b) If, based on all the facts and circumstances, the court finds after hearing that the parent, in bad faith, has not complied with the order establishing residential provisions for the child, the court shall find the parent in contempt of court. Upon a finding of contempt, the court shall order:

(i) The noncomplying parent to provide the moving party additional time with the child. The additional time shall be equal to the time missed with the child, due to the parent's noncompliance;

(ii) The parent to pay, to the moving party, all court costs and reasonable attorneys' fees incurred as a result of the noncompliance, and any reasonable expenses incurred in locating or returning a child; and

(iii) The parent to pay, to the moving party, a civil penalty, not less than the sum of one hundred dollars.

The court may also order the parent to be imprisoned in the county jail, if the parent is presently able to comply with the provisions of the court-ordered parenting plan and is presently unwilling to comply. The parent may be imprisoned until he or she agrees to comply with the order, but in no event for more than one hundred eighty days.

(3) On a second failure within three years to comply with a residential provision of a court-ordered parenting plan, a motion may be filed to initiate contempt of court proceedings according to the procedure set forth in subsection (2) (a) and (b) of this section. On a finding of contempt under this subsection, the court shall ((order)) enter any combination of the following orders:

(a) Order the noncomplying parent to provide the other parent or party additional time with the child. The additional time shall be twice the amount of the time missed with the child, due to the parent's noncompliance;

(b) Order the noncomplying parent to pay, to the other parent or party, all court costs and reasonable attorneys' fees incurred as a result of the

noncompliance, and any reasonable expenses incurred in locating or returning a child; ((and))

(c) Order the noncomplying parent to pay, to the moving party, a civil penalty of not less than two hundred fifty dollars; or

(d) Enter an order under section 886 of this act directed to the department of social and health services to certify the parent as in noncompliance for the purposes of section 802 of this act.

The court may also order the parent to be imprisoned in the county jail, if the parent is presently able to comply with the provisions of the court-ordered parenting plan and is presently unwilling to comply. The parent may be imprisoned until he or she agrees to comply with the order but in no event for more than one hundred eighty days.

(4) For purposes of subsections (1), (2), and (3) of this section, the parent shall be deemed to have the present ability to comply with the order establishing residential provisions unless he or she establishes otherwise by a preponderance of the evidence. The parent shall establish a reasonable excuse for failure to comply with the residential provision of a court-ordered parenting plan by a preponderance of the evidence.

(5) Any monetary award ordered under subsections (1), (2), and (3) of this section may be enforced, by the party to whom it is awarded, in the same manner as a civil judgment.

(6) Subsections (1), (2), and (3) of this section authorize the exercise of the court's power to impose remedial sanctions for contempt of court and is in addition to any other contempt power the court may possess.

(7) Upon motion for contempt of court under subsections (1) through (3) of this section, if the court finds the motion was brought without reasonable basis, the court shall order the moving party to pay to the nonmoving party, all costs, reasonable attorneys' fees, and a civil penalty of not less than one hundred dollars.

**Sec. 887 was vetoed. See message at end of chapter.*

Sec. 888. RCW 26.23.050 and 1994 c 230 s 9 are each amended to read as follows:

(1) If the ~~((office of support enforcement))~~ division of child support is providing support enforcement services under RCW 26.23.045, or if a party is applying for support enforcement services by signing the application form on the bottom of the support order, the superior court shall include in all court orders that establish or modify a support obligation:

(a) A provision that orders and directs the responsible parent to make all support payments to the Washington state support registry;

(b) A statement that ~~((a notice of payroll deduction may be issued, or other income withholding action under chapter 26.18 or 74.20A RCW may be taken))~~ withholding action may be taken against wages, earnings, assets, or benefits, and liens enforced against real and personal property under the child support statutes

of this or any other state, without further notice to the responsible parent at any time after entry of the court order, unless:

(i) One of the parties demonstrates, and the court finds, that there is good cause not to require immediate income withholding and that withholding should be delayed until a payment is past due; or

(ii) The parties reach a written agreement that is approved by the court that provides for an alternate arrangement; ~~(and)~~

(c) A statement that the receiving parent might be required to submit an accounting of how the support is being spent to benefit the child; and

(d) A statement that the responsible parent's privileges to obtain and maintain a license, as defined in section 802 of this act, may not be renewed, or may be suspended if the parent is not in compliance with a support order as provided in section 802 of this act.

As used in this subsection and subsection (3) of this section, "good cause not to require immediate income withholding" means a written determination of why implementing immediate wage withholding would not be in the child's best interests and, in modification cases, proof of timely payment of previously ordered support.

(2) In all other cases not under subsection (1) of this section, the court may order the responsible parent to make payments directly to the person entitled to receive the payments, to the Washington state support registry, or may order that payments be made in accordance with an alternate arrangement agreed upon by the parties.

(a) The superior court shall include in all orders under this subsection that establish or modify a support obligation:

(i) A statement that ~~((a notice of payroll deduction may be issued or other income))~~ withholding action ~~((under chapter 26.18 or 74.20A RCW))~~ may be taken against wages, earnings, assets, or benefits, and liens enforced against real and personal property under the child support statutes of this or any other state, without further notice to the responsible parent at any time after entry of the court order, unless:

(A) One of the parties demonstrates, and the court finds, that there is good cause not to require immediate income withholding and that withholding should be delayed until a payment is past due; or

(B) The parties reach a written agreement that is approved by the court that provides for an alternate arrangement; and

(ii) A statement that the receiving parent may be required to submit an accounting of how the support is being spent to benefit the child.

As used in this subsection, "good cause not to require immediate income withholding" is any reason that the court finds appropriate.

(b) The superior court may order immediate or delayed income withholding as follows:

(i) Immediate income withholding may be ordered if the responsible parent has earnings. If immediate income withholding is ordered under this subsection, all support payments shall be paid to the Washington state support registry. The superior court shall issue a mandatory wage assignment order as set forth in chapter 26.18 RCW when the support order is signed by the court. The parent entitled to receive the transfer payment is responsible for serving the employer with the order and for its enforcement as set forth in chapter 26.18 RCW.

(ii) If immediate income withholding is not ordered, the court shall require that income withholding be delayed until a payment is past due. The support order shall contain a statement that ~~((a notice of payroll deduction may be issued, or other income withholding action under chapter 26.18 or 74.20A RCW may be taken))~~ withholding action may be taken against wages, earnings, assets, or benefits, and liens enforced against real and personal property under the child support statutes of this or any other state, without further notice to the responsible parent, after a payment is past due.

(c) If a mandatory wage withholding order under chapter 26.18 RCW is issued under this subsection and the ~~((office of support enforcement))~~ division of child support provides support enforcement services under RCW 26.23.045, the existing wage withholding assignment is prospectively superseded upon the ~~((office of support enforcement's))~~ division of child support's subsequent service of an income withholding notice.

(3) The office of administrative hearings and the department of social and health services shall require that all support obligations established as administrative orders include a provision which orders and directs that the responsible parent shall make all support payments to the Washington state support registry. All administrative orders shall also state that the responsible parent's privileges to obtain and maintain a license, as defined in section 802 of this act, may not be renewed, or may be suspended if the parent is not in compliance with a support order as provided in section 802 of this act. All administrative orders shall also state that ~~((a notice of payroll deduction may be issued, or other income withholding action taken))~~ withholding action may be taken against wages, earnings, assets, or benefits, and liens enforced against real and personal property under the child support statutes of this or any other state without further notice to the responsible parent at any time after entry of the order, unless:

(a) One of the parties demonstrates, and the presiding officer finds, that there is good cause not to require immediate income withholding; or

(b) The parties reach a written agreement that is approved by the presiding officer that provides for an alternate agreement.

(4) If the support order does not include the provision ordering and directing that all payments be made to the Washington state support registry and a statement that ~~((a notice of payroll deduction may be issued))~~ withholding action may be taken against wages, earnings, assets, or benefits if a support payment is past due or at any time after the entry of the order, or that a parent's licensing privileges may

not be renewed, or may be suspended, the ((office of support enforcement)) division of child support may serve a notice on the responsible parent stating such requirements and authorizations. Service may be by personal service or any form of mail requiring a return receipt.

(5) Every support order shall state:

(a) The address where the support payment is to be sent;

(b) That ~~((a notice of payroll deduction may be issued or other income withholding action under chapter 26.18 or 74.20A RCW may be taken))~~ withholding action may be taken against wages, earnings, assets, or benefits, and liens enforced against real and personal property under the child support statutes of this or any other state, without further notice to the responsible parent at any time after entry of ~~((an order by the court))~~ a support order, unless:

(i) One of the parties demonstrates, and the court finds, that there is good cause not to require immediate income withholding; or

(ii) The parties reach a written agreement that is approved by the court that provides for an alternate arrangement;

(c) The income of the parties, if known, or that their income is unknown and the income upon which the support award is based;

(d) The support award as a sum certain amount;

(e) The specific day or date on which the support payment is due;

(f) The social security number, residence address, date of birth, telephone number, driver's license number, and name and address of the employer of the responsible parent;

(g) The social security number and residence address of the physical custodian except as provided in subsection (6) of this section;

(h) The names, dates of birth, and social security numbers, if any, of the dependent children;

(i) ~~((In cases requiring payment to the Washington state support registry, that the parties are to notify the Washington state support registry of any change in residence address. The responsible parent shall notify the registry of the name and address of his or her current employer.))~~ A provision requiring the responsible parent to keep the Washington state support registry informed of whether he or she has access to health insurance coverage at reasonable cost and, if so, the health insurance policy information;

(j) That any parent owing a duty of child support shall be obligated to provide health insurance coverage for his or her child if coverage that can be extended to cover the child is or becomes available to that parent through employment or is union-related as provided under RCW 26.09.105;

(k) That if proof of health insurance coverage or proof that the coverage is unavailable is not provided within twenty days, the obligee or the department may seek direct enforcement of the coverage through the obligor's employer or union without further notice to the obligor as provided under chapter 26.18 RCW; ~~((and))~~

(l) The reasons for not ordering health insurance coverage if the order fails to require such coverage; and

(m) That the responsible parent's privileges to obtain and maintain a license, as defined in section 802 of this act, may not be renewed, or may be suspended if the parent is not in compliance with a support order as provided in section 802 of this act.

(6) The physical custodian's address:

(a) Shall be omitted from an order entered under the administrative procedure act. When the physical custodian's address is omitted from an order, the order shall state that the custodian's address is known to the ~~((office of support enforcement))~~ division of child support.

(b) A responsible parent may request the physical custodian's residence address by submission of a request for disclosure under RCW 26.23.120 to the ~~((office of support enforcement))~~ division of child support.

~~(7) ((The superior court clerk, the office of administrative hearings, and the department of social and health services shall, within five days of entry, forward to the Washington state support registry, a true and correct copy of all superior court orders or administrative orders establishing or modifying a support obligation which provide that support payments shall be made to the support registry. If a superior court order entered prior to January 1, 1988, directs the responsible parent to make support payments to the clerk, the clerk shall send a true and correct copy of the support order and the payment record to the registry for enforcement action when the clerk identifies that a payment is more than fifteen days past due. The office of support enforcement shall reimburse the clerk for the reasonable costs of copying and sending copies of court orders to the registry at the reimbursement rate provided in Title IV-D of the social security act.~~

~~—(8) Receipt of a support order by the registry or other action under this section on behalf of a person or persons who have not made a written application for support enforcement services to the office of support enforcement and who are not recipients of public assistance is deemed to be a request for payment services only.~~

~~—(9))~~ After the responsible parent has been ordered or notified to make payments to the Washington state support registry under this section, the responsible parent shall be fully responsible for making all payments to the Washington state support registry and shall be subject to payroll deduction or other income-withholding action. The responsible parent shall not be entitled to credit against a support obligation for any payments made to a person or agency other than to the Washington state support registry except as provided under RCW 74.20.101. A civil action may be brought by the payor to recover payments made to persons or agencies who have received and retained support moneys paid contrary to the provisions of this section.

Sec. 889. RCW 26.18.100 and 1994 c 230 s 4 are each amended to read as follows:

The wage assignment order shall be substantially in the following form:

IN THE SUPERIOR COURT OF THE
STATE OF WASHINGTON IN AND FOR THE
COUNTY OF

.....
Obligee
vs.
.....
Obligor
.....
Employer

No.

WAGE ASSIGNMENT
ORDER

THE STATE OF WASHINGTON TO:
Employer

AND TO:
Obligor

The above-named obligee claims that the above-named obligor is subject to a support order requiring immediate income withholding or is more than fifteen days past due in either child support or spousal maintenance payments, or both, in an amount equal to or greater than the child support or spousal maintenance payable for one month. The amount of the accrued child support or spousal maintenance debt as of this date is dollars, the amount of arrearage payments specified in the support or spousal maintenance order (if applicable) is dollars per, and the amount of the current and continuing support or spousal maintenance obligation under the order is dollars per

You are hereby commanded to answer this order by filling in the attached form according to the instructions, and you must mail or deliver the original of the answer to the court, one copy to the Washington state support registry, one copy to the obligee or obligee's attorney, and one copy to the obligor within twenty days after service of this wage assignment order upon you.

If you possess any earnings or other remuneration for employment due and owing to the obligor, then you shall do as follows:

(1) Withhold from the obligor's earnings or remuneration each month, or from each regular earnings disbursement, the lesser of:

(a) The sum of the accrued support or spousal maintenance debt and the current support or spousal maintenance obligation;

(b) The sum of the specified arrearage payment amount and the current support or spousal maintenance obligation; or

(c) Fifty percent of the disposable earnings or remuneration of the obligor.

(2) The total amount withheld above is subject to the wage assignment order, and all other sums may be disbursed to the obligor.

(3) Upon receipt of this wage assignment order you shall make immediate deductions from the obligor's earnings or remuneration and remit to the

Washington state support registry or other address specified below the proper amounts at each regular pay interval.

You shall continue to withhold the ordered amounts from nonexempt earnings or remuneration of the obligor until notified by:

- (a) The court that the wage assignment has been modified or terminated; or
- (b) The addressee specified in the wage assignment order under this section that the accrued child support or spousal maintenance debt has been paid.

You shall promptly notify the court and the addressee specified in the wage assignment order under this section if and when the employee is no longer employed by you, or if the obligor no longer receives earnings or remuneration from you. If you no longer employ the employee, the wage assignment order shall remain in effect for one year after the employee has left your employment or you are no longer in possession of any earnings or remuneration owed to the employee, whichever is later. You shall continue to hold the wage assignment order during that period. If the employee returns to your employment during the one-year period you shall immediately begin to withhold the employee's earnings according to the terms of the wage assignment order. If the employee has not returned to your employment within one year, the wage assignment will cease to have effect at the expiration of the one-year period, unless you still owe the employee earnings or other remuneration.

You shall deliver the withheld earnings or remuneration to the Washington state support registry or other address stated below at each regular pay interval.

You shall deliver a copy of this order to the obligor as soon as is reasonably possible. This wage assignment order has priority over any other wage assignment or garnishment, except for another wage assignment or garnishment for child support or spousal maintenance, or order to withhold or deliver under chapter 74.20A RCW.

WHETHER OR NOT YOU OWE ANYTHING TO THE OBLIGOR, YOUR FAILURE TO ANSWER AS REQUIRED MAY MAKE YOU LIABLE FOR OBLIGOR'S CLAIMED SUPPORT OR SPOUSAL MAINTENANCE DEBT TO THE OBLIGEE OR SUBJECT TO CONTEMPT OF COURT.

NOTICE TO OBLIGOR: YOU HAVE A RIGHT TO REQUEST A HEARING IN THE SUPERIOR COURT THAT ISSUED THIS WAGE ASSIGNMENT ORDER, TO REQUEST THAT THE COURT QUASH, MODIFY, OR TERMINATE THE WAGE ASSIGNMENT ORDER. REGARDLESS OF THE FACT THAT YOUR WAGES ARE BEING WITHHELD PURSUANT TO THIS ORDER, YOU MAY HAVE SUSPENDED OR NOT RENEWED A PROFESSIONAL, DRIVER'S, OR OTHER LICENSE IF YOU ACCRUE CHILD SUPPORT ARREARAGES TOTALING MORE THAN SIX MONTHS OF CHILD SUPPORT PAYMENTS OR FAIL TO MAKE

PAYMENTS TOWARDS A SUPPORT ARREARAGE IN AN AMOUNT THAT EXCEEDS SIX MONTHS OF PAYMENTS.

DATED THIS day of, 19. . .

.....
Obligee,	Judge/Court Commissioner
or obligee's attorney	
Send withheld payments to:

Sec. 890. RCW 26.23.060 and 1994 c 230 s 10 are each amended to read as follows:

(1) The ~~((office of support enforcement))~~ division of child support may issue a notice of payroll deduction:

(a) As authorized by a support order that contains ~~((the income withholding notice provisions in RCW 26.23.050 or a substantially similar notice))~~ a notice clearly stating that child support may be collected by withholding from earnings, wages, or benefits without further notice to the obligated parent; or

(b) After service of a notice containing an income-withholding provision under this chapter or chapter 74.20A RCW.

(2) The ~~((office of support enforcement))~~ division of child support shall serve a notice of payroll deduction upon a responsible parent's employer or upon the employment security department for the state in possession of or owing any benefits from the unemployment compensation fund to the responsible parent pursuant to Title 50 RCW ~~((by personal service or by any form of mail requiring a return receipt))~~;

(a) In the manner prescribed for the service of a summons in a civil action;

(b) By certified mail, return receipt requested; or

(c) By electronic means if there is an agreement between the secretary and the person, firm, corporation, association, political subdivision, department of the state, or agency, subdivision, or instrumentality of the United States to accept service by electronic means.

(3) Service of a notice of payroll deduction upon an employer or employment security department requires the employer or employment security department to immediately make a mandatory payroll deduction from the responsible parent's unpaid disposable earnings or unemployment compensation benefits. The employer or employment security department shall thereafter deduct each pay period the amount stated in the notice divided by the number of pay periods per month. The payroll deduction each pay period shall not exceed fifty percent of the responsible parent's disposable earnings.

(4) A notice of payroll deduction for support shall have priority over any wage assignment, garnishment, attachment, or other legal process.

- (5) The notice of payroll deduction shall be in writing and include:
- (a) The name and social security number of the responsible parent;
 - (b) The amount to be deducted from the responsible parent's disposable earnings each month, or alternate amounts and frequencies as may be necessary to facilitate processing of the payroll deduction;
 - (c) A statement that the total amount withheld shall not exceed fifty percent of the responsible parent's disposable earnings; ~~((and))~~
 - (d) The address to which the payments are to be mailed or delivered; and
 - (e) A notice to the responsible parent warning the responsible parent that, despite the payroll deduction, the responsible parent's privileges to obtain and maintain a license, as defined in section 802 of this act, may not be renewed, or may be suspended if the parent is not in compliance with a support order as defined in section 802 of this act.
- (6) An informational copy of the notice of payroll deduction shall be mailed to the last known address of the responsible parent by regular mail.
- (7) An employer or employment security department that receives a notice of payroll deduction shall make immediate deductions from the responsible parent's unpaid disposable earnings and remit proper amounts to the Washington state support registry on each date the responsible parent is due to be paid.
- (8) An employer, or the employment security department, upon whom a notice of payroll deduction is served, shall make an answer to the ~~((office of support enforcement))~~ division of child support within twenty days after the date of service. The answer shall confirm compliance and institution of the payroll deduction or explain the circumstances if no payroll deduction is in effect. The answer shall also state whether the responsible parent is employed by or receives earnings from the employer or receives unemployment compensation benefits from the employment security department, whether the employer or employment security department anticipates paying earnings or unemployment compensation benefits and the amount of earnings. If the responsible parent is no longer employed, or receiving earnings from the employer, the answer shall state the present employer's name and address, if known. If the responsible parent is no longer receiving unemployment compensation benefits from the employment security department, the answer shall state the present employer's name and address, if known.
- (9) The employer or employment security department may deduct a processing fee from the remainder of the responsible parent's earnings after withholding under the notice of payroll deduction, even if the remainder is exempt under RCW 26.18.090. The processing fee may not exceed: (a) Ten dollars for the first disbursement made to the Washington state support registry; and (b) one dollar for each subsequent disbursement to the registry.
- (10) The notice of payroll deduction shall remain in effect until released by the ~~((office of support enforcement))~~ division of child support, the court enters an order terminating the notice and approving an alternate arrangement under RCW 26.23.050~~((2))~~, or one year has expired since the employer has employed the

responsible parent or has been in possession of or owing any earnings to the responsible parent or the employment security department has been in possession of or owing any unemployment compensation benefits to the responsible parent.

(1) The division of child support may use uniform interstate withholding forms adopted by the United States department of health and human services to take withholding actions under this section when the responsible parent is receiving earnings or unemployment compensation in another state.

B. CHILD SUPPORT ENFORCEMENT

Sec. 891. RCW 74.20.040 and 1989 c 360 s 12 are each amended to read as follows:

(1) Whenever the department (~~(of social and health services)~~) receives an application for public assistance on behalf of a child, the department shall take appropriate action under the provisions of this chapter, chapter 74.20A RCW, or other appropriate statutes of this state to establish or enforce support obligations against the parent or other persons owing a duty to pay support moneys.

(2) The secretary may accept a request for support enforcement services on behalf of persons who are not recipients of public assistance and may take appropriate action to establish or enforce support obligations against the parent or other persons owing a duty to pay moneys. Requests accepted under this subsection may be conditioned upon the payment of a fee as required through regulation issued by the secretary. (~~(Action may be taken under the provisions of chapter 74.20 RCW, the abandonment or nonsupport statutes, or other appropriate statutes of this state, including but not limited to remedies established in chapter 74.20A RCW, to establish and enforce said support obligations;)~~) The secretary may establish by regulation, reasonable standards and qualifications for support enforcement services under this subsection.

(3) The secretary may accept requests for support enforcement services from child support enforcement agencies in other states operating child support programs under Title IV-D of the social security act or from foreign countries, and may take appropriate action to establish and enforce support obligations, or to enforce subpoenas, information requests, orders for genetic testing, and collection actions issued by the other agency against the parent or other person owing a duty to pay support moneys, the parent or other person's employer, or any other person or entity properly subject to child support collection or information-gathering processes. The request shall contain and be accompanied by such information and documentation as the secretary may by rule require, and be signed by an authorized representative of the agency. The secretary may adopt rules setting forth the duration and nature of services provided under this subsection.

(4) The department may take action to establish, enforce, and collect a support obligation, including performing related services, under this chapter and chapter 74.20A RCW, or through the attorney general or prosecuting attorney for action under chapter 26.09, 26.18, 26.20, 26.21, or 26.26 RCW or other appropriate statutes or the common law of this state.

(5) Whenever a support order is filed with the Washington state support registry under chapter 26.23 RCW, the department may take appropriate action under the provisions of this chapter, chapter 26.23 or 74.20A RCW, or other appropriate law of this state to establish or enforce the support obligations contained in that order against the responsible parent or other persons owing a duty to pay support moneys.

(6) The secretary may charge and collect a fee from the person obligated to pay support to compensate the department for services rendered in establishment of or enforcement of support obligations. This fee shall be limited to not more than ten percent of any support money collected as a result of action taken by the secretary. The fee charged shall be in addition to the support obligation. In no event may any moneys collected by the department (~~of social and health services~~) from the person obligated to pay support be retained as satisfaction of fees charged until all current support obligations have been satisfied. The secretary shall by regulation establish reasonable fees for support enforcement services and said schedule of fees shall be made available to any person obligated to pay support. The secretary may, on showing of necessity, waive or defer any such fee.

(7) Fees, due and owing, may be collected as delinquent support moneys utilizing any of the remedies in chapter 74.20 RCW, chapter 74.20A RCW, chapter 26.21 RCW, or any other remedy at law or equity available to the department or any agencies with whom it has a cooperative or contractual arrangement to establish, enforce, or collect support moneys or support obligations.

(8) The secretary may waive the fee, or any portion thereof, as a part of a compromise of disputed claims or may grant partial or total charge off of said fee if the secretary finds there are no available, practical, or lawful means by which said fee may be collected or to facilitate payment of the amount of delinquent support moneys owed.

(9) The secretary shall adopt rules conforming to federal laws, rules, and regulations required to be observed in maintaining the state child support enforcement program required under Title IV-D of the federal social security act. The adoption of these rules shall be calculated to promote the cost-effective use of the agency's resources and not otherwise cause the agency to divert its resources from its essential functions.

NEW SECTION. Sec. 892. A new section is added to chapter 74.20A RCW to read as follows:

CHILD SUPPORT PAYMENTS IN THE POSSESSION OF THIRD PARTIES—COLLECTION AS CHILD SUPPORT. (1) If a person or entity not entitled to child support payments wrongfully or negligently retains child support payments owed to another or to the Washington state support registry, those payments retain their character as child support payments and may be collected by the division of child support using any remedy available to the division of child support under Washington law for the collection of child support.

(2) Child support moneys subject to collection under this section may be collected for the duration of the statute of limitations as it applies to the support order governing the support obligations, and any legislative or judicial extensions thereto.

(3) This section applies to the following:

(a) Cases in which an employer or other entity obligated to withhold child support payments from the parent's pay, bank, or escrow account, or from any other asset or distribution of money to the parent, has withheld those payments and failed to remit them to the payee;

(b) Cases in which child support moneys have been paid to the wrong person or entity in error;

(c) Cases in which child support recipients have retained child support payments in violation of a child support assignment executed or arising by operation of law in exchange for the receipt of public assistance; and

(d) Any other case in which child support payments are retained by a party not entitled to them.

(4) This section does not apply to fines levied under section 893(3)(b) of this act.

NEW SECTION. **Sec. 893.** A new section is added to chapter 74.20A RCW to read as follows:

NONCOMPLIANCE WITH CHILD SUPPORT PROCESSES—NOTICE—HEARINGS—LIABILITY. (1) The division of child support may issue a notice of noncompliance to any person, firm, entity, or agency of state or federal government that the division believes is not complying with:

(a) A notice of payroll deduction issued under chapter 26.23 RCW;

(b) A lien, order to withhold and deliver, or assignment of earnings issued under this chapter;

(c) Any other wage assignment, garnishment, attachment, or withholding instrument properly served by the agency or firm providing child support enforcement services for another state, under Title IV-D of the federal social security act;

(d) A subpoena issued by the division of child support, or the agency or firm providing child support enforcement for another state, under Title IV-D of the federal social security act;

(e) An information request issued by the division of child support, or the agency or firm providing child support enforcement for another state under Title IV-D of the federal social security act, to an employer or entity required to respond to such requests under section 897 of this act; or

(f) The duty to report newly hired employees imposed by RCW 26.23.040.

(2) Liability for noncompliance with a wage withholding, garnishment, order to withhold and deliver, or any other lien or attachment issued to secure payment of child support is governed by RCW 26.23.090 and 74.20A.100, except that

liability for noncompliance with remittance time frames is governed by subsection (3) of this section.

(3) The division of child support may impose fines of up to one hundred dollars per occurrence for:

(a) Noncompliance with a subpoena or an information request issued by the division of child support, or the agency or firm providing child support enforcement services for another state under Title IV-D of the federal social security act;

(b) Noncompliance with the required time frames for remitting withheld support moneys to the Washington state support registry, or the agency or firm providing child support enforcement services for another state, except that no liability shall be established for failure to make timely remittance unless the division of child support has provided the person, firm, entity, or agency of state or federal government with written warning:

(i) Explaining the duty to remit withheld payments promptly;

(ii) Explaining the potential for fines for delayed submission; and

(iii) Providing a contact person within the division of child support with whom the person, firm, entity, or agency of state or federal government may seek assistance with child support withholding issues.

(4) The division of child support may assess fines according to RCW 26.23.040 for failure to comply with employer reporting requirements.

(5) The division of child support may suspend licenses for failure to comply with a subpoena issued under section 898 of this act.

(6) The division of child support may serve a notice of noncompliance by personal service or by any method of mailing requiring a return receipt.

(7) The liability asserted by the division of child support in the notice of noncompliance becomes final and collectible on the twenty-first day after the date of service, unless within that time the person, firm, entity, or agency of state or federal government:

(a) Initiates an action in superior court to contest the notice of noncompliance;

(b) Requests a hearing by delivering a hearing request to the division of child support in accordance with rules adopted by the secretary under this section; or

(c) Contacts the division of child support and negotiates an alternate resolution to the asserted noncompliance or demonstrates that the person, firm, entity, or agency of state or federal government has complied with the child support processes.

(8) The notice of noncompliance shall contain:

(a) A full and fair disclosure of the rights and obligations created by this section; and

(b) Identification of the:

(i) Child support process with respect to which the division of child support is alleging noncompliance; and

(ii) State child support enforcement agency issuing the original child support process.

(9) In an administrative hearing convened under subsection (7)(b) of this section, the presiding officer shall determine whether or not, and to what extent, liability for noncompliance exists under this section, and shall enter an order containing these findings. If liability does exist, the presiding officer shall include language in the order advising the parties to the proceeding that the liability may be collected by any means available to the division of child support under subsection (12) of this section without further notice to the liable party.

(10) Hearings under this section are governed by the administrative procedure act, chapter 34.05 RCW.

(11) After the twenty days following service of the notice, the person, firm, entity, or agency of state or federal government may petition for a late hearing. A petition for a late hearing does not stay any collection action to recover the debt. A late hearing is available upon a showing of any of the grounds stated in civil rule 60 for the vacation of orders.

(12) The division of child support may collect any obligation established under this section using any of the remedies available under chapter 26.09, 26.18, 26.21, 26.23, 74.20, or 74.20A RCW for the collection of child support.

(13) The division of child support may enter agreements for the repayment of obligations under this section. Agreements may:

(a) Suspend the obligation imposed by this section conditioned on future compliance with child support processes. Such suspension shall end automatically upon any failure to comply with a child support process. Amounts suspended become fully collectible without further notice automatically upon failure to comply with a child support process;

(b) Resolve amounts due under this section and provide for repayment.

(14) The secretary may adopt rules to implement this section.

Sec. 894. RCW 26.23.090 and 1990 c 165 s 2 are each amended to read as follows:

(1) The employer shall be liable to the Washington state support registry, or to the agency or firm providing child support enforcement for another state, under Title IV-D of the federal social security act and issuing a notice, garnishment, or wage assignment attaching wages or earnings in satisfaction of a support obligation, for one hundred percent of the amount of the support debt, or the amount of support moneys which should have been withheld from the employee's earnings, whichever is the lesser amount, if the employer:

(a) Fails or refuses, after being served with a notice of payroll deduction, or substantially similar action issued by the agency or firm providing child support enforcement for another state, under Title IV-D of the federal social security act, to deduct and promptly remit from unpaid earnings the amounts of money required in the notice;

(b) Fails or refuses to submit an answer to the notice of payroll deduction, or substantially similar action issued by the agency or firm providing child support enforcement for another state, under Title IV-D of the federal social security act, after being served; or

(c) Is unwilling to comply with the other requirements of RCW 26.23.060.

(2) Liability may be established in superior court or may be established pursuant to ~~((RCW 74.20A.270))~~ section 893 of this act. Awards in superior court and in actions pursuant to ~~((RCW 74.20A.270))~~ section 893 of this act shall include costs, interest under RCW 19.52.020 and 4.56.110, and reasonable attorneys' fees and staff costs as a part of the award. Debts established pursuant to this section may be collected ~~((pursuant to chapter 74.20A RCW utilizing any of the remedies contained in that chapter))~~ by the division of child support using any of the remedies available under chapter 26.09, 26.18, 26.21, 26.23, 74.20, or 74.20A RCW for the collection of child support.

Sec. 895. RCW 74.20A.100 and 1989 c 360 s 5 are each amended to read as follows:

(1) Any person, firm, corporation, association, political subdivision or department of the state shall be liable to the department, or to the agency or firm providing child support enforcement for another state, under Title IV-D of the federal social security act and issuing a notice, garnishment, or wage assignment attaching wages or earnings in satisfaction of a support obligation, in an amount equal to one hundred percent of the value of the debt which is the basis of the lien, order to withhold and deliver, distraint, or assignment of earnings, or the amount that should have been withheld, whichever amount is less, together with costs, interest, and reasonable attorney fees if that person or entity:

(a) Fails to answer an order to withhold and deliver, or substantially similar action issued by the agency or firm providing child support enforcement for another state, under Title IV-D of the federal social security act, within the time prescribed herein;

(b) Fails or refuses to deliver property pursuant to said order;

(c) After actual notice of filing of a support lien, pays over, releases, sells, transfers, or conveys real or personal property subject to a support lien to or for the benefit of the debtor or any other person;

(d) Fails or refuses to surrender property distrained under RCW 74.20A.130 upon demand; or

(e) Fails or refuses to honor an assignment of earnings presented by the secretary.

(2) The secretary is authorized to issue a notice of ~~((debt pursuant to RCW 74.20A.040 and to take appropriate action to collect the debt under this chapter if:~~

~~—(a) A judgment has been entered as the result of an action in superior court against a person, firm, corporation, association, political subdivision, or department of the state based on a violation of this section; or~~

~~—(b) Liability has been established under RCW 74.20A.270)) noncompliance under section 893 of this act or to proceed in superior court to obtain a judgment for noncompliance under this section.~~

Sec. 896. RCW 74.20A.270 and 1989 c 360 s 35 and 1989 c 175 s 156 are each reenacted and amended to read as follows:

(1) The secretary may issue a notice of ((noncompliance)) retained support or notice to recover a support payment to any person((; firm, corporation, association, or political subdivision of the state of Washington or any officer or agent thereof who has violated chapter 26.18 RCW, RCW 74.20A.100, or 26.23.040;));

(a) Who is in possession of support moneys, or who has had support moneys in his or her possession at some time in the past, which support moneys were or are claimed by the department as the property of the department by assignment, subrogation, or by operation of law or legal process under chapter 74.20A RCW((; if the support moneys have not been remitted to the department as required by law));

(b) Who has received a support payment erroneously directed to the wrong payee, or issued by the department in error; or

(c) Who is in possession of a support payment obtained through the internal revenue service tax refund offset process, which payment was later reclaimed from the department by the internal revenue service as a result of an amended tax return filed by the obligor or the obligor's spouse.

(2) The notice shall ((describe the claim of the department, stating)) state the legal basis for the claim and shall provide sufficient detail to enable the person((; firm, corporation, association, or political subdivision or officer or agent thereof upon whom service is made)) to identify the support moneys in issue ((or the specific violation of RCW 74.20A.100 that has occurred. The notice may also make inquiry as to relevant facts necessary to the resolution of the issue)).

(3) The department shall serve the notice ((may be served)) by certified mail, return receipt requested, or in the manner of a summons in a civil action. ((Upon service of the notice all moneys not yet disbursed or spent or like moneys to be received in the future are deemed to be impounded and shall be held in trust pending answer to the notice and any adjudicative proceeding.))

(4) The amounts claimed in the notice ((shall be answered under oath and in writing within twenty days of the date of service, which answer shall include true answers to the matters inquired of in the notice. The answer shall also either acknowledge)) shall become assessed, determined, and subject to collection twenty days from the date of service of the notice unless within those twenty days the person in possession of the support moneys;

(a) Acknowledges the department's right to the moneys ((or application for)) and executes an agreed settlement providing for repayment of the moneys; or

(b) Requests an adjudicative proceeding to ((contest the allegation that chapter 26.18 RCW, RCW 74.20A.100, or 26.23.040, has been violated, or)) determine the rights to ownership of the support moneys in issue. The hearing shall be held

pursuant to this section, chapter 34.05 RCW, the Administrative Procedure Act, and the rules of the department. The burden of proof to establish ownership of the support moneys claimed (~~(including but not limited to moneys not yet disbursed or spent,)~~) is on the department.

~~((If no answer is made within the twenty days, the department's claim shall be assessed and determined and subject to collection action as a support debt pursuant to chapter 26.18 or 74.20A RCW, or RCW 26.23.040. Any such debtor))~~

(5) After the twenty-day period, a person served with a notice under this section may, at any time within one year from the date of service of the notice of support debt, petition the secretary or the secretary's designee for an adjudicative proceeding upon a showing of any of the grounds enumerated in RCW 4.72.010 or superior court civil rule 60. A copy of the petition shall also be served on the department. The filing of the petition shall not stay any collection action being taken, but the debtor may petition the secretary or the secretary's designee for an order staying collection action pending the final administrative order. Any such moneys held and/or taken by collection action (~~((prior to))~~ after the date of any such stay (~~(and any support moneys claimed by the department, including moneys to be received in the future to which the department may have a claim,)~~) shall be held (~~((in trust))~~ by the department pending the final order, to be disbursed in accordance with the final order. (~~(The secretary or the secretary's designee shall condition the stay to provide for the trust.~~

~~—If the petition is granted the issue in the proceeding is limited to the determination of the ownership of the moneys claimed in the notice of debt. The right to an adjudicative proceeding is conditioned upon holding of any funds not yet disbursed or expended or to be received in the future in trust pending the final order in these proceedings. The presiding or reviewing officer shall enter an appropriate order providing for the terms of the trust.))~~

(6) If the debtor fails to attend or participate in the hearing or other stage of an adjudicative proceeding, the presiding officer shall, upon showing of valid service, enter an order declaring the amount of support moneys, as claimed in the notice, to be assessed and determined and subject to collection action.

(7) The department may take action to collect an obligation established under this section using any remedy available under this chapter or chapter 26.09, 26.18, 26.23, or 74.20 RCW for the collection of child support.

(8) If, at any time, the superior court enters judgment for an amount of debt at variance with the amount determined by the final order in an adjudicative proceeding, the judgment shall supersede the final administrative order. (~~(Any debt determined by the superior court in excess of the amount determined by the final administrative order shall be the property of the department as assigned under 42 U.S.C. 602(A)(26)(a), RCW 74.20.040, 74.20A.250, 74.20.320, or 74.20.330.))~~ The department may (~~(, despite any final administrative order,)~~) take action pursuant to chapter 74.20 or 74.20A RCW to obtain such a judgment or to collect moneys determined by such a judgment to be due and owing.

~~(If public assistance moneys have been paid to a parent for the benefit of that parent's minor dependent children, debt under this chapter shall not be incurred by nor at any time be collected from that parent because of that payment of assistance. Nothing in this section prohibits or limits the department from acting pursuant to RCW 74.20.320 and this section to assess a debt against a recipient or ex-recipient for receipt of support moneys paid in satisfaction of the debt assigned under RCW 74.20.330 which have been assigned to the department but were received by a recipient or ex-recipient from another responsible parent and not remitted to the department. To collect these wrongfully retained funds from the recipient, the department may not take collection action in excess of ten percent of the grant payment standard during any month the public assistance recipient remains in that status unless required by federal law.)~~ (9) If a person owing a debt established under this section is receiving public assistance, the department may collect the debt by offsetting up to ten percent of the grant payment received by the person. No collection action may be taken against the earnings of a person receiving cash public assistance to collect a debt assessed under this section.

(10) Payments not credited against the department's debt pursuant to RCW 74.20.101 may not be assessed or collected under this section.

NEW SECTION. Sec. 897. A new section is added to chapter 74.20A RCW to read as follows:

ACCESS TO INFORMATION—CONFIDENTIALITY—NONLIABILITY.

(1) Notwithstanding any other provision of Washington law, the division of child support, the Washington state support registry, or the agency or firm providing child support enforcement services for another state under Title IV-D of the federal social security act may access records of the following nature, in the possession of any agency or entity listed in this section:

(a) Records of state and local agencies, including but not limited to:

(i) The state registrar, including but not limited to records of birth, marriage, and death;

(ii) Tax and revenue records, including, but not limited to, information on residence addresses, employers, and assets;

(iii) Records concerning real and titled personal property;

(iv) Records of occupational, professional, and recreational licenses and records concerning the ownership and control of corporations, partnerships, and other business entities;

(v) Employment security records;

(vi) Records of agencies administering public assistance programs; and

(vii) Records of the department of corrections, and of county and municipal correction or confinement facilities;

(b) Records of public utilities and cable television companies relating to persons who owe or are owed support, or against whom a support obligation is sought, including names and addresses of the individuals, and employers' names and addresses pursuant to section 898 of this act and RCW 74.20A.120; and

(c) Records held by financial institutions, pursuant to section 899 of this act.

(2) Upon the request of the division of child support, the Washington state support registry, or the agency or firm providing child support enforcement services for another state under Title IV-D of the social security act, any employer shall provide information as to the employment, earnings, benefits, and residential address and phone number of any employee.

(3) Entities in possession of records described in subsection (1)(a) and (c) of this section must provide information and records upon the request of the division of child support, the Washington state support registry, or the agency or firm providing child support enforcement services for another state under Title IV-D of the federal social security act. The division of child support may enter into agreements providing for electronic access to these records.

(4) Public utilities and cable television companies must provide the information in response to a judicial or administrative subpoena issued by the division of child support, the Washington state support registry, or the agency or firm providing child support enforcement services for another state under Title IV-D of the federal social security act.

(5) Entities responding to information requests and subpoenas under this section are not liable for disclosing information pursuant to the request or subpoena.

(6) The division of child support shall maintain all information gathered under this section confidential and shall only disclose this information as provided under RCW 26.23.120.

(7) The division of child support may impose fines for noncompliance with this section using the notice of noncompliance under section 893 of this act.

NEW SECTION. Sec. 898. A new section is added to chapter 74.20 RCW to read as follows:

SUBPOENA AUTHORITY—ENFORCEMENT. In carrying out the provisions of this chapter or chapters 26.18, 26.23, 26.26, and 74.20A RCW, the secretary and other duly authorized officers of the department may subpoena witnesses, take testimony, and compel the production of such papers, books, records, and documents as they may deem relevant to the performance of their duties. The division of child support may enforce subpoenas issued under this power according to section 893 of this act.

NEW SECTION. Sec. 899. A new section is added to chapter 74.20A RCW to read as follows:

FINANCIAL INSTITUTION DATA MATCHES. (1) Each calendar quarter financial institutions doing business in the state of Washington shall report to the department the name, record address, social security number or other taxpayer identification number, and other information determined necessary by the department for each individual who maintains an account at such institution and is identified by the department as owing a support debt.

(2) The department and financial institutions shall enter into agreements to develop and operate a data match system, using automated data exchanges to the extent feasible, to minimize the cost of providing information required under subsection (1) of this section.

(3) The department may pay a reasonable fee to a financial institution for conducting the data match not to exceed the actual costs incurred.

(4) A financial institution is not liable for any disclosure of information to the department under this section.

(5) The division of child support shall maintain all information gathered under this section confidential and shall only disclose this information as provided under RCW 26.23.120.

Sec. 900. RCW 42.17.310 and 1996 c 305 s 2, 1996 c 253 s 302, 1996 c 191 s 88, and 1996 c 80 s 1 are each reenacted and amended to read as follows:

(1) The following are exempt from public inspection and copying:

(a) Personal information in any files maintained for students in public schools, patients or clients of public institutions or public health agencies, or welfare recipients.

(b) Personal information in files maintained for employees, appointees, or elected officials of any public agency to the extent that disclosure would violate their right to privacy.

(c) Information required of any taxpayer in connection with the assessment or collection of any tax if the disclosure of the information to other persons would (i) be prohibited to such persons by RCW 82.32.330 or (ii) violate the taxpayer's right to privacy or result in unfair competitive disadvantage to the taxpayer.

(d) Specific intelligence information and specific investigative records compiled by investigative, law enforcement, and penology agencies, and state agencies vested with the responsibility to discipline members of any profession, the nondisclosure of which is essential to effective law enforcement or for the protection of any person's right to privacy.

(e) Information revealing the identity of persons who are witnesses to or victims of crime or who file complaints with investigative, law enforcement, or penology agencies, other than the public disclosure commission, if disclosure would endanger any person's life, physical safety, or property. If at the time a complaint is filed the complainant, victim or witness indicates a desire for disclosure or nondisclosure, such desire shall govern. However, all complaints filed with the public disclosure commission about any elected official or candidate for public office must be made in writing and signed by the complainant under oath.

(f) Test questions, scoring keys, and other examination data used to administer a license, employment, or academic examination.

(g) Except as provided by chapter 8.26 RCW, the contents of real estate appraisals, made for or by any agency relative to the acquisition or sale of property, until the project or prospective sale is abandoned or until such time as all of the

property has been acquired or the property to which the sale appraisal relates is sold, but in no event shall disclosure be denied for more than three years after the appraisal.

(h) Valuable formulae, designs, drawings, and research data obtained by any agency within five years of the request for disclosure when disclosure would produce private gain and public loss.

(i) Preliminary drafts, notes, recommendations, and intra-agency memorandums in which opinions are expressed or policies formulated or recommended except that a specific record shall not be exempt when publicly cited by an agency in connection with any agency action.

(j) Records which are relevant to a controversy to which an agency is a party but which records would not be available to another party under the rules of pretrial discovery for causes pending in the superior courts.

(k) Records, maps, or other information identifying the location of archaeological sites in order to avoid the looting or depredation of such sites.

(l) Any library record, the primary purpose of which is to maintain control of library materials, or to gain access to information, which discloses or could be used to disclose the identity of a library user.

(m) Financial information supplied by or on behalf of a person, firm, or corporation for the purpose of qualifying to submit a bid or proposal for (i) a ferry system construction or repair contract as required by RCW 47.60.680 through 47.60.750 or (ii) highway construction or improvement as required by RCW 47.28.070.

(n) Railroad company contracts filed prior to July 28, 1991, with the utilities and transportation commission under RCW 81.34.070, except that the summaries of the contracts are open to public inspection and copying as otherwise provided by this chapter.

(o) Financial and commercial information and records supplied by private persons pertaining to export services provided pursuant to chapter 43.163 RCW and chapter 53.31 RCW, and by persons pertaining to export projects pursuant to RCW 43.23.035.

(p) Financial disclosures filed by private vocational schools under chapters 28B.85 and 28C.10 RCW.

(q) Records filed with the utilities and transportation commission or attorney general under RCW 80.04.095 that a court has determined are confidential under RCW 80.04.095.

(r) Financial and commercial information and records supplied by businesses or individuals during application for loans or program services provided by chapters 43.163, 43.160, 43.330, and 43.168 RCW, or during application for economic development loans or program services provided by any local agency.

(s) Membership lists or lists of members or owners of interests of units in timeshare projects, subdivisions, camping resorts, condominiums, land developments, or common-interest communities affiliated with such projects,

regulated by the department of licensing, in the files or possession of the department.

(t) All applications for public employment, including the names of applicants, resumes, and other related materials submitted with respect to an applicant.

(u) The residential addresses and residential telephone numbers of employees or volunteers of a public agency which are held by the agency in personnel records, employment or volunteer rosters, or mailing lists of employees or volunteers.

(v) The residential addresses and residential telephone numbers of the customers of a public utility contained in the records or lists held by the public utility of which they are customers, except that this information may be released to the division of child support or the agency or firm providing child support enforcement for another state under Title IV-D of the federal social security act, for the establishment, enforcement, or modification of a support order.

(w)(i) The federal social security number of individuals governed under chapter 18.130 RCW maintained in the files of the department of health, except this exemption does not apply to requests made directly to the department from federal, state, and local agencies of government, and national and state licensing, credentialing, investigatory, disciplinary, and examination organizations; (ii) the current residential address and current residential telephone number of a health care provider governed under chapter 18.130 RCW maintained in the files of the department, if the provider requests that this information be withheld from public inspection and copying, and provides to the department an accurate alternate or business address and business telephone number. On or after January 1, 1995, the current residential address and residential telephone number of a health care provider governed under RCW 18.130.140 maintained in the files of the department shall automatically be withheld from public inspection and copying unless the provider specifically requests the information be released, and except as provided for under RCW 42.17.260(9).

(x) Information obtained by the board of pharmacy as provided in RCW 69.45.090.

(y) Information obtained by the board of pharmacy or the department of health and its representatives as provided in RCW 69.41.044, 69.41.280, and 18.64.420.

(z) Financial information, business plans, examination reports, and any information produced or obtained in evaluating or examining a business and industrial development corporation organized or seeking certification under chapter 31.24 RCW.

(aa) Financial and commercial information supplied to the state investment board by any person when the information relates to the investment of public trust or retirement funds and when disclosure would result in loss to such funds or in private loss to the providers of this information.

(bb) Financial and valuable trade information under RCW 51.36.120.

(cc) Client records maintained by an agency that is a domestic violence program as defined in RCW 70.123.020 or 70.123.075 or a rape crisis center as defined in RCW 70.125.030.

(dd) Information that identifies a person who, while an agency employee: (i) Seeks advice, under an informal process established by the employing agency, in order to ascertain his or her rights in connection with a possible unfair practice under chapter 49.60 RCW against the person; and (ii) requests his or her identity or any identifying information not be disclosed.

(ee) Investigative records compiled by an employing agency conducting a current investigation of a possible unfair practice under chapter 49.60 RCW or of a possible violation of other federal, state, or local laws prohibiting discrimination in employment.

(ff) Business related information protected from public inspection and copying under RCW 15.86.110.

(gg) Financial, commercial, operations, and technical and research information and data submitted to or obtained by the clean Washington center in applications for, or delivery of, program services under chapter 70.95H RCW.

(hh) Information and documents created specifically for, and collected and maintained by a quality improvement committee pursuant to RCW 43:70.510, regardless of which agency is in possession of the information and documents.

(ii) Personal information in files maintained in a data base created under RCW 43.07.360.

(2) Except for information described in subsection (1)(c)(i) of this section and confidential income data exempted from public inspection pursuant to RCW 84.40.020, the exemptions of this section are inapplicable to the extent that information, the disclosure of which would violate personal privacy or vital governmental interests, can be deleted from the specific records sought. No exemption may be construed to permit the nondisclosure of statistical information not descriptive of any readily identifiable person or persons.

(3) Inspection or copying of any specific records exempt under the provisions of this section may be permitted if the superior court in the county in which the record is maintained finds, after a hearing with notice thereof to every person in interest and the agency, that the exemption of such records is clearly unnecessary to protect any individual's right of privacy or any vital governmental function.

(4) Agency responses refusing, in whole or in part, inspection of any public record shall include a statement of the specific exemption authorizing the withholding of the record (or part) and a brief explanation of how the exemption applies to the record withheld.

NEW SECTION. Sec. 901. A new section is added to chapter 74.20 RCW to read as follows:

ORDERS FOR GENETIC TESTING. (1) The division of child support may issue an order for genetic testing when providing services under this chapter and Title IV-D of the federal social security act if genetic testing:

(a) Is appropriate in an action under chapter 26.26 RCW, the uniform parentage act;

(b) Is appropriate in an action to establish support under RCW 74.20A.056; or

(c) Would assist the parties or the division of child support in determining whether it is appropriate to proceed with an action to establish or disestablish paternity.

(2) The order for genetic testing shall be served on the alleged parent or parents and the legal parent by personal service or by any form of mail requiring a return receipt.

(3) Within twenty days of the date of service of an order for genetic testing, any party required to appear for genetic testing, the child, or a guardian on the child's behalf, may petition in superior court under chapter 26.26 RCW to bar or postpone genetic testing.

(4) The order for genetic testing shall contain:

(a) An explanation of the right to proceed in superior court under subsection (3) of this section;

(b) Notice that if no one proceeds under subsection (3) of this section, the agency issuing the order will schedule genetic testing and will notify the parties of the time and place of testing by regular mail;

(c) Notice that the parties must keep the agency issuing the order for genetic testing informed of their residence address and that mailing a notice of time and place for genetic testing to the last known address of the parties by regular mail constitutes valid service of the notice of time and place;

(d) Notice that the order for genetic testing may be enforced through:

(i) Public assistance grant reduction for noncooperation, pursuant to agency rule, if the child and custodian are receiving public assistance;

(ii) Termination of support enforcement services under Title IV-D of the federal social security act if the child and custodian are not receiving public assistance;

(iii) A referral to superior court for an appropriate action under chapter 26.26 RCW; or

(iv) A referral to superior court for remedial sanctions under RCW 7.21.060.

(5) The department may advance the costs of genetic testing under this section.

(6) If an action is pending under chapter 26.26 RCW, a judgment for reimbursement of the cost of genetic testing may be awarded under RCW 26.26.100.

(7) If no action is pending in superior court, the department may impose an obligation to reimburse costs of genetic testing according to rules adopted by the department to implement RCW 74.20A.056.

Sec. 902. RCW 26.23.045 and 1994 c 230 s 8 are each amended to read as follows:

(1) The ~~((office of support enforcement))~~ division of child support, Washington state support registry, shall provide support enforcement services under the following circumstances:

(a) Whenever public assistance under RCW 74.20.330 is paid;

(b) ~~((Whenever a request for nonassistance support enforcement services under RCW 74.20.040(2) is received;~~

~~—(e))~~ Whenever a request for support enforcement services under RCW 74.20.040~~((3))~~ is received;

~~((d))~~ (c) When a support order which contains language directing a responsible parent to make support payments to the Washington state support registry under RCW 26.23.050 is submitted and the division of child support receives a written application for services or is already providing services;

~~((e) When a support order is forwarded to the Washington state support registry by the clerk of a superior court under RCW 26.23.050(5);~~

~~—(f))~~ (d) When the obligor submits a support order or support payment, and an application, to the Washington state support registry.

(2) The ~~((office of support enforcement))~~ division of child support shall continue to provide support enforcement services for so long as and under such conditions as the department shall establish by regulation or until the superior court enters an order removing the requirement that the obligor make support payments to the Washington state support registry as provided for in RCW 26.23.050~~((2))~~.

NEW SECTION. Sec. 903. A new section is added to chapter 26.23 RCW to read as follows:

STATE CASE REGISTRY—SUBMISSION OF ORDERS. (1) The division of child support, Washington state support registry shall operate a state case registry containing records of all orders establishing or modifying a support order that are entered after October 1, 1998.

(2) The superior court clerk, the office of administrative hearings, and the department of social and health services shall, within five days of entry, forward to the Washington state support registry, a true and correct copy of all superior court orders or administrative orders establishing or modifying a support obligation that provide that support payments shall be made to the support registry.

(3) The division of child support shall reimburse the clerk for the reasonable costs of copying and sending copies of court orders to the registry at the reimbursement rate provided in Title IV-D of the federal social security act.

(4) Effective October 1, 1998, the superior court clerk, the office of administrative hearings, and the department of social and health services shall, within five days of entry, forward to the Washington state support registry a true and correct copy of all superior court orders or administrative orders establishing or modifying a support obligation.

(5) Receipt of a support order by the registry or other action under this section on behalf of a person or persons who have not made a written application for

support enforcement services to the division of child support and who are not recipients of public assistance is deemed to be:

(a) A request for payment services only if the order requires payment to the Washington state support registry;

(b) A submission for inclusion in the state case registry if the order does not require that support payments be made to the Washington state support registry.

NEW SECTION. Sec. 904. A new section is added to chapter 26.23 RCW to read as follows:

ADDRESS AND EMPLOYER INFORMATION IN SUPPORT ORDERS—DUTY TO UPDATE—PROVISIONS REGARDING SERVICE. (1) Each party to a paternity or child support proceeding must provide the court and the Washington state child support registry with his or her:

- (a) Social security number;
- (b) Current residential address;
- (c) Date of birth;
- (d) Telephone number;
- (e) Driver's license number; and
- (f) Employer's name, address, and telephone number.

(2) Each party to an order entered in a child support or paternity proceeding shall update the information required under subsection (1) of this section promptly after any change in the information. The duty established under this section continues as long as any monthly support or support debt remains due under the support order.

(3) In any proceeding to establish, enforce, or modify the child support order between the parties, a party may demonstrate to the presiding officer that he or she has diligently attempted to locate the other party. Upon a showing of diligent efforts to locate, the presiding officer may allow, or accept as adequate, service of process for the action by delivery of written notice to the address most recently provided by the party under this section.

(4) All support orders shall contain notice to the parties of the obligations established by this section and possibility of service of process according to subsection (3) of this section.

Sec. 905. RCW 26.23.030 and 1989 c 360 s 6 are each amended to read as follows:

(1) There is created a Washington state support registry within the (~~(office of support enforcement)~~) division of child support as the agency designated in Washington state to administer the child support program under Title IV-D of the federal social security act. The registry shall:

(a) Provide a central unit for collection of support payments made to the registry;

(b) Account for and disburse all support payments received by the registry;
 (~~(b))~~ (c) Maintain the necessary records including, but not limited to, information on support orders, support debts, the date and amount of support due;

the date and amount of payments; and the names, social security numbers, and addresses of the parties;

~~((e))~~ (d) Develop procedures for providing information to the parties regarding action taken by, and support payments collected and distributed by the registry; and

(e) Maintain a state child support case registry to compile and maintain records on all child support orders entered in the state of Washington.

(2) The ~~((office of support enforcement))~~ division of child support may assess and collect interest at the rate of twelve percent per year on unpaid child support that has accrued under any support order entered into the registry. This interest rate shall not apply to those support orders already specifying an interest assessment at a different rate.

(3) The secretary of social and health services shall adopt rules for the maintenance and retention of records of support payments and for the archiving and destruction of such records when the support obligation terminates or is satisfied. When a support obligation established under court order entered in a superior court of this state has been satisfied, a satisfaction of judgment form shall be prepared by the registry and filed with the clerk of the court in which the order was entered.

Sec. 906. RCW 74.20A.060 and 1989 c 360 s 9 and 1989 c 175 s 153 are each reenacted and amended to read as follows:

(1) The secretary may assert a lien upon the real or personal property of a responsible parent:

(a) When a support payment is past due, if the parent's support order ~~((was entered in accordance with RCW 26.23.050(1)))~~ contains notice that liens may be enforced against real and personal property, or notice that action may be taken under this chapter;

(b) Twenty-one days after service of a notice of support debt under RCW 74.20A.040;

(c) Twenty-one days after service of a notice and finding of financial responsibility under RCW 74.20A.055;

(d) Twenty-one days after service of a notice and finding of parental responsibility;

(e) Twenty-one days after service of a notice of support owed under RCW 26.23.110; or

(f) When appropriate under RCW 74.20A.270.

(2) The division of child support may use uniform interstate lien forms adopted by the United States department of health and human services to assert liens on a responsible parent's real and personal property located in another state.

(3) The claim of the department for a support debt, not paid when due, shall be a lien against all property of the debtor with priority of a secured creditor. This lien shall be separate and apart from, and in addition to, any other lien created by, or provided for, in this title. The lien shall attach to all real and personal property

of the debtor on the date of filing of such statement with the county auditor of the county in which such property is located.

~~((3))~~ (4) Whenever a support lien has been filed and there is in the possession of any person, firm, corporation, association, political subdivision or department of the state having notice of said lien any property which may be subject to the support lien, such property shall not be paid over, released, sold, transferred, encumbered or conveyed, except as provided for by the exemptions contained in RCW 74.20A.090 and 74.20A.130, unless:

(a) A written release or waiver signed by the secretary has been delivered to said person, firm, corporation, association, political subdivision or department of the state; or

(b) A determination has been made in an adjudicative proceeding pursuant to RCW 74.20A.055 or by a superior court ordering release of said support lien on the basis that no debt exists or that the debt has been satisfied.

Sec. 907. RCW 74.20A.080 and 1994 c 230 s 20 are each amended to read as follows:

(1) The secretary may issue to any person, firm, corporation, association, political subdivision, department of the state, or agency, subdivision, or instrumentality of the United States, an order to withhold and deliver property of any kind, including but not restricted to earnings which are or might become due, owing, or belonging to the debtor, when the secretary has reason to believe that there is in the possession of such person, firm, corporation, association, political subdivision, department of the state, or agency, subdivision, or instrumentality of the United States property which is or might become due, owing, or belonging to said debtor. Such order to withhold and deliver may be issued:

(a) ~~((When a support payment is past due))~~ At any time, if a responsible parent's support order:

(i) Contains ~~((language directing the parent to make support payments to the Washington state support registry; and))~~ notice that withholding action may be taken against earnings, wages, or assets without further notice to the parent; or

(ii) Includes a statement that other income-withholding action under this chapter may be taken without further notice to the responsible parent~~((as provided for in RCW 26.23.050(1)))~~;

(b) Twenty-one days after service of a notice of support debt under RCW 74.20A.040;

(c) Twenty-one days after service of a notice and finding of parental responsibility under RCW 74.20A.056;

(d) Twenty-one days after service of a notice of support owed under RCW 26.23.110;

(e) Twenty-one days after service of a notice and finding of financial responsibility under RCW 74.20A.055; or

(f) When appropriate under RCW 74.20A.270.

(2) The order to withhold and deliver shall:

(a) State the amount to be withheld on a periodic basis if the order to withhold and deliver is being served to secure payment of monthly current support;

(b) State the amount of the support debt accrued;

~~((b))~~ (c) State in summary the terms of RCW 74.20A.090 and 74.20A.100;

~~((e))~~ (d) Be served in the manner prescribed for the service of a summons in a civil action or by certified mail, return receipt requested.

(3) The division of child support may use uniform interstate withholding forms adopted by the United States department of health and human services to take withholding actions under this section when the responsible parent is owed money or property that is located in another state.

(4) Any person, firm, corporation, association, political subdivision, department of the state, or agency, subdivision, or instrumentality of the United States upon whom service has been made is hereby required to:

(a) Answer said order to withhold and deliver within twenty days, exclusive of the day of service, under oath and in writing, and shall make true answers to the matters inquired of therein; and

(b) Provide further and additional answers when requested by the secretary.

~~((4))~~ (5) Any such person, firm, corporation, association, political subdivision, department of the state, or agency, subdivision, or instrumentality of the United States in possession of any property which may be subject to the claim of the department ~~((of social and health services))~~ shall:

(a)(i) Immediately withhold such property upon receipt of the order to withhold and deliver; and

(ii) Immediately deliver the property to the secretary as soon as the twenty-day answer period expires;

(iii) Continue to withhold earnings payable to the debtor at each succeeding disbursement interval as provided for in RCW 74.20A.090, and deliver amounts withheld from earnings to the secretary on the date earnings are payable to the debtor;

(iv) Deliver amounts withheld from periodic payments to the secretary on the date the payments are payable to the debtor;

(v) Inform the secretary of the date the amounts were withheld as requested under this section; or

(b) Furnish to the secretary a good and sufficient bond, satisfactory to the secretary, conditioned upon final determination of liability.

~~((5))~~ (6) An order to withhold and deliver served under this section shall not expire until:

(a) Released in writing by the ~~((office of support enforcement))~~ division of child support;

(b) Terminated by court order; or

(c) The person or entity receiving the order to withhold and deliver does not possess property of or owe money to the debtor for any period of twelve

consecutive months following the date of service of the order to withhold and deliver.

~~((6))~~ (7) Where money is due and owing under any contract of employment, express or implied, or is held by any person, firm, corporation, or association, political subdivision, or department of the state, or agency, subdivision, or instrumentality of the United States subject to withdrawal by the debtor, such money shall be delivered by remittance payable to the order of the secretary.

~~((7))~~ (8) Delivery to the secretary of the money or other property held or claimed shall satisfy the requirement and serve as full acquittance of the order to withhold and deliver.

~~((8))~~ (9) A person, firm, corporation, or association, political subdivision, department of the state, or agency, subdivision, or instrumentality of the United States that complies with the order to withhold and deliver under this chapter is not civilly liable to the debtor for complying with the order to withhold and deliver under this chapter.

~~((9))~~ (10) The secretary may hold the money or property delivered under this section in trust for application on the indebtedness involved or for return, without interest, in accordance with final determination of liability or nonliability.

~~((10))~~ (11) Exemptions contained in RCW 74.20A.090 apply to orders to withhold and deliver issued under this section.

~~((11))~~ (12) The secretary shall also, on or before the date of service of the order to withhold and deliver, mail or cause to be mailed a copy of the order to withhold and deliver to the debtor at the debtor's last known post office address, or, in the alternative, a copy of the order to withhold and deliver shall be served on the debtor in the same manner as a summons in a civil action on or before the date of service of the order or within two days thereafter. The copy of the order shall be mailed or served together with a concise explanation of the right to petition for judicial review. This requirement is not jurisdictional, but, if the copy is not mailed or served as in this section provided, or if any irregularity appears with respect to the mailing or service, the superior court, in its discretion on motion of the debtor promptly made and supported by affidavit showing that the debtor has suffered substantial injury due to the failure to mail the copy, may set aside the order to withhold and deliver and award to the debtor an amount equal to the damages resulting from the secretary's failure to serve on or mail to the debtor the copy.

~~((12))~~ (13) An order to withhold and deliver issued in accordance with this section has priority over any other wage assignment, garnishment, attachment, or other legal process~~((, except for another wage assignment, garnishment, attachment, or other legal process for child support))~~.

~~((13))~~ (14) The ~~((office of support enforcement))~~ division of child support shall notify any person, firm, corporation, association, or political subdivision, department of the state, or agency, subdivision, or instrumentality of the United States required to withhold and deliver the earnings of a debtor under this action that they may deduct a processing fee from the remainder of the debtor's earnings,

even if the remainder would otherwise be exempt under RCW 74.20A.090. The processing fee shall not exceed ten dollars for the first disbursement to the department and one dollar for each subsequent disbursement under the order to withhold and deliver.

Sec. 908. RCW 26.23.120 and 1994 c 230 s 12 are each amended to read as follows:

(1) Any information or records concerning individuals who owe a support obligation or for whom support enforcement services are being provided which are obtained or maintained by the Washington state support registry, the ~~((office of support enforcement))~~ division of child support, or under chapter 74.20 RCW shall be private and confidential and shall only be subject to public disclosure as provided in subsection (2) of this section.

(2) The secretary of the department of social and health services ~~((shall))~~ may adopt rules ~~((which))~~;

(a) That specify what information is confidential;

(b) That specify the individuals or agencies to whom this information and these records may be disclosed((-);

(c) Limiting the purposes for which the information may be disclosed((-and the));

(d) Establishing procedures to obtain the information or records; or

(e) Establishing safeguards necessary to comply with federal law requiring safeguarding of information.

(3) The rules adopted under subsection (2) of this section shall provide for disclosure of the information and records, under appropriate circumstances, which shall include, but not be limited to:

(a) When authorized or required by federal statute or regulation governing the support enforcement program;

(b) To the person the subject of the records or information, unless the information is exempt from disclosure under RCW 42.17.310;

(c) To government agencies, whether state, local, or federal, and including federally recognized tribes, law enforcement agencies, prosecuting agencies, and the executive branch, if the disclosure is necessary for child support enforcement purposes or required under Title IV-D of the federal social security act;

(d) To the parties in a judicial or adjudicative proceeding upon a specific written finding by the presiding officer that the need for the information outweighs any reason for maintaining the privacy and confidentiality of the information or records;

(e) To private persons, federally recognized tribes, or organizations if the disclosure is necessary to permit private contracting parties to assist in the management and operation of the department;

(f) Disclosure of address and employment information to the parties to an action for purposes relating to a child support order, subject to the limitations in subsections (4) and (5) of this section;

(g) Disclosure of information or records when necessary to the efficient administration of the support enforcement program or to the performance of functions and responsibilities of the support registry and the ~~((office of support enforcement))~~ division of child support as set forth in state and federal statutes; or

(h) Disclosure of the information or records when authorized under RCW 74.04.060.

~~((3))~~ (4) Prior to disclosing the ~~((physical custodian's address under subsection (2)(f) of this section))~~ whereabouts of a parent or a party to a support order to the other parent or party, a notice shall be mailed, if appropriate under the circumstances, to the ~~((physical custodian))~~ parent or other party whose whereabouts are to be disclosed, at ~~((the physical custodian's))~~ that person's last known address. The notice shall advise the ~~((physical custodian))~~ parent or party that a request for disclosure has been made and will be complied with unless the department;

(a) Receives a copy of a court order within thirty days which enjoins the disclosure of the information or restricts or limits the requesting party's right to contact or visit the ~~((physical custodian))~~ parent or party whose address is to be disclosed or the child ~~((; or the custodial parent requests a hearing to contest the disclosure))~~;

(b) Receives a hearing request within thirty days under subsection (5) of this section; or

(c) Has reason to believe that the release of the information may result in physical or emotional harm to the party whose whereabouts are to be released, or to the child.

(5) A person receiving notice under subsection (4) of this section may request an adjudicative proceeding under chapter 34.05 RCW, at which the person may show that there is reason to believe that release of the information may result in physical or emotional harm to the person or the child. The administrative law judge shall determine whether the ~~((address))~~ whereabouts of the ~~((custodial parent))~~ person should be disclosed based on ~~((the same standard as a claim of "good cause" as defined in 42 U.S.C. Sec. 602(a)(26)(e))~~ subsection (4)(c) of this section, however no hearing is necessary if the department has in its possession a protective order or an order limiting visitation or contact.

~~((4))~~ (6) Nothing in this section shall be construed as limiting or restricting the effect of RCW 42.17.260~~((6))~~ (9). Nothing in this section shall be construed to prevent the disclosure of information and records if all details identifying an individual are deleted or the individual consents to the disclosure.

~~((5))~~ (7) It shall be unlawful for any person or agency in violation of this section to solicit, publish, disclose, receive, make use of, or to authorize, knowingly permit, participate in or acquiesce in the use of any lists of names for commercial or political purposes or the use of any information for purposes other than those purposes specified in this section. A violation of this section shall be a gross misdemeanor as provided in chapter 9A.20 RCW.

Sec. 909. RCW 26.04.160 and 1993 c 451 s 1 are each amended to read as follows:

(1) Application for a marriage license must be made and filed with the appropriate county auditor upon blanks to be provided by the county auditor for that purpose, which application shall be under the oath of each of the applicants, and each application shall state the name, address at the time of execution of application, age, social security number, birthplace, whether single, widowed or divorced, and whether under control of a guardian, residence during the past six months: PROVIDED, That each county may require such other and further information on said application as it shall deem necessary.

(2) The county legislative authority may impose an additional fee up to fifteen dollars on a marriage license for the purpose of funding family services such as family support centers.

Sec. 910. RCW 26.09.170 and 1992 c 229 s 2 are each amended to read as follows:

(1) Except as otherwise provided in subsection (7) of RCW 26.09.070, the provisions of any decree respecting maintenance or support may be modified: (a) Only as to installments accruing subsequent to the petition for modification or motion for adjustment except motions to compel court-ordered adjustments, which shall be effective as of the first date specified in the decree for implementing the adjustment; and, (b) except as otherwise provided in subsections (4), (5), (8), and (9) of this section, only upon a showing of a substantial change of circumstances. The provisions as to property disposition may not be revoked or modified, unless the court finds the existence of conditions that justify the reopening of a judgment under the laws of this state.

(2) Unless otherwise agreed in writing or expressly provided in the decree the obligation to pay future maintenance is terminated upon the death of either party or the remarriage of the party receiving maintenance.

(3) Unless otherwise agreed in writing or expressly provided in the decree, provisions for the support of a child are terminated by emancipation of the child or by the death of the parent obligated to support the child.

(4) An order of child support may be modified one year or more after it has been entered without showing a substantial change of circumstances:

(a) If the order in practice works a severe economic hardship on either party or the child;

(b) If a party requests an adjustment in an order for child support which was based on guidelines which determined the amount of support according to the child's age, and the child is no longer in the age category on which the current support amount was based;

(c) If a child is still in high school, upon a finding that there is a need to extend support beyond the eighteenth birthday to complete high school; or

(d) To add an automatic adjustment of support provision consistent with RCW 26.09.100.

(5) An order or decree entered prior to June 7, 1984, may be modified without showing a substantial change of circumstances if the requested modification is to:

- (a) Require health insurance coverage for a child named therein; or
- (b) Modify an existing order for health insurance coverage.

(6) An obligor's voluntary unemployment or voluntary underemployment, by itself, is not a substantial change of circumstances.

(7) The department of social and health services may file an action to modify an order of child support if public assistance money is being paid to or for the benefit of the child and the child support order is twenty-five percent or more below the appropriate child support amount set forth in the standard calculation as defined in RCW 26.19.011 and reasons for the deviation are not set forth in the findings of fact or order. The determination of twenty-five percent or more shall be based on the current income of the parties and the department shall not be required to show a substantial change of circumstances if the reasons for the deviations were not set forth in the findings of fact or order.

(8)(a) All child support decrees may be adjusted once every twenty-four months based upon changes in the income of the parents without a showing of substantially changed circumstances. Either party may initiate the adjustment by filing a motion and child support worksheets.

(b) A party may petition for modification in cases of substantially changed circumstances under subsection (1) of this section at any time. However, if relief is granted under subsection (1) of this section, twenty-four months must pass before a motion for an adjustment under (a) of this subsection may be filed.

(c) If, pursuant to (a) of this subsection or subsection (9) of this section, the court adjusts or modifies a child support obligation by more than thirty percent and the change would cause significant hardship, the court may implement the change in two equal increments, one at the time of the entry of the order and the second six months from the entry of the order. Twenty-four months must pass following the second change before a motion for an adjustment under (a) of this subsection may be filed.

(d) A parent who is receiving transfer payments who receives a wage or salary increase may not bring a modification action pursuant to subsection (1) of this section alleging that increase constitutes a substantial change of circumstances.

(e) The department of social and health services may file an action at any time to modify an order of child support in cases of substantially changed circumstances if public assistance money is being paid to or for the benefit of the child. The determination of the existence of substantially changed circumstances by the department that lead to the filing of an action to modify the order of child support is not binding upon the court.

(9) An order of child support may be adjusted twenty-four months from the date of the entry of the decree or the last adjustment or modification, whichever is later, based upon changes in the economic table or standards in chapter 26.19 RCW.

Sec. 911. RCW 26.21.005 and 1993 c 318 s 101 are each amended to read as follows:

In this chapter:

(1) "Child" means an individual, whether over or under the age of majority, who is or is alleged to be owed a duty of support by the individual's parent or who is or is alleged to be the beneficiary of a support order directed to the parent.

(2) "Child support order" means a support order for a child, including a child who has attained the age of majority under the law of the issuing state.

(3) "Duty of support" means an obligation imposed or imposable by law to provide support for a child, spouse, or former spouse, including an unsatisfied obligation to provide support.

(4) "Home state" means the state in which a child lived with a parent or a person acting as parent for at least six consecutive months immediately preceding the time of filing of a petition or comparable pleading for support and, if a child is less than six months old, the state in which the child lived from birth with any of them. A period of temporary absence of any of them is counted as part of the six-month or other period.

(5) "Income" includes earnings or other periodic entitlements to money from any source and any other property subject to withholding for support under the law of this state.

(6) "Income-withholding order" means an order or other legal process directed to an obligor's employer or other debtor, as defined by ~~((chapter 6.27))~~ RCW 50.04.080, to withhold support from the income of the obligor.

(7) "Initiating state" means a state ~~((in))~~ from which a proceeding is forwarded or in which a proceeding is filed for forwarding to a responding state under this chapter or a law or procedure substantially similar to this chapter, the Uniform Reciprocal Enforcement of Support Act, or the Revised Uniform Reciprocal Enforcement of Support Act ~~((is filed for forwarding to a responding state))~~.

(8) "Initiating tribunal" means the authorized tribunal in an initiating state.

(9) "Issuing state" means the state in which a tribunal issues a support order or renders a judgment determining parentage.

(10) "Issuing tribunal" means the tribunal that issues a support order or renders a judgment determining parentage.

(11) "Law" includes decisional and statutory law and rules and regulations having the force of law.

(12) "Obligee" means:

(a) An individual to whom a duty of support is or is alleged to be owed or in whose favor a support order has been issued or a judgment determining parentage has been rendered;

(b) A state or political subdivision to which the rights under a duty of support or support order have been assigned or which has independent claims based on financial assistance provided to an individual obligee; or

(c) An individual seeking a judgment determining parentage of the individual's child.

(13) "Obligor" means an individual, or the estate of a decedent:

(a) Who owes or is alleged to owe a duty of support;

(b) Who is alleged but has not been adjudicated to be a parent of a child; or

(c) Who is liable under a support order.

(14) "Register" means to record or file in the appropriate location for the recording or filing of foreign judgments generally or foreign support orders specifically, a support order or judgment determining parentage.

(15) "Registering tribunal" means a tribunal in which a support order is registered.

(16) "Responding state" means a state ((~~to~~)) in which a proceeding is filed or to which a proceeding is forwarded for filing from an initiating state under this chapter or a law or procedure substantially similar to this chapter, the Uniform Reciprocal Enforcement of Support Act, or the Revised Uniform Reciprocal Enforcement of Support Act.

(17) "Responding tribunal" means the authorized tribunal in a responding state.

(18) "Spousal support order" means a support order for a spouse or former spouse of the obligor.

(19) "State" means a state of the United States, the District of Columbia, ((~~the Commonwealth of~~)) Puerto Rico, the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States. The term ("~~state~~") includes:

(i) An Indian tribe ((~~and includes~~)); and

(ii) A foreign jurisdiction that has enacted a law or established procedures for issuance and enforcement of support orders ((~~that~~)) which are substantially similar to the procedures under this chapter, the Uniform Reciprocal Enforcement of Support Act, or the Revised Uniform Reciprocal Enforcement of Support Act.

(20) "Support enforcement agency" means a public official or agency authorized to seek:

(a) Enforcement of support orders or laws relating to the duty of support;

(b) Establishment or modification of child support;

(c) Determination of parentage; or

(d) Location of obligors or their assets.

(21) "Support order" means a judgment, decree, or order, whether temporary, final, or subject to modification, for the benefit of a child, a spouse, or a former spouse, that provides for monetary support, health care, arrearages, or reimbursement, and may include related costs and fees, interest, income withholding, attorneys' fees, and other relief.

(22) "Tribunal" means a court, administrative agency, or quasi-judicial entity authorized to establish, enforce, or modify support orders or to determine parentage.

Sec. 912. RCW 26.21.115 and 1993 c 318 s 205 are each amended to read as follows:

(1) A tribunal of this state issuing a support order consistent with the law of this state has continuing, exclusive jurisdiction over a child support order:

(a) As long as this state remains the residence of the obligor, the individual obligee, or the child for whose benefit the support order is issued; or

(b) Until ~~((each individual party has))~~ all of the parties who are individuals have filed written consents with the tribunal of this state for a tribunal of another state to modify the order and assume continuing, exclusive jurisdiction.

(2) A tribunal of this state issuing a child support order consistent with the law of this state may not exercise its continuing jurisdiction to modify the order if the order has been modified by a tribunal of another state pursuant to this chapter or a law substantially similar to this chapter.

(3) If a child support order of this state is modified by a tribunal of another state pursuant to this chapter or a law substantially similar to this chapter, a tribunal of this state loses its continuing, exclusive jurisdiction with regard to prospective enforcement of the order issued in this state, and may only:

(a) Enforce the order that was modified as to amounts accruing before the modification;

(b) Enforce nonmodifiable aspects of that order; and

(c) Provide other appropriate relief for violations of that order which occurred before the effective date of the modification.

(4) A tribunal of this state shall recognize the continuing, exclusive jurisdiction of a tribunal of another state that has issued a child support order pursuant to this chapter or a law substantially similar to this chapter.

(5) A temporary support order issued ex parte or pending resolution of a jurisdictional conflict does not create continuing, exclusive jurisdiction in the issuing tribunal.

(6) A tribunal of this state issuing a support order consistent with the law of this state has continuing, exclusive jurisdiction over a spousal support order throughout the existence of the support obligation. A tribunal of this state may not modify a spousal support order issued by a tribunal of another state having continuing, exclusive jurisdiction over that order under the law of that state.

Sec. 913. RCW 26.21.135 and 1993 c 318 s 207 are each amended to read as follows:

(1) If a proceeding is brought under this chapter and only one tribunal has issued a child support order, the order of that tribunal controls and must be so recognized.

(2) If a proceeding is brought under this chapter, and ~~((one))~~ two or more child support orders have been issued ~~((in))~~ by tribunals of this state or another state with regard to ~~((an))~~ the same obligor and ~~((a))~~ child, a tribunal of this state shall apply the following rules in determining which order to recognize for purposes of continuing, exclusive jurisdiction:

(a) ~~If only one of the tribunals ((has issued a child support order)) would have continuing, exclusive jurisdiction under this chapter,~~ the order of that tribunal controls and must be so recognized.

(b) ~~((If two or more tribunals have issued child support orders for the same obligor and child, and only one of the tribunals would have continuing, exclusive jurisdiction under this chapter, the order of that tribunal must be recognized:~~

~~—(e))) If ((two or more tribunals have issued child support orders for the same obligor and child, and)) more than one of the tribunals would have continuing, exclusive jurisdiction under this chapter, an order issued by a tribunal in the current home state of the child controls and must be so recognized, but if an order has not been issued in the current home state of the child, the order most recently issued controls and must be so recognized.~~

~~((d)) If two or more tribunals have issued child support orders for the same obligor and child, and none of the tribunals would have continuing, exclusive jurisdiction under this chapter, the tribunal of this state may issue a child support order, which must be recognized.~~

~~—(2) The tribunal that has issued an order recognized under subsection (1) of this section is the tribunal having continuing, exclusive jurisdiction.))~~

(c) If none of the tribunals would have continuing, exclusive jurisdiction under this chapter, the tribunal of this state having jurisdiction over the parties shall issue a child support order, which controls and must be so recognized.

(3) If two or more child support orders have been issued for the same obligor and child and if the obligor or the individual obligee resides in this state, a party may request a tribunal of this state to determine which order controls and must be so recognized under subsection (2) of this section. The request must be accompanied by a certified copy of every support order in effect. The requesting party shall give notice of the request to each party whose rights may be affected by the determination.

(4) The tribunal that issued the controlling order under subsection (1), (2), or (3) of this section is the tribunal that has continuing, exclusive jurisdiction under RCW 26.21.115.

(5) A tribunal of this state which determines by order the identity of the controlling order under subsection (2)(a) or (b) of this section or which issues a new controlling order under subsection (2)(c) of this section shall state in that order the basis upon which the tribunal made its determination.

(6) Within thirty days after issuance of an order determining the identity of the controlling order, the party obtaining the order shall file a certified copy of it with each tribunal that issued or registered an earlier order of child support. A party who obtains the order and fails to file a certified copy is subject to appropriate sanctions by a tribunal in which the issue of failure to file arises. The failure to file does not affect the validity or enforceability of the controlling order.

Sec. 914. RCW 26.21.235 and 1993 c 318 s 304 are each amended to read as follows:

(1) Upon the filing of a petition authorized by this chapter, an initiating tribunal of this state shall forward three copies of the petition and its accompanying documents:

~~((1))~~ (a) To the responding tribunal or appropriate support enforcement agency in the responding state; or

~~((2))~~ (b) If the identity of the responding tribunal is unknown, to the state information agency of the responding state with a request that they be forwarded to the appropriate tribunal and that receipt be acknowledged.

(2) If a responding state has not enacted the Uniform Interstate Family Support Act or a law or procedure substantially similar to the Uniform Interstate Family Support Act, a tribunal of this state may issue a certificate or other document and make findings required by the law of the responding state. If the responding state is a foreign jurisdiction, the tribunal may specify the amount of support sought and provide other documents necessary to satisfy the requirements of the responding state.

Sec. 915. RCW 26.21.245 and 1993 c 318 s 305 are each amended to read as follows:

(1) When a responding tribunal of this state receives a petition or comparable pleading from an initiating tribunal or directly pursuant to RCW 26.21.205(3), it shall cause the petition or pleading to be filed and notify the petitioner ~~((by first class mail))~~ where and when it was filed.

(2) A responding tribunal of this state, to the extent otherwise authorized by law, may do one or more of the following:

(a) Issue or enforce a support order, modify a child support order, or render a judgment to determine parentage;

(b) Order an obligor to comply with a support order, specifying the amount and the manner of compliance;

(c) Order income withholding;

(d) Determine the amount of any arrearages, and specify a method of payment;

(e) Enforce orders by civil or criminal contempt, or both;

(f) Set aside property for satisfaction of the support order;

(g) Place liens and order execution on the obligor's property;

(h) Order an obligor to keep the tribunal informed of the obligor's current residential address, telephone number, employer, address of employment, and telephone number at the place of employment;

(i) Issue a bench warrant or writ of arrest for an obligor who has failed after proper notice to appear at a hearing ordered by the tribunal and enter the bench warrant or writ of arrest in any local and state computer systems for criminal warrants;

(j) Order the obligor to seek appropriate employment by specified methods;

(k) Award reasonable attorneys' fees and other fees and costs; and

(l) Grant any other available remedy.

(3) A responding tribunal of this state shall include in a support order issued under this chapter, or in the documents accompanying the order, the calculations on which the support order is based.

(4) A responding tribunal of this state may not condition the payment of a support order issued under this chapter upon compliance by a party with provisions for visitation.

(5) If a responding tribunal of this state issues an order under this chapter, the tribunal shall send a copy of the order (~~(by first class mail)~~) to the petitioner and the respondent and to the initiating tribunal, if any.

Sec. 916. RCW 26.2I.255 and 1993 c 318 s 306 are each amended to read as follows:

If a petition or comparable pleading is received by an inappropriate tribunal of this state, it shall forward the pleading and accompanying documents to an appropriate tribunal in this state or another state and notify the petitioner (~~(by first class mail)~~) where and when the pleading was sent.

Sec. 917. RCW 26.2I.265 and 1993 c 318 s 307 are each amended to read as follows:

(1) A support enforcement agency of this state, upon request, shall provide services to a petitioner in a proceeding under this chapter.

(2) A support enforcement agency that is providing services to the petitioner as appropriate shall:

(a) Take all steps necessary to enable an appropriate tribunal in this state or another state to obtain jurisdiction over the respondent;

(b) Request an appropriate tribunal to set a date, time, and place for a hearing;

(c) Make a reasonable effort to obtain all relevant information, including information as to income and property of the parties;

(d) Within ~~((two))~~ five days, exclusive of Saturdays, Sundays, and legal holidays, after receipt of a written notice from an initiating, responding, or registering tribunal, send a copy of the notice (~~(by first class mail)~~) to the petitioner;

(e) Within ~~((two))~~ five days, exclusive of Saturdays, Sundays, and legal holidays, after receipt of a written communication from the respondent or the respondent's attorney, send a copy of the communication (~~(by first class mail)~~) to the petitioner; and

(f) Notify the petitioner if jurisdiction over the respondent cannot be obtained.

(3) This chapter does not create or negate a relationship of attorney and client or other fiduciary relationship between a support enforcement agency or the attorney for the agency and the individual being assisted by the agency.

Sec. 918. RCW 26.2I.450 and 1993 c 318 s 501 are each amended to read as follows:

~~((+))~~ An income-withholding order issued in another state may be sent (~~(by first class mail)~~) to the person or entity defined as the obligor's employer under ~~(chapter 6.27)~~ RCW 50.04.080 without first filing a petition or comparable

pleading or registering the order with a tribunal of this state. ~~((Upon receipt of the order, the employer shall:~~

~~— (a) Treat an income-withholding order issued in another state that appears regular on its face as if it had been issued by a tribunal of this state;~~

~~— (b) Immediately provide a copy of the order to the obligor; and~~

~~— (c) Distribute the funds as directed in the income-withholding order.~~

~~— (2) An obligor may contest the validity or enforcement of an income-withholding order issued in another state in the same manner as if the order had been issued by a tribunal of this state. RCW 26.21.510 applies to the contest. The obligor shall give notice of the contest to any support enforcement agency providing services to the obligee and to:~~

~~— (a) The person or agency designated to receive payments in the income-withholding order; or~~

~~— (b) If no person or agency is designated, the obligee.))~~

NEW SECTION. Sec. 919. A new section is added to chapter 26.21 RCW to read as follows:

EMPLOYER'S COMPLIANCE WITH INCOME-WITHHOLDING ORDER OF ANOTHER STATE. (1) Upon receipt of an income-withholding order, the obligor's employer shall immediately provide a copy of the order to the obligor.

(2) The employer shall treat an income-withholding order issued in another state that appears regular on its face as if it had been issued by a tribunal of this state.

(3) Except as provided in subsection (4) of this section and section 920 of this act, the employer shall withhold and distribute the funds as directed in the withholding order by complying with the terms of the order which specify:

(a) The duration and amount of periodic payments of current child support, stated as a sum certain;

(b) The person or agency designated to receive payments and the address to which the payments are to be forwarded;

(c) Medical support, whether in the form of periodic cash payment, stated as sum certain, or ordering the obligor to provide health insurance coverage for the child under a policy available through the obligor's employment;

(d) The amount of periodic payments of fees and costs for a support enforcement agency, the issuing tribunal, and the obligee's attorney, stated as sum certain; and

(e) The amount of periodic payments of arrearages and interest on arrearages, stated as sum certain.

(4) The employer shall comply with the law of the state of the obligor's principal place of employment for withholding from income with respect to:

(a) The employer's fee for processing an income withholding order;

(b) The maximum amount permitted to be withheld from the obligor's income;

and

(c) The times within which the employer must implement the withholding order and forward the child support payment.

NEW SECTION. Sec. 920. A new section is added to chapter 26.21 RCW to read as follows:

COMPLIANCE WITH MULTIPLE INCOME WITHHOLDING ORDERS. If an obligor's employer receives multiple income-withholding orders with respect to the earnings of the same obligor, the employer satisfies the terms of the multiple orders if the employer complies with the law of the state of the obligor's principal place of employment to establish the priorities for withholding and allocating income withheld for multiple child support obligees.

NEW SECTION. Sec. 921. A new section is added to chapter 26.21 RCW to read as follows:

IMMUNITY FROM CIVIL LIABILITY. An employer who complies with an income-withholding order issued in another state in accordance with this article is not subject to civil liability to an individual or agency with regard to the employer's withholding of child support from the obligor's income.

NEW SECTION. Sec. 922. A new section is added to chapter 26.21 RCW to read as follows:

PENALTIES FOR NONCOMPLIANCE. An employer who willfully fails to comply with an income-withholding order issued by another state and received for enforcement is subject to the same penalties that may be imposed for noncompliance with an order issued by a tribunal of this state.

NEW SECTION. Sec. 923. A new section is added to chapter 26.21 RCW to read as follows:

CONTEST BY OBLIGOR. (1) An obligor may contest the validity or enforcement of an income-withholding order issued in another state and received directly by an employer in this state in the same manner as if the order had been issued by a tribunal of this state. RCW 26.21.510 applies to the contest.

(2) The obligor shall give notice of the contest to:

- (a) A support enforcement agency providing services to the obligee;
- (b) Each employer that has directly received an income-withholding order; and
- (c) The person or agency designated to receive payments in the income-withholding order, or if no person or agency is designated, to the obligee.

Sec. 924. RCW 26.21.490 and 1993 c 318 s 602 are each amended to read as follows:

(1) A support order or income-withholding order of another state may be registered in this state by sending the following documents and information to the support enforcement agency of this state or to the superior court of any county in this state where the obligor resides, works, or has property:

- (a) A letter of transmittal to the tribunal requesting registration and enforcement;

(b) Two copies, including one certified copy, of all orders to be registered, including any modification of an order;

(c) A sworn statement by the party seeking registration or a certified statement by the custodian of the records showing the amount of any arrearage;

(d) The name of the obligor and, if known:

(i) The obligor's address and social security number;

(ii) The name and address of the obligor's employer and any other source of income of the obligor; and

(iii) A description and the location of property of the obligor in this state not exempt from execution; and

(e) The name and address of the obligee and, if applicable, the agency or person to whom support payments are to be remitted.

(2) On receipt of a request for registration, the registering tribunal shall cause the order to be filed as a foreign judgment, together with one copy of the documents and information, regardless of their form.

(3) A petition or comparable pleading seeking a remedy that must be affirmatively sought under other law of this state may be filed at the same time as the request for registration or later. The pleading must specify the grounds for the remedy sought.

Sec. 925. RCW 26.21.520 and 1993 c 318 s 605 are each amended to read as follows:

(1) When a support order or income-withholding order issued in another state is registered, the registering tribunal shall notify the nonregistering party. (~~Notice must be given by certified or registered mail or by any means of personal service authorized by the law of this state.~~) The notice must be accompanied by a copy of the registered order and the documents and relevant information accompanying the order.

(2) The notice must inform the nonregistering party:

(a) That a registered order is enforceable as of the date of registration in the same manner as an order issued by a tribunal of this state;

(b) That a hearing to contest the validity or enforcement of the registered order must be requested within twenty days after the date of receipt by certified or registered mail or personal service of the notice given to a nonregistering party within the state and within sixty days after the date of receipt by certified or registered mail or personal service of the notice on a nonregistering party outside of the state;

(c) That failure to contest the validity or enforcement of the registered order in a timely manner will result in confirmation of the order and enforcement of the order and the alleged arrearages and precludes further contest of that order with respect to any matter that could have been asserted; and

(d) Of the amount of any alleged arrearages.

(3) Upon registration of an income-withholding order for enforcement, the registering tribunal shall notify the obligor's employer pursuant to the income-withholding law of this state.

Sec. 926. RCW 26.21.530 and 1993 c 318 s 606 are each amended to read as follows:

(1) A nonregistering party seeking to contest the validity or enforcement of a registered order in this state shall request a hearing within twenty days after the date of receipt of certified or registered mail or the date of personal service of notice of the registration on the nonmoving party within this state, or, within sixty days after the receipt of certified or registered mail or personal service of the notice on the nonmoving party outside of the state. The nonregistering party may seek to vacate the registration, to assert any defense to an allegation of noncompliance with the registered order, or to contest the remedies being sought or the amount of any alleged arrearages pursuant to RCW 26.21.540.

(2) If the nonregistering party fails to contest the validity or enforcement of the registered order in a timely manner, the order is confirmed by operation of law.

(3) If a nonregistering party requests a hearing to contest the validity or enforcement of the registered order, the registering tribunal shall schedule the matter for hearing and give notice to the parties (~~(by first class mail)~~) of the date, time, and place of the hearing.

Sec. 927. RCW 26.21.580 and 1993 c 318 s 611 are each amended to read as follows:

(1) After a child support order issued in another state has been registered in this state, the responding tribunal of this state may modify that order only if ~~(;)~~ section 929 of this act does not apply and after notice and hearing ~~(;)~~ it finds that:

(a) The following requirements are met:

(i) The child, the individual obligee, and the obligor do not reside in the issuing state;

(ii) A petitioner who is a nonresident of this state seeks modification; and

(iii) The respondent is subject to the personal jurisdiction of the tribunal of this state; or

(b) ~~((An individual party or))~~ The child, or a party who is an individual, is subject to the personal jurisdiction of the tribunal of this state and all of the ((individual)) parties who are individuals have filed ((a)) written consents in the issuing tribunal ((providing that)) for a tribunal of this state ((may)) to modify the support order and assume continuing, exclusive jurisdiction over the order. However, if the issuing state is a foreign jurisdiction that has not enacted a law or established procedures substantially similar to the procedures under the Uniform Interstate Family Support Act, the consent otherwise required of an individual residing in this state is not required for the tribunal to assume jurisdiction to modify the child support order.

(2) Modification of a registered child support order is subject to the same requirements, procedures, and defenses that apply to the modification of an order

issued by a tribunal of this state and the order may be enforced and satisfied in the same manner.

(3) A tribunal of this state may not modify any aspect of a child support order that may not be modified under the law of the issuing state. If two or more tribunals have issued child support orders for the same obligor and child, the order that controls and must be so recognized under RCW 26.21.135 establishes the aspects of the support order that are nonmodifiable.

(4) On issuance of an order modifying a child support order issued in another state, a tribunal of this state becomes the tribunal ((of)) having continuing, exclusive jurisdiction.

~~((5) Within thirty days after issuance of a modified child support order, the party obtaining the modification shall file a certified copy of the order with the issuing tribunal which had continuing, exclusive jurisdiction over the earlier order, and in each tribunal in which the party knows that earlier order has been registered.))~~

Sec. 928. RCW 26.21.590 and 1993 c 318 s 612 are each amended to read as follows:

A tribunal of this state shall recognize a modification of its earlier child support order by a tribunal of another state that assumed jurisdiction pursuant to the Uniform Interstate Family Support Act or a law substantially similar to this chapter and, upon request, except as otherwise provided in this chapter, shall:

- (1) Enforce the order that was modified only as to amounts accruing before the modification;
- (2) Enforce only nonmodifiable aspects of that order;
- (3) Provide other appropriate relief only for violations of that order which occurred before the effective date of the modification; and
- (4) Recognize the modifying order of the other state, upon registration, for the purpose of enforcement.

NEW SECTION. Sec. 929. A new section is added to chapter 26.21 RCW to read as follows:

JURISDICTION TO MODIFY CHILD SUPPORT ORDER OF ANOTHER STATE IF INDIVIDUAL PARTIES RESIDE IN THIS STATE. (1) If all of the parties who are individuals reside in this state and the child does not reside in the issuing state, a tribunal of this state has jurisdiction to enforce and to modify the issuing state's child support order in a proceeding to register that order.

(2) A tribunal of this state exercising jurisdiction under this section shall apply the provisions of Articles 1 and 2, this article, and the procedural and substantive law of this state to the proceeding for enforcement or modification. Articles 3, 4, 5, 7, and 8 of this chapter do not apply.

NEW SECTION. Sec. 930. A new section is added to chapter 26.21 RCW to read as follows:

NOTICE TO ISSUING TRIBUNAL OF MODIFICATION. Within thirty days after issuance of a modified child support order, the party obtaining the

modification shall file a certified copy of the order with the issuing tribunal that had continuing, exclusive jurisdiction over the earlier order, and in each tribunal in which the party knows the earlier order has been registered. A party who obtains the order and fails to file a certified copy is subject to appropriate sanctions by a tribunal in which the issue of failure to file arises. The failure to file does not affect the validity or enforceability of the modified order of the new tribunal having continuing, exclusive jurisdiction.

Sec. 931. RCW 26.21.620 and 1993 c 318 s 701 are each amended to read as follows:

(1) A tribunal of this state may serve as an initiating or responding tribunal in a proceeding brought under this chapter or a law or procedure substantially similar to this chapter, the Uniform Reciprocal Enforcement of Support Act, or the Revised Uniform Reciprocal Enforcement of Support Act to determine that the petitioner is a parent of a particular child or to determine that a respondent is a parent of that child.

(2) In a proceeding to determine parentage, a responding tribunal of this state shall apply the Uniform Parentage Act, chapter 26.26 RCW, procedural and substantive law of this state, and the rules of this state on choice of law.

NEW SECTION. **Sec. 932.** A new section is added to chapter 26.21 RCW to read as follows:

ADOPTION OF RULES. The secretary of the department of social and health services shall issue such rules as necessary to act as the administrative tribunal pursuant to RCW 26.21.015.

Sec. 933. RCW 26.23.035 and 1991 c 367 s 38 are each amended to read as follows:

(1) The department of social and health services shall adopt rules for the distribution of support money collected by the ~~((office of support enforcement))~~ division of child support. These rules shall:

(a) Comply with ~~((42 U.S.C. Sec. 657))~~ Title IV-D of the federal social security act as amended by the personal responsibility and work opportunity reconciliation act of 1996;

(b) Direct the ~~((office of support enforcement))~~ division of child support to distribute support money within eight days of receipt, unless one of the following circumstances, or similar circumstances specified in the rules, prevents prompt distribution:

(i) The location of the custodial parent is unknown;

(ii) The support debt is in litigation;

(iii) The ~~((office of support enforcement))~~ division of child support cannot identify the responsible parent or the custodian;

(c) Provide for proportionate distribution of support payments if the responsible parent owes a support obligation or a support debt for two or more Title IV-D cases; and

(d) Authorize the distribution of support money, except money collected under 42 U.S.C. Sec. 664, to satisfy a support debt owed to the IV-D custodian before the debt owed to the state when the custodian stops receiving a public assistance grant.

(2) The ~~((office of support enforcement))~~ division of child support may distribute support payments to the payee under the support order or to another person who has lawful physical custody of the child or custody with the payee's consent. The payee may file an application for an adjudicative proceeding to challenge distribution to such other person. Prior to distributing support payments to any person other than the payee, the registry shall:

(a) Obtain a written statement from the child's physical custodian, under penalty of perjury, that the custodian has lawful custody of the child or custody with the payee's consent;

(b) Mail to the responsible parent and to the payee at the payee's last known address a copy of the physical custodian's statement and a notice which states that support payments will be sent to the physical custodian; and

(c) File a copy of the notice with the clerk of the court that entered the original support order.

(3) If the Washington state support registry distributes a support payment to a person in error, the registry may obtain restitution by means of a set-off against future payments received on behalf of the person receiving the erroneous payment, or may act according to RCW 74.20A.270 as deemed appropriate. Any set-off against future support payments shall be limited to amounts collected on the support debt and ten percent of amounts collected as current support.

(4) The division of child support shall ensure that the fifty dollar pass through payment, as required by 42 U.S.C. Sec. 657 before the adoption of P.L. 104-193, is terminated immediately upon the effective date of this section and all rules to the contrary adopted before the effective date of this section are without force and effect.

Sec. 934. RCW 74.20A.030 and 1993 sp.s. c 24 s 926 are each amended to read as follows:

(1) The department shall be subrogated to the right of any dependent child or children or person having the care, custody, and control of said child or children, if public assistance money is paid to or for the benefit of the child under a state program funded under Title IV-A of the federal social security act as amended by the personal responsibility and work opportunity reconciliation act of 1996, to prosecute or maintain any support action or execute any administrative remedy existing under the laws of the state of Washington to obtain reimbursement of moneys expended, based on the support obligation of the responsible parent established by a superior court order or RCW 74.20A.055. Distribution of any support moneys shall be made in accordance with ~~((42 U.S.C. Sec. 657))~~ RCW 26.23.035.

(2) The department may initiate, continue, maintain, or execute an action to establish, enforce, and collect a support obligation, including establishing paternity

and performing related services, under this chapter and chapter 74.20 RCW, or through the attorney general or prosecuting attorney under chapter 26.09, 26.18, 26.20, 26.21, 26.23, or 26.26 RCW or other appropriate statutes or the common law of this state, for so long as and under such conditions as the department may establish by regulation.

(3) Public assistance moneys shall be exempt from collection action under this chapter except as provided in RCW 74.20A.270.

(4) No collection action shall be taken against parents of children eligible for admission to, or children who have been discharged from a residential habilitation center as defined by RCW 71A.10.020(7). For the period July 1, 1993, through June 30, 1995, a collection action may be taken against parents of children with developmental disabilities who are placed in community-based residential care. The amount of support the department may collect from the parents shall not exceed one-half of the parents' support obligation accrued while the child was in community-based residential care. The child support obligation shall be calculated pursuant to chapter 26.19 RCW.

Sec. 935. RCW 74.20.320 and 1979 ex.s. c 171 s 17 are each amended to read as follows:

Whenever a custodian of children, or other person, receives support moneys paid to them which moneys are paid in whole or in part in satisfaction of a support obligation which has been assigned to the department pursuant to ~~((42 U.S.C. Sec. 602(A)(26)(a)))~~ Title IV-A of the federal social security act as amended by the personal responsibility and work opportunity reconciliation act of 1996 or RCW 74.20.330 or to which the department is owed a debt pursuant to RCW 74.20A.030, the moneys shall be remitted to the department within eight days of receipt by the custodian or other person. If not so remitted the custodian or other person shall be indebted to the department as a support debt in an amount equal to the amount of the support money received and not remitted.

By not paying over the moneys to the department, a custodial parent or other person is deemed, without the necessity of signing any document, to have made an irrevocable assignment to the department of any support delinquency owed which is not already assigned to the department or to any support delinquency which may accrue in the future in an amount equal to the amount of support money retained. The department may utilize the collection procedures in chapter 74.20A RCW to collect the assigned delinquency to effect recoupment and satisfaction of the debt incurred by reason of the failure of the custodial parent or other person to remit. The department is also authorized to make a set-off to effect satisfaction of the debt by deduction from support moneys in its possession or in the possession of any clerk of the court or other forwarding agent which are paid to the custodial parent or other person for the satisfaction of any support delinquency. Nothing in this section authorizes the department to make set-off as to current support paid during the month for which the payment is due and owing.

Sec. 936. RCW 74.20.330 and 1989 c 360 s 13 are each amended to read as follows:

(1) Whenever public assistance is paid under ~~((this title))~~ a state program funded under Title IV-A of the federal social security act as amended by the personal responsibility and work opportunity reconciliation act of 1996, each applicant or recipient is deemed to have made assignment to the department of any rights to a support obligation from any other person the applicant or recipient may have in his or her own behalf or in behalf of any other family member for whom the applicant or recipient is applying for or receiving public assistance, including any unpaid support obligation or support debt which has accrued at the time the assignment is made.

(2) Payment of public assistance under ~~((this title))~~ a state program funded under Title IV-A of the federal social security act as amended by the personal responsibility and work opportunity reconciliation act of 1996 shall:

(a) Operate as an assignment by operation of law; and

(b) Constitute an authorization to the department to provide the assistance recipient with support enforcement services.

Sec. 937. RCW 70.58.080 and 1989 c 55 s 2 are each amended to read as follows:

(1) Within ten days after the birth of any child, the attending physician, midwife, or his or her agent shall:

(a) Fill out a certificate of birth, giving all of the particulars required, including: (i) The mother's name and date of birth, and (ii) if the mother and father are married at the time of birth or the father has signed an acknowledgment of paternity, the father's name and date of birth; and

(b) File the certificate of birth together with the mother's and father's social security numbers with the ~~((local))~~ state registrar of ~~((the district in which the birth occurred))~~ vital statistics.

(2) The local registrar shall forward the birth certificate, any signed affidavit acknowledging paternity, and the mother's and father's social security numbers to the state office of vital statistics pursuant to RCW 70.58.030.

(3) The state ~~((office))~~ registrar of vital statistics shall make available to the ~~((office of support enforcement))~~ division of child support the birth certificates, the mother's and father's social security numbers and paternity affidavits.

(4) Upon the birth of a child to an unmarried woman, the attending physician, midwife, or his or her agent shall:

(a) Provide an opportunity for the child's mother and natural father to complete an affidavit acknowledging paternity. The completed affidavit shall be filed with the ~~((local))~~ state registrar of vital statistics. The affidavit shall contain or have attached:

(i) A sworn statement by the mother consenting to the assertion of paternity and stating that this is the only possible father;

(ii) A statement by the father that he is the natural father of the child;

(iii) A sworn statement signed by the mother and the putative father that each has been given notice, both orally and in writing, of the alternatives to, the legal consequences of, and the rights, including, if one parent is a minor, any rights afforded due to minority status, and responsibilities that arise from, signing the affidavit acknowledging paternity;

(iv) Written information, furnished by the department of social and health services, explaining the implications of signing, including parental rights and responsibilities; and

((iv)) (v) The social security numbers of both parents.

(b) Provide written information and oral information, furnished by the department of social and health services, to the mother and the father regarding the benefits of having ((her)) the child's paternity established and of the availability of paternity establishment services, including a request for support enforcement services. The oral and written information shall also include information regarding the alternatives to, the legal consequences of, and the rights, including, if one parent is a minor any rights afforded due to minority status, and responsibilities that arise from, signing the affidavit acknowledging paternity.

(5) The physician or midwife or his or her agent is entitled to reimbursement for reasonable costs, which the department shall establish by rule, when an affidavit acknowledging paternity is filed with the state ((office)) registrar of vital statistics.

(6) If there is no attending physician or midwife, the father or mother of the child, householder or owner of the premises, manager or superintendent of the public or private institution in which the birth occurred, shall notify the local registrar, within ten days after the birth, of the fact of the birth, and the local registrar shall secure the necessary information and signature to make a proper certificate of birth.

(7) When an infant is found for whom no certificate of birth is known to be on file, a birth certificate shall be filed within the time and in the form prescribed by the state board of health.

(8) When no putative father is named on a birth certificate of a child born to an unwed mother the mother may give any surname she so desires to her child but shall designate in space provided for father's name on the birth certificate "None Named".

Sec. 938. RCW 26.26.040 and 1994 c 230 s 14 are each amended to read as follows:

(1) A man is presumed to be the natural father of a child for all intents and purposes if:

(a) He and the child's natural mother are or have been married to each other and the child is born during the marriage, or within three hundred days after the marriage is terminated by death, annulment, declaration of invalidity, divorce, or dissolution, or after a decree of separation is entered by a court; or

(b) Before the child's birth, he and the child's natural mother have attempted to marry each other by a marriage solemnized in apparent compliance with law, although the attempted marriage is or could be declared invalid, and the child is born within three hundred days after the termination of cohabitation;

(c) After the child's birth, he and the child's natural mother have married, or attempted to marry, each other by a marriage solemnized in apparent compliance with law, although the attempted marriage is or could be declared invalid, and

(i) He has acknowledged his paternity of the child in writing filed with the state registrar of vital statistics,

(ii) With his consent, he is named as the child's father on the child's birth certificate, or

(iii) He is obligated to support the child under a written voluntary promise or by court order;

(d) While the child is under the age of majority, he receives the child into his home and openly holds out the child as his child;

(e) He acknowledges his paternity of the child pursuant to RCW 70.58.080 or in a writing filed with the state ((office)) registrar of vital statistics, which shall promptly inform the mother of the filing of the acknowledgment, if she does not dispute the acknowledgment within a reasonable time after being informed thereof, in a writing filed with the state registrar of vital statistics. An acknowledgment of paternity under RCW 70.58.080 shall be a legal finding of paternity of the child sixty days after the acknowledgment is filed with the center for health statistics unless the acknowledgment is sooner rescinded or challenged. After the sixty-day period has passed, the acknowledgment may be challenged in court only on the basis of fraud, duress, or material mistake of fact, with the burden of proof upon the challenger. Legal responsibilities of the challenger, including child support obligations, may not be suspended during the challenge, except for good cause shown. Judicial and administrative proceedings are neither required nor permitted to ratify an unchallenged acknowledgment of paternity filed after the effective date of this section. In order to enforce rights of residential time, custody, and visitation, a man presumed to be the father as a result of filing a written acknowledgment must seek appropriate judicial orders under this title;

(f) The United States immigration and naturalization service made or accepted a determination that he was the father of the child at the time of the child's entry into the United States and he had the opportunity at the time of the child's entry into the United States to admit or deny the paternal relationship; or

(g) Genetic testing indicates a ninety-eight percent or greater probability of paternity.

(2) A presumption under this section may be rebutted in an appropriate action only by clear, cogent, and convincing evidence. If two or more presumptions arise which conflict with each other, the presumption which on the facts is founded on the weightier considerations of policy and logic controls. The presumption is rebutted by a court decree establishing paternity of the child by another man.

NEW SECTION. **Sec. 939.** A new section is added to chapter 26.26 RCW to read as follows:

PROOF OF CERTAIN SUPPORT AND PATERNITY ESTABLISHMENT COSTS. In all actions brought under this chapter, bills for pregnancy, childbirth, and genetic testing shall:

(1) Be admissible as evidence without requiring third-party foundation testimony; and

(2) Constitute prima facie evidence of amounts incurred for such services or for testing on behalf of the child.

Sec. 940. RCW 74.20A.055 and 1996 c 21 s 1 are each amended to read as follows:

(1) The secretary may, in the absence of a superior court order, or pursuant to an establishment of paternity under chapter 26.26 RCW, serve on the responsible parent or parents a notice and finding of financial responsibility requiring a responsible parent or parents to appear and show cause in an adjudicative proceeding why the finding of responsibility and/or the amount thereof is incorrect, should not be finally ordered, but should be rescinded or modified. This notice and finding shall relate to the support debt accrued and/or accruing under this chapter and/or RCW 26.16.205, including periodic payments to be made in the future. The hearing shall be held pursuant to this section, chapter 34.05 RCW, the Administrative Procedure Act, and the rules of the department.

(2) The notice and finding of financial responsibility shall be served in the same manner prescribed for the service of a summons in a civil action or may be served on the responsible parent by certified mail, return receipt requested. The receipt shall be prima facie evidence of service. The notice shall be served upon the debtor within sixty days from the date the state assumes responsibility for the support of the dependent child or children on whose behalf support is sought. If the notice is not served within sixty days from such date, the department shall lose the right to reimbursement of payments made after the sixty-day period and before the date of notification: PROVIDED, That if the department exercises reasonable efforts to locate the debtor and is unable to do so the entire sixty-day period is tolled until such time as the debtor can be located.

(3) The notice and finding of financial responsibility shall set forth the amount the department has determined the responsible parent owes, the support debt accrued and/or accruing, and periodic payments to be made in the future. The notice and finding shall also include:

(a) A statement of the name of the recipient or custodian and the name of the child or children for whom support is sought;

(b) A statement of the amount of periodic future support payments as to which financial responsibility is alleged;

(c) A statement that the responsible parent may object to all or any part of the notice and finding, and file an application for an adjudicative proceeding to show

cause why said responsible parent should not be determined to be liable for any or all of the debt, past and future;

~~(d) ((A statement that the alleged responsible parent may challenge the presumption of paternity;~~

~~—(e))~~ A statement that, if the responsible parent fails in timely fashion to file an application for an adjudicative proceeding, the support debt and payments stated in the notice and finding, including periodic support payments in the future, shall be assessed and determined and ordered by the department and that this debt and amounts due under the notice shall be subject to collection action;

~~((f))~~ (e) A statement that the property of the debtor, without further advance notice or hearing, will be subject to lien and foreclosure, distraint, seizure and sale, order to withhold and deliver, notice of payroll deduction or other collection action to satisfy the debt and enforce the support obligation established under the notice.

(4) A responsible parent who objects to the notice and finding of financial responsibility may file an application for an adjudicative proceeding within twenty days of the date of service of the notice or thereafter as provided under this subsection. An adjudicative proceeding shall be held in the county of residence or other place convenient to the responsible parent.

(a) If the responsible parent files the application within twenty days, the department shall schedule an adjudicative proceeding to hear the parent's objection and determine the parents' support obligation for the entire period covered by the notice and finding of financial responsibility. The filing of the application stays collection action pending the entry of a final administrative order;

(b) If the responsible parent fails to file an application within twenty days, the notice and finding shall become a final administrative order. The amounts for current and future support and the support debt stated in the notice are final and subject to collection, except as provided under (c) and (d) of this subsection;

(c) If the responsible parent files the application more than twenty days after, but within one year of the date of service, the department shall schedule an adjudicative proceeding to hear the parents' objection and determine the parent's support obligation for the entire period covered by the notice and finding of financial responsibility. The filing of the application does not stay further collection action, pending the entry of a final administrative order, and does not affect any prior collection action;

(d) If the responsible parent files the application more than one year after the date of service, the department shall schedule an adjudicative proceeding at which the responsible parent must show good cause for failure to file a timely application. The filing of the application does not stay future collection action and does not affect prior collection action:

(i) If the presiding officer finds that good cause exists, the presiding officer shall proceed to hear the parent's objection to the notice and determine the parent's support obligation;

(ii) If the presiding officer finds that good cause does not exist, the presiding officer shall treat the application as a petition for prospective modification of the amount for current and future support established under the notice and finding. In the modification proceeding, the presiding officer shall set current and future support under chapter 26.19 RCW. The responsible parent need show neither good cause nor a substantial change of circumstances to justify modification of current and future support;

(e) The department shall retain and/or shall not refund support money collected more than twenty days after the date of service of the notice. Money withheld as the result of collection action shall be delivered to the department. The department shall distribute such money, as provided in published rules.

(5)((a)) If an application for an adjudicative proceeding is filed, the presiding or reviewing officer shall determine the past liability and responsibility, if any, of the alleged responsible parent and shall also determine the amount of periodic payments to be made in the future, which amount is not limited by the amount of any public assistance payment made to or for the benefit of the child. If deviating from the child support schedule in making these determinations, the presiding or reviewing officer shall apply the standards contained in the child support schedule and enter written findings of fact supporting the deviation.

~~((b) If a responsible parent provides credible evidence at an adjudicative proceeding that would rebut the presumption of paternity set forth in RCW 26.26.040, the presiding officer shall direct the department to refer the issue for scheduling of an appropriate hearing in superior court to determine whether the presumption should be rebutted.))~~

(6) If the responsible parent fails to attend or participate in the hearing or other stage of an adjudicative proceeding, upon a showing of valid service, the presiding officer shall enter an administrative order declaring the support debt and payment provisions stated in the notice and finding of financial responsibility to be assessed and determined and subject to collection action.

(7) The final administrative order establishing liability and/or future periodic support payments shall be superseded upon entry of a superior court order for support to the extent the superior court order is inconsistent with the administrative order.

(8) Debts determined pursuant to this section, accrued and not paid, are subject to collection action under this chapter without further necessity of action by a presiding or reviewing officer.

Sec. 941. RCW 74.20A.056 and 1994 c 230 s 19 and 1994 c 146 s 5 are each reenacted and amended to read as follows:

(1) If an alleged father has signed an affidavit acknowledging paternity which has been filed with the state ((office)) registrar of vital statistics before July 1, 1997, the ((office of support enforcement)) division of child support may serve a notice and finding of parental responsibility on him. Procedures for and responsibility resulting from acknowledgments filed after July 1, 1997, are in

subsections (8) and (9) of this section. Service of the notice shall be in the same manner as a summons in a civil action or by certified mail, return receipt requested. The notice shall have attached to it a copy of the affidavit or certification of birth record information advising of the existence of a filed affidavit, provided by the ~~((center for health))~~ state registrar of vital statistics, and shall state that:

(a) The alleged father may file an application for an adjudicative proceeding at which he will be required to appear and show cause why the amount stated in the finding of financial responsibility as to support is incorrect and should not be ordered;

(b) An alleged father may request that a blood or genetic test be administered to determine whether such test would exclude him from being a natural parent and, if not excluded, may subsequently request that the ~~((office of support enforcement))~~ division of child support initiate an action in superior court to determine the existence of the parent-child relationship; and

(c) If the alleged father does not request that a blood or genetic test be administered or file an application for an adjudicative proceeding, the amount of support stated in the notice and finding of parental responsibility shall become final, subject only to a subsequent determination under RCW 26.26.060 that the parent-child relationship does not exist.

(2) An alleged father who objects to the amount of support requested in the notice may file an application for an adjudicative proceeding up to twenty days after the date the notice was served. An application for an adjudicative proceeding may be filed within one year of service of the notice and finding of parental responsibility without the necessity for a showing of good cause or upon a showing of good cause thereafter. An adjudicative proceeding under this section shall be pursuant to RCW 74.20A.055. The only issues shall be the amount of the accrued debt, the amount of the current and future support obligation, and the reimbursement of the costs of blood or genetic tests if advanced by the department.

(3) If the application for an adjudicative proceeding is filed within twenty days of service of the notice, collection action shall be stayed pending a final decision by the department. If no application is filed within twenty days:

(a) The amounts in the notice shall become final and the debt created therein shall be subject to collection action; and

(h) Any amounts so collected shall neither be refunded nor returned if the alleged father is later found not to be a responsible parent.

(4) An alleged father who denies being a responsible parent may request that a blood or genetic test be administered at any time. The request for testing shall be in writing and served on the ~~((office of support enforcement))~~ division of child support personally or by registered or certified mail. If a request for testing is made, the department shall arrange for the test and, pursuant to rules adopted by the department, may advance the cost of such testing. The department shall mail a copy of the test results by certified mail, return receipt requested, to the alleged father's last known address.

(5) If the test excludes the alleged father from being a natural parent, the ~~((office of support enforcement))~~ division of child support shall file a copy of the results with the state ~~((office))~~ registrar of vital statistics and shall dismiss any pending administrative collection proceedings based upon the affidavit in issue. The state ~~((office))~~ registrar of vital statistics shall remove the alleged father's name from the birth certificate and change the child's surname to be the same as the mother's maiden name as stated on the birth certificate, or any other name which the mother may select.

(6) The alleged father may, within twenty days after the date of receipt of the test results, request the ~~((office of support enforcement))~~ division of child support to initiate an action under RCW 26.26.060 to determine the existence of the parent-child relationship. If the ~~((office of support enforcement))~~ division of child support initiates a superior court action at the request of the alleged father and the decision of the court is that the alleged father is a natural parent, the alleged father shall be liable for court costs incurred.

(7) If the alleged father does not request the ~~((office of support enforcement))~~ division of child support to initiate a superior court action, or if the alleged father fails to appear and cooperate with blood or genetic testing, the notice of parental responsibility shall become final for all intents and purposes and may be overturned only by a subsequent superior court order entered under RCW 26.26.060.

(8)(a) If an alleged father has signed an affidavit acknowledging paternity that has been filed with the state registrar of vital statistics after July 1, 1997, within sixty days from the date of filing of the acknowledgment:

(i) The division of child support may serve a notice and finding of parental responsibility on him as set forth under this section; and

(ii) The alleged father or any other signatory may rescind his acknowledgment of paternity. The rescission shall be notarized and delivered to the state registrar of vital statistics personally or by registered or certified mail. The state registrar shall remove the father's name from the birth certificate and change the child's surname to be the same as the mother's maiden name as stated on the birth certificate or any other name that the mother may select. The state registrar shall file rescission notices in a sealed file. All future paternity actions on behalf of the child in question shall be performed under court order.

(b) If the alleged father does not file an application for an adjudicative proceeding or rescind his acknowledgment of paternity, the amount of support stated in the notice and finding of parental responsibility becomes final, subject only to a subsequent determination under RCW 26.26.060 that the parent-child relationship does not exist.

(c) An alleged father who objects to the amount of support requested in the notice may file an application for an adjudicative proceeding up to twenty days after the date the notice was served. An application for an adjudicative proceeding may be filed within one year of service of the notice and finding of parental

responsibility without the necessity for a showing of good cause or upon a showing of good cause thereafter. An adjudicative proceeding under this section shall be pursuant to RCW 74.20A.055. The only issues shall be the amount of the accrued debt and the amount of the current and future support obligation.

(i) If the application for an adjudicative proceeding is filed within twenty days of service of the notice, collection action shall be stayed pending a final decision by the department.

(ii) If the application for an adjudicative proceeding is not filed within twenty days of the service of the notice, any amounts collected under the notice shall be neither refunded nor returned if the alleged father is later found not to be a responsible parent.

(d) If an alleged father makes a request for genetic testing, the department shall proceed as set forth under section 901 of this act.

(e) If the alleged father does not request an adjudicative proceeding, or if the alleged father fails to rescind his filed acknowledgment of paternity, the notice of parental responsibility becomes final for all intents and purposes and may be overturned only by a subsequent superior court order entered under RCW 26.26.060.

(9) Affidavits acknowledging paternity that are filed after July 1, 1997, are subject to requirements of chapters 26.26 and 70.58 RCW.

(10) The department and the department of health may adopt rules to implement the requirements under this section.

NEW SECTION. Sec. 942. A new section is added to chapter 26.18 RCW to read as follows:

CHILD SUPPORT LIENS—CREATION—ATTACHMENT. Child support debts, not paid when due, become liens by operation of law against all property of the debtor with priority of a secured creditor. This lien shall be separate and apart from, and in addition to, any other lien created by, or provided for, in this title. The lien attaches to all real and personal property of the debtor on the date of filing with the county auditor of the county in which the property is located.

Sec. 943. RCW 26.23.040 and 1994 c 127 s I are each amended to read as follows:

(1) Except as provided in subsection (3) of this section, all employers doing business in the state of Washington, and to whom the department of employment security has assigned the standard industrial classification sic codes listed in subsection (2) of this section, shall report to the Washington state support registry:

(a) The hiring of any person who resides or works in this state to whom the employer anticipates paying earnings; and⁽¹⁾

(b) The rehiring or return to work of any employee who was laid off, furloughed, separated, granted a leave without pay, or terminated from employment.

(2) Employers in the standard industrial classifications that shall report to the Washington state support registry include:

(a) Construction industry sic codes: 15, general building; 16, heavy construction; and 17, special trades;

(b) Manufacturing industry sic code 37, transportation equipment;

(c) Business services sic codes: 73, except sic code 7363 (temporary help supply services); and health services sic code 80.

(3) Employers are not required to report the hiring of any person who:

(a) Will be employed for less than one months duration;

(b) Will be employed sporadically so that the employee will be paid for less than three hundred fifty hours during a continuous six-month period; or

(c) Will have gross earnings less than three hundred dollars in every month.

The secretary of the department of social and health services may adopt rules to establish additional exemptions if needed to reduce unnecessary or burdensome reporting.

(4) Employers may report by mailing the employee's copy of the W-4 form, or other means authorized by the registry which will result in timely reporting.

(5) Employers shall submit reports within thirty-five days of the hiring, rehiring, or return to work of the employee. The report shall contain:

(a) The employee's name, address, social security number, and date of birth; and

(b) The employer's name, address, and employment security reference number or unified business identifier number.

(6) An employer who fails to report as required under this section shall be given a written warning for the first violation and shall be subject to a civil penalty of up to two hundred dollars per month for each subsequent violation after the warning has been given. All violations within a single month shall be considered a single violation for purposes of assessing the penalty. The penalty may be imposed and collected by the ~~((office of support enforcement))~~ division of child support under ((RCW 74.20A.270)) section 893 of this act.

~~(7) ((The registry shall retain the information for a particular employee only if the registry is responsible for establishing, enforcing, or collecting a support obligation or debt of the employee. If the employee does not owe such an obligation or a debt, the registry shall not create a record regarding the employee and the information contained in the notice shall be promptly destroyed. Prior to the destruction of the notice, the department of social and health services shall make the information contained in the notice available to other state agencies, based upon the written request of an agency's director or chief executive, specifically for comparison with records or information possessed by the requesting agency to detect improper or fraudulent claims. If, after comparison, no such situation is found or reasonably suspected to exist, the information shall be promptly destroyed by the requesting agency. Requesting agencies that obtain information from the department of social and health services under this section shall maintain the confidentiality of the information received, except as necessary to implement the agencies' responsibilities.))~~ The registry shall retain the

information for a particular employee only if the registry is responsible for establishing, enforcing, or collecting a support debt of the employee. The registry may, however, retain information for a particular employee for as long as may be necessary to:

(a) Transmit the information to the national directory of new hires as required under federal law; or

(b) Provide the information to other state agencies for comparison with records or information possessed by those agencies as required by law.

Information that is not permitted to be retained shall be promptly destroyed. Agencies that obtain information from the department of social and health services under this section shall maintain the confidentiality of the information received, except as necessary to implement the agencies' responsibilities.

Sec. 944. RCW 26.23.040 and 1997 c . . . s 943 (section 943 of this act) are each amended to read as follows:

(1) ~~((Except as provided in subsection (3) of this section,))~~ All employers doing business in the state of Washington, and to whom the department of employment security has assigned ~~((the))~~ a standard industrial classification sic code~~((s listed in subsection (2) of this section,))~~ shall report to the Washington state support registry:

(a) The hiring of any person who resides or works in this state to whom the employer anticipates paying earnings; and

(b) The rehiring or return to work of any employee who was laid off, furloughed, separated, granted a leave without pay, or terminated from employment.

~~((2) Employers in the standard industrial classifications that shall report to the Washington state support registry include:~~

~~— (a) Construction industry sic codes: 15, general building; 16, heavy construction; and 17, special trades;~~

~~— (b) Manufacturing industry sic code 37, transportation equipment;~~

~~— (c) Business services sic codes: 73, except sic code 7363 (temporary help supply services); and health services sic code 80.~~

~~(3) Employers are not required to report the hiring of any person who:~~

~~— (a) Will be employed for less than one months duration;~~

~~— (b) Will be employed sporadically so that the employee will be paid for less than three hundred fifty hours during a continuous six-month period; or~~

~~— (c) Will have gross earnings less than three hundred dollars in every month.))~~

The secretary of the department of social and health services may adopt rules to establish additional exemptions if needed to reduce unnecessary or burdensome reporting.

~~((4))~~ (2) Employers may report by mailing the employee's copy of the W-4 form, or other means authorized by the registry which will result in timely reporting.

~~((5))~~ (3) Employers shall submit reports within ~~((thirty-five))~~ twenty days of the hiring, rehiring, or return to work of the employee, except as provided in subsection (4) of this section. The report shall contain:

(a) The employee's name, address, social security number, and date of birth; and

(b) The employer's name, address, ~~((and))~~ employment security reference number ~~((or))~~, unified business identifier number and identifying number assigned under section 6109 of the internal revenue code of 1986.

~~((6))~~ (4) In the case of an employer transmitting reports magnetically or electronically, the employer shall report newly hired employees by two monthly transmissions, if necessary, not less than twelve days nor more than sixteen days apart.

(5) An employer who fails to report as required under this section shall be given a written warning for the first violation and shall be subject to a civil penalty of up to two hundred dollars per month for each subsequent violation after the warning has been given. All violations within a single month shall be considered a single violation for purposes of assessing the penalty. The penalty may be imposed and collected by the division of child support under RCW 74.20A,— (section 893 of this act).

~~((7))~~ (6) The registry shall retain the information for a particular employee only if the registry is responsible for establishing, enforcing, or collecting a support debt of the employee. The registry may, however, retain information for a particular employee for as long as may be necessary to:

(a) Transmit the information to the national directory of new hires as required under federal law; or

(b) Provide the information to other state agencies for comparison with records or information possessed by those agencies as required by law.

Information that is not permitted to be retained shall be promptly destroyed. Agencies that obtain information from the department of social and health services under this section shall maintain the confidentiality of the information received, except as necessary to implement the agencies' responsibilities.

Sec. 945. RCW 26.09.020 and 1989 1st ex.s. c 9 s 204 and 1989 c 375 s 3 are each reenacted and amended to read as follows:

(1) A petition in a proceeding for dissolution of marriage, legal separation, or for a declaration concerning the validity of a marriage, shall allege the following:

(a) The last known residence of each party;

(b) The social security number of each party;

(c) The date and place of the marriage;

~~((e))~~ (d) If the parties are separated the date on which the separation occurred;

~~((4))~~ (e) The names, ages, and addresses of any child dependent upon either or both spouses and whether the wife is pregnant;

~~((e))~~ (f) Any arrangements as to the residential schedule of, decision making for, dispute resolution for, and support of the children and the maintenance of a spouse;

~~((f))~~ (g) A statement specifying whether there is community or separate property owned by the parties to be disposed of;

~~((g))~~ (h) The relief sought.

(2) Either or both parties to the marriage may initiate the proceeding.

(3) The petitioner shall complete and file with the petition a certificate under RCW 70.58.200 on the form provided by the department of health.

Sec. 946. RCW 26.26.100 and 1994 c 230 s 15 and 1994 c 146 s 1 are each reenacted and amended to read as follows:

(1) The court may, and upon request of a party shall, require the child, mother, and any alleged or presumed father who has been made a party to submit to blood tests or genetic tests of blood, tissues, or other bodily fluids. If ~~((an alleged father))~~ a party objects to a proposed order requiring ~~((him to submit to paternity))~~ blood or genetic tests, the court ~~((may))~~ shall require the party making the allegation of possible paternity to provide sworn testimony, by affidavit or otherwise, stating the facts upon which the allegation is based. The court shall order blood or genetic tests if it appears that a reasonable possibility exists that the requisite sexual contact occurred or where nonpaternity is alleged, that the requisite sexual contact did not occur. The tests shall be performed by an expert in paternity blood or genetic testing appointed by the court. The expert's verified report identifying the blood or genetic characteristics observed is admissible in evidence in any hearing or trial in the parentage action, if (a) the alleged or presumed father has had the opportunity to gain information about the security, validity, and interpretation of the tests and the qualifications of any experts, and (b) the report is accompanied by an affidavit from the expert which describes the expert's qualifications as an expert and analyzes and interprets the results. Verified documentation of the chain of custody of the blood or genetic samples tested is admissible to establish the chain of custody. The court may consider published sources as aids to interpretation of the test results.

(2)(a) Any objection to genetic testing results must be made in writing and served upon the opposing party, within twenty days before any hearing at which such results may be introduced into evidence.

(b) If an objection is not made as provided in this subsection, the test results are admissible as evidence of paternity without the need for foundation testimony or other proof of authenticity or accuracy.

(3) The court, upon request by a party, shall order that additional blood or genetic tests be performed by the same or other experts qualified in paternity blood or genetic testing, if the party requesting additional tests advances the full costs of the additional testing within a reasonable time. The court may order additional testing without requiring that the requesting party advance the costs only if another party agrees to advance the costs or if the court finds, after hearing, that (a) the

requesting party is indigent, and (b) the laboratory performing the initial tests recommends additional testing or there is substantial evidence to support a finding as to paternity contrary to the initial blood or genetic test results. The court may later order any other party to reimburse the party who advanced the costs of additional testing for all or a portion of the costs.

(4) In all cases, the court shall determine the number and qualifications of the experts.

Sec. 947. RCW 26.26.130 and 1995 c 246 s 31 are each amended to read as follows:

(1) The judgment and order of the court determining the existence or nonexistence of the parent and child relationship shall be determinative for all purposes.

(2) If the judgment and order of the court is at variance with the child's birth certificate, the court shall order that an amended birth certificate be issued.

(3) The judgment and order shall contain other appropriate provisions directed to the appropriate parties to the proceeding, concerning the duty of current and future support, the extent of any liability for past support furnished to the child if that issue is before the court, the furnishing of bond or other security for the payment of the judgment, or any other matter in the best interest of the child. The judgment and order may direct the father to pay the reasonable expenses of the mother's pregnancy and confinement. The judgment and order may include a continuing restraining order or injunction. In issuing the order, the court shall consider the provisions of RCW 9.41.800.

(4) The judgment and order shall contain the social security numbers of all parties to the order.

(5) Support judgment and orders shall be for periodic payments which may vary in amount. The court may limit the father's liability for the past support to the child to the proportion of the expenses already incurred as the court deems just. The court shall not limit or affect in any manner the right of nonparties including the state of Washington to seek reimbursement for support and other services previously furnished to the child.

~~((5))~~ (6) After considering all relevant factors, the court shall order either or both parents to pay an amount determined pursuant to the schedule and standards contained in chapter 26.19 RCW.

~~((6))~~ (7) On the same basis as provided in chapter 26.09 RCW, the court shall make residential provisions with regard to minor children of the parties, except that a parenting plan shall not be required unless requested by a party.

~~((7))~~ (8) In any dispute between the natural parents of a child and a person or persons who have (a) commenced adoption proceedings or who have been granted an order of adoption, and (b) pursuant to a court order, or placement by the department of social and health services or by a licensed agency, have had actual custody of the child for a period of one year or more before court action is commenced by the natural parent or parents, the court shall consider the best

welfare and interests of the child, including the child's need for situation stability, in determining the matter of custody, and the parent or person who is more fit shall have the superior right to custody.

~~((8))~~ (9) In entering an order under this chapter, the court may issue any necessary continuing restraining orders, including the restraint provisions of domestic violence protection orders under chapter 26.50 RCW or antiharassment protection orders under chapter 10.14 RCW.

~~((9))~~ (10) Restraining orders issued under this section restraining the person from molesting or disturbing another party or from going onto the grounds of or entering the home, workplace, or school of the other party or the day care or school of any child shall prominently bear on the front page of the order the legend: VIOLATION OF THIS ORDER WITH ACTUAL NOTICE OF ITS TERMS IS A CRIMINAL OFFENSE UNDER CHAPTER 26.26 RCW AND WILL SUBJECT A VIOLATOR TO ARREST.

~~((10))~~ (11) The court shall order that any restraining order bearing a criminal offense legend, any domestic violence protection order, or any antiharassment protection order granted under this section be forwarded by the clerk of the court on or before the next judicial day to the appropriate law enforcement agency specified in the order. Upon receipt of the order, the law enforcement agency shall forthwith enter the order into any computer-based criminal intelligence information system available in this state used by law enforcement agencies to list outstanding warrants. The order is fully enforceable in any county in the state.

Sec. 948. RCW 70.58.055 and 1991 c 96 s 1 are each amended to read as follows:

(1) To promote and maintain nation-wide uniformity in the system of vital statistics, the certificates required by this chapter or by the rules adopted under this chapter shall include, as a minimum, the items recommended by the federal agency responsible for national vital statistics including social security numbers.

(2) The state board of health by rule may require additional pertinent information relative to the birth and manner of delivery as it may deem necessary for statistical study. This information shall be placed in a confidential section of the birth certificate form and shall not be subject to the view of the public or for certification purposes except upon order of the court. The state board of health may eliminate from the forms items that it determines are not necessary for statistical study.

(3) Each certificate or other document required by this chapter shall be on a form or in a format prescribed by the state registrar.

(4) All vital records shall contain the data required for registration. No certificate may be held to be complete and correct that does not supply all items of information called for or that does not satisfactorily account for the omission of required items.

(5) Information required in certificates or documents authorized by this chapter may be filed and registered by photographic, electronic, or other means as prescribed by the state registrar.

X. MISCELLANEOUS

NEW SECTION. Sec. 1001. The legislature finds that, according to the department of health's monitoring system, sixty percent of births to women on medicaid were identified as unintended by the women themselves. The director of the office of financial management shall establish an interagency task force on unintended pregnancy in order to:

- (1) Review existing research on the short and long-range costs;
- (2) Analyze the impact on the temporary assistance for needy families program; and
- (3) Develop and implement a state strategy to reduce unintended pregnancy.

NEW SECTION. Sec. 1002. The following acts or parts of acts are each repealed:

- (1) RCW 74.08.120 and 1992 c 108 s 2, 1987 c 75 s 39, 1981 1st ex.s. c 6 s 15, 1981 c 8 s 12, 1979 c 141 s 326, 1969 ex.s. c 259 s 1, 1969 ex.s. c 159 s 1, 1965 ex.s. c 102 s 1, & 1959 c 26 s 74.08.120; and
- (2) RCW 74.08.125 and 1993 c 22 s 1 & 1992 c 108 s 3.

NEW SECTION. Sec. 1003. A new section is added to chapter 74.04 RCW to read as follows:

For the purpose of evaluating the effect of the defense of equitable estoppel on the recovery of overpayments and the administration of justice in public assistance cases, the department shall report the following to the appropriate committees of the legislature by December 1, 1997:

- (1) The number of applicants and recipients of public assistance who have raised the defense of equitable estoppel in an administrative proceeding related to the collection of overpayments or the determination of eligibility;
- (2) The number of recipients or applicants of public assistance who prevailed in an administrative proceeding related to the collection of overpayments or the determination of eligibility due to the defense of equitable estoppel;
- (3) The amount, average amount, and percent of payments and overpayments not collected due to the successful assertion of the defense of equitable estoppel at an administrative proceeding related to the collection of overpayments or the determination of eligibility;
- (4) Any other information regarding the assertion of the defense of equitable estoppel in administrative proceedings that the department feels will assist in evaluation of the defense.

Sec. 1004. RCW 50.13.060 and 1996 c 79 s 1 are each amended to read as follows:

- (1) Governmental agencies, including law enforcement agencies, prosecuting agencies, and the executive branch, whether state, local, or federal shall have

access to information or records deemed private and confidential under this chapter if the information or records are needed by the agency for official purposes and:

(a) The agency submits an application in writing to the employment security department for the records or information containing a statement of the official purposes for which the information or records are needed and specific identification of the records or information sought from the department; and

(b) The director, commissioner, chief executive, or other official of the agency has verified the need for the specific information in writing either on the application or on a separate document; and

(c) The agency requesting access has served a copy of the application for records or information on the individual or employing unit whose records or information are sought and has provided the department with proof of service. Service shall be made in a manner which conforms to the civil rules for superior court. The requesting agency shall include with the copy of the application a statement to the effect that the individual or employing unit may contact the public records officer of the employment security department to state any objections to the release of the records or information. The employment security department shall not act upon the application of the requesting agency until at least five days after service on the concerned individual or employing unit. The employment security department shall consider any objections raised by the concerned individual or employing unit in deciding whether the requesting agency needs the information or records for official purposes.

(2) The requirements of subsections (1) and ~~((8))~~ (9) of this section shall not apply to the state legislative branch. The state legislature shall have access to information or records deemed private and confidential under this chapter, if the legislature or a legislative committee finds that the information or records are necessary and for official purposes. If the employment security department does not make information or records available as provided in this subsection, the legislature may exercise its authority granted by chapter 44.16 RCW.

(3) In cases of emergency the governmental agency requesting access shall not be required to formally comply with the provisions of subsection (1) of this section at the time of the request if the procedures required by subsection (1) of this section are complied with by the requesting agency following the receipt of any records or information deemed private and confidential under this chapter. An emergency is defined as a situation in which irreparable harm or damage could occur if records or information are not released immediately.

(4) The requirements of subsection (1)(c) of this section shall not apply to governmental agencies where the procedures would frustrate the investigation of possible violations of criminal laws.

(5) Governmental agencies shall have access to certain records or information, limited to such items as names, addresses, social security numbers, and general information about benefit entitlement or employer information possessed by the department, for comparison purposes with records or information possessed by the

requesting agency to detect improper or fraudulent claims, or to determine potential tax liability or employer compliance with registration and licensing requirements. In those cases the governmental agency shall not be required to comply with subsection (1)(c) of this section, but the requirements of the remainder of subsection (1) must be satisfied.

(6) Governmental agencies may have access to certain records and information, limited to employer information possessed by the department for purposes authorized in chapter 50.38 RCW. Access to these records and information is limited to only those individuals conducting authorized statistical analysis, research, and evaluation studies. Only in cases consistent with the purposes of chapter 50.38 RCW are government agencies not required to comply with subsection (1)(c) of this section, but the requirements of the remainder of subsection (1) of this section must be satisfied. Information provided by the department and held to be private and confidential under state or federal laws shall not be misused or released to unauthorized parties subject to the sanctions in RCW 50.13.080.

(7) Disclosure to governmental agencies of information or records obtained by the employment security department from the federal government shall be governed by any applicable federal law or any agreement between the federal government and the employment security department where so required by federal law. When federal law does not apply to the records or information state law shall control.

(8) For purposes of statistical analysis and evaluation of the WorkFirst program or any successor state welfare program, the department of social and health services, the office of financial management, and other governmental entities with oversight or evaluation responsibilities for the program shall have access to employer wage information on clients in the program whose names and social security numbers are provided to the department. The information provided by the department may be used only for statistical analysis, research, and evaluation purposes as provided in sections 702 and 703 of this act. The department of social and health services is not required to comply with subsection (1)(c) of this section, but the requirements of the remainder of subsection (1) of this section must be satisfied.

(9) The disclosure of any records or information by a governmental agency which has obtained the records or information under this section is prohibited unless the disclosure is directly connected to the official purpose for which the records or information were obtained.

~~((9))~~ (10) In conducting periodic salary or fringe benefit studies pursuant to law, the department of personnel shall have access to records of the employment security department as may be required for such studies. For such purposes, the requirements of subsection (1)(c) of this section need not apply.

NEW SECTION. Sec. 1005. A new section is added to chapter 43.20A RCW to read as follows:

(1) The department shall provide the employment security department quarterly with the names and social security numbers of all clients in the WorkFirst program and any successor state welfare program.

(2) The information provided by the employment security department under RCW 50.13.060 for statistical analysis and welfare program evaluation purposes may be used only for statistical analysis, research, and evaluation purposes as provided in sections 702 and 703 of this act. Through individual matches with accessed employment security department confidential employer wage files, only aggregate, statistical, group level data shall be reported. Data sharing by the employment security department may be extended to include the office of financial management and other such governmental entities with oversight responsibility for this program.

(3) The department and other agencies of state government shall protect the privacy of confidential personal data supplied under RCW 50.13.060 consistent with federal law, chapter 50.13 RCW, and the terms and conditions of a formal data-sharing agreement between the employment security department and agencies of state government, however the misuse or unauthorized use of confidential data supplied by the employment security department is subject to the penalties in RCW 50.13.080.

Sec. 1006. RCW 74.04.062 and 1973 c 152 s 2 are each amended to read as follows:

Upon written request of a person who has been properly identified as an officer of the law (~~((with a felony arrest warrant))~~) or a properly identified United States immigration official (~~((with a warrant for an illegal alien))~~) the department shall disclose to such officer the current address and location of (~~((the person properly described in the warrant))~~) a recipient of public welfare if the officer furnishes the department with such person's name and social security account number and satisfactorily demonstrates that such recipient is a fugitive, that the location or apprehension of such fugitive is within the officer's official duties, and that the request is made in the proper exercise of those duties.

When the department becomes aware that a public assistance recipient is the subject of an outstanding warrant, the department may contact the appropriate law enforcement agency and, if the warrant is valid, provide the law enforcement agency with the location of the recipient.

NEW SECTION. Sec. 1007. QUESTIONNAIRES. The department of social and health services shall create a questionnaire, asking businesses for information regarding available and upcoming job opportunities for welfare recipients. The department of revenue shall include the questionnaire in a regular quarterly mailing. The department of social and health services shall receive responses and use the information to develop work activities in the areas where jobs will be available.

NEW SECTION. **Sec. 1008.** PART HEADINGS, CAPTIONS, AND TABLE OF CONTENTS NOT LAW. Part headings, captions, and the table of contents used in this act are not any part of the law.

NEW SECTION. **Sec. 1009.** The governor and the department of social and health services shall seek all necessary exemptions and waivers from and amendments to federal statutes, rules, and regulations and shall report to the appropriate committees in the house of representatives and senate quarterly on the efforts to secure the federal changes to permit full implementation of this act at the earliest possible date.

NEW SECTION. **Sec. 1010.** Sections 1, 2, 103, 104, 106, 202 through 205, 301, 302, 307, 308, 310 through 318, 321, 324 through 326, 402, 503, 504, 701 through 704, and 706 of this act constitute a new chapter in Title 74 RCW.

NEW SECTION. **Sec. 1011.** If any part of this act is found to be in conflict with federal requirements that are a prescribed condition to the allocation of federal funds to the state, the conflicting part of this act is inoperative solely to the extent of the conflict and with respect to the agencies directly affected, and this finding does not affect the operation of the remainder of this act in its application to the agencies concerned. The rules under this act shall meet federal requirements that are a necessary condition to the receipt of federal funds by the state. As used in this section, "allocation of federal funds to the state" means the allocation of federal funds that are appropriated by the legislature to the department of social and health services and on which the department depends for carrying out any provision of the operating budget applicable to it.

NEW SECTION. **Sec. 1012.** If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

***NEW SECTION.** **Sec. 1013.** *(1) Sections 1, 2, 101 through 110, 201 through 207, 301 through 329, 401 through 404, 501 through 506, 601, 705, 706, 888, 891 through 943, 945 through 948, and 1002 of this act are necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and take effect immediately.*

(2) Sections 801 through 887, 889, and 890 of this act are necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and take effect July 1, 1997.

(3) Sections 701 through 704 of this act take effect January 1, 1998.

(4) Section 944 of this act takes effect October 1, 1998.

***Sec. 1013 was partially vetoed. See message at end of chapter.**

NEW SECTION. **Sec. 1014.** If specific funding for the purposes of sections 404 and 405 of this act, referencing this act by bill or chapter number and section numbers, is not provided by June 30, 1997, in the omnibus appropriations act, sections 404 and 405 of this act are null and void.

Passed the House April 10, 1997.

Passed the Senate April 9, 1997.

Approved by the Governor April 17, 1997, with the exception of certain items that were vetoed.

Filed in Office of Secretary of State April 17, 1997.

Note: Governor's explanation of partial veto is as follows:

"I am returning herewith, without my approval as to sections or subsections 1, 105(3), 109, 202, 203, 205, 206, 207, 306, 312, 318, 319, 320, 328, 329, 402, 504, 706, 802(7)(f), 886, 887, and 1013(1), Engrossed House Bill No. 3901 entitled:

"AN ACT Relating to implementing the federal personal responsibility and work opportunity reconciliation act of 1996;"

Engrossed House Bill No. 3901 creates a sound foundation for a welfare program that reflects the common sense, mainstream values of the people of this state: hard work, hope and opportunity for all. It creates an innovative work-based program that promises to reduce poverty, and to help people get jobs and sustain economic independence.

At the same time, it reflects the desire of the people of this state to protect children and those who are unable to work.

This is an historic change. It reflects our society's belief that government entitlements have fostered dependence among welfare recipients, and discouraged families, communities, non-profit organizations, business and labor from taking on their full share of responsibility for helping to solve the problem of poverty. As a result of the enactment of this legislation, we enter a new era of partnership in which all these sectors will work together to help those in need enter the economic mainstream and become contributing members of our society.

Nonetheless, there are flaws in this legislation that impede our ability to pursue the goal of helping people achieve economic independence. Some of these flaws create a culture of mistrust that is simply counterproductive. Others are overly prescriptive and specific, and would create a rigid, bureaucratic system that is unable to profit from the lessons that will surely be learned in the course of implementing such a sweeping new program.

Section 1

I have vetoed the intent section (together with section 207) of the bill because they reenact some but not all relevant provisions of state law. If we reenact some, but not all, of the state's benefit programs, the state's continuing commitment to the non-reenacted programs is called into question.

Section 105(3)

Section 105(3) would repeal the Consolidated Emergency Assistance Program (CEAP). This program serves needy families in crisis, some of whom would not have access to the Temporary Assistance for Needy Families (TANF) program. CEAP provides short-term aid, at most once a year, to help families with critical needs for food, shelter, clothing and other basics.

Section 109

Section 109 would require that all communications to welfare recipients be easy to read and comprehend and written at the eighth grade level. While I agree completely that communications should be easy to read and comprehend, this provision invites disputes and litigation centered on the arbitrary reading level of communications needed to carry out the WorkFirst program. Mandating a specific reading comprehension level for all written communications could invite lawsuits against the Department of Social and Health Services (DSHS) solely on the basis of meeting this arbitrary test.

Sections 202, 205 and 206

These sections are superseded by Engrossed Senate Bill No. 6098.

Section 203

Section 203 would require DSHS to review the incomes of all seasonal workers over the previous twelve months, before determining eligibility. This would be a great administrative burden and very costly to implement. While I share the legislature's concern about irresponsible parents who might squander income from seasonal work, leaving the family dependent on the state during the off-season, there are technical problems in this section.

There is no definition of "seasonal employment" in the law. Using technical definitions, there is hardly an industry or employment which does not have a seasonal aspect. According to the Economic Security Department, the largest seasonal activities in Washington in 1995 included aircraft and parts, department stores, heavy construction, hotels and motels, and resorts and fairs.

For these reasons I am vetoing this section as written, and commit to working with the legislature to craft a remedy to the problem.

Section 207

As mentioned above, I have vetoed section 207 (together with section 1) because they unnecessarily reenact certain state laws. Re-enactment of state benefits under state statute is not required for existing state laws and policies affecting immigrants to continue in effect.

Enactment of the bill's intent section and section 207 would reaffirm policy with respect to one state funded program and not others that are potentially affected by 8 U.S.C. 1621. Such action could trigger an exhaustive review of state and local programs, such as public contracts, loans, professional or commercial licenses, and dramatically increase the costs of administration and overhead in providing such benefits. The overall effect would be to decrease efficiency and increase cost at the expense of the benefits offered.

Section 306

Section 306 would make TANF recipients eligible for employment or training in any Jobs for the Environment Program on the same basis as displaced natural resource workers. I have vetoed this section because no additional funding is provided to increase training or employment opportunities in that program. As a result, this provision is divisive - it pits TANF recipients against unemployed natural resource workers for jobs in economically distressed communities.

Section 312

This section is too detailed. Rather than establish broad program parameters, the legislature has specified minute program elements, including the prescription of the exact number of hours each participant must be in a class room each day. This level of specificity limits program design options without advancing a discernible policy goal.

As the state pursues the challenges of decreasing the size of the welfare caseload and increasing the number of self-sufficient individuals, undue restrictions on program design must be avoided. The ability to achieve the policy goals of section 702 of the bill might have been unintentionally hampered by this section.

Section 318

Section 318 would provide unneeded, preemptory limits on what can be considered within collective bargaining agreements.

Sections 319 and 320

The public wants and deserves a system that can be held accountable for fair, honest and effective administration of social programs. While the WorkFirst program, with its

regional orientation and its emphasis on outcomes, will require a different system from what is currently in place, it is premature to consider a drastic change in program administration. Meeting the aggressive caseload reduction targets demanded by WorkFirst requires that we take advantage of the trained staff we have deployed throughout the state. Our initial efforts must be focused on strengthening our existing infrastructure to meet the historic challenge presented by welfare reform.

Section 328

Section 328 would require DSHS to prorate WorkFirst cash assistance benefits. The proration would be based in some way on compliance with work requirements. However, the pro rata basis used to determine WorkFirst grant amounts is not defined in this legislation. This ambiguity would make rule changes difficult and leaves the state open to law suits.

Section 329

This provision is not consistent with ESB 6098 which provides eligibility for state benefits to legal immigrants after meeting the one-year residency requirement. By excluding the income of any household member based on "residency, alienage or citizenship", section 329 is overly broad and ambiguous and would result in inequitable treatment of Washington residents.

Section 402

Affordable child care is a crucial part of successfully moving people from welfare to work. The copays specified in this provision are higher than a low-income working family can afford. Work does not pay under the schedule in section 402. As written, this provision would hinder WorkFirst participants' ability to take responsibility for their families and become self-sufficient.

I will direct DSHS to implement a modified copay schedule that will support the principles of WorkFirst.

Section 504

Currently, grandparent income is considered available to the teen parent and grandchild when the three generations are living together under the same roof. Section 504 would change state law to consider the grandparent's income and resources available even when the grandparents refuse to help the teen parent. This could leave some teen parents and their children ineligible for assistance, and thus without any means of support.

Section 706

Establishing paternity is an essential part of promoting personal and family responsibility. It is well recognized that a father can provide his child with vital emotional and financial support. However, under section 706, DSHS would be required to deny aid unless the applicant names the father, with no exceptions. This policy, unlike federal law, does not recognize that exceptional circumstances can exist where the requirement should be waived, such as in cases of domestic violence and rape. By my veto of this section, DSHS will be able to rely on the good cause exemptions in federal law.

Subsection 802(7)(f) and Sections 886 and 887

I fully support vigorous collection of all the child support to which families are entitled. Parental responsibility should replace public responsibility for families. However, the bill also contains measures relating to loss of licenses that are not required by PL 104-193, and do not promote the achievement of economic independence. These sections are intended to cause parents who have violated ordered visitation to lose licenses, including drivers, professional, recreational and other licenses.

The merits of connecting visitation issues and license loss could be debated and should be. What is not debatable is that this subject is not relevant in a welfare reform bill. To provide for an opportunity for public debate on this issue, I am vetoing sections 886 and

887. I am incidentally vetoing subsection 802(7)(f), since that subsection is a reference to section 887 and is rendered a manifestly obsolete reference.

Section 1013(1)

Subsection 1013(1) requires immediate implementation of key parts of this act. Immediate implementation of a quality program is simply not possible. We should not sacrifice efforts to create a well designed program just to save ninety days.

For these reasons I have vetoed sections or subsections 1, 105(3), 109, 202, 203, 205, 206, 207, 306, 312, 318, 319, 320, 328, 329, 402, 504, 706, 802(7)(f), 886, 887 and 1013(1). With the exception of those sections or subsections, I am approving Engrossed House Bill No. 3901."

CHAPTER 59

[Substitute House Bill 1089]

CORRECTING NOMENCLATURE FOR THE FORMER AID TO FAMILIES WITH DEPENDENT CHILDREN PROGRAM

AN ACT Relating to correcting nomenclature for the former aid to families with dependent children program; amending RCW 6.26.060, 6.27.140, 10.101.010, 26.19.071, 26.19.075, 43.20B.310, 46.16.028, 46.20.021, 70.123.110, 74.04.770, 74.08.080, 74.08.335, 74.09.510, 74.09.522, 74.12.010, 74.12.030, 74.12.035, 74.12.036, 74.12.250, 74.12.260, 74.12.280, 74.12.361, 74.12.400, 74.12.410, 74.12.420, 74.12.425, 74.12.900, 74.25.010, 74.25.040, 74.25A.045, and 74.25A.050; and reenacting and amending RCW 74.04.005.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 6.26.060 and 1988 c 231 s 20 are each amended to read as follows:

(1) When application is made for a prejudgment writ of garnishment, the court shall issue the writ in substantially the form prescribed in RCW 6.27.070 and 6.27.100 directing that the garnishee withhold an amount as prescribed in RCW 6.27.090, but, except as provided in subsection (2) of this section, the court shall issue the writ only after prior notice to the defendant, given in the manner prescribed in subsections (4) and (5) of this section, with an opportunity for a prior hearing at which the plaintiff shall establish the probable validity of the plaintiff's claim and that there is probable cause to believe that the alleged ground for garnishment exists.

(2) Subject to subsection (3) of this section, the court shall issue the writ without prior notice to the defendant and without an opportunity for a prior hearing only if:

(a) A ground alleged in the plaintiff's affidavit is: (i) A ground appearing in RCW 6.26.010(2)(c) if the writ is to be directed to an employer for the purpose of garnishing the defendant's earnings; or (ii) a ground appearing in RCW 6.25.030 (5) through (7) or in RCW 6.25.040(1) of the attachment chapter; or (iii) if garnishment is necessary to permit the court to acquire jurisdiction over the action, the ground alleged is one appearing in RCW 6.25.030 (1) through (4) or in RCW 6.26.010(2)(a) or (b); and

(b) The court finds on the basis of specific facts, after an ex parte hearing, that there is probable cause to believe the allegations of the plaintiff's affidavit.

(3) If a writ is issued under subsection (2) of this section without prior notice to the defendant, after service of the writ on the garnishee, the defendant shall be entitled to prompt notice of the garnishment and a right to an early hearing, if requested, at which the plaintiff shall establish the probable validity of the claim sued on and that there is probable cause to believe that the alleged ground for garnishment exists.

(4) When notice and a hearing are required under this section, notice may be given by a show cause order stating the date, time, and place of the hearing. Notice required under this section shall be jurisdictional and, except as provided for published notice in subsection (5) of this section, notice required under this section shall be served in the same manner as a summons in a civil action and shall be served together with (a) a copy of plaintiff's affidavit and a copy of the writ if already issued, and (b) a copy of the following "Notice of Right to a Hearing" in substantially the following form or, if defendant is an individual, a copy of the claim form and the "Notice of Garnishment and of Your Rights" prescribed by RCW 6.27.140, in which the following notice is substituted for the first paragraph of said Notice:

NOTICE OF RIGHT TO HEARING

A writ of garnishment has been or will be issued by a Washington court and has been or will be served on the garnishee defendant. It will require the garnishee defendant to withhold payment of money that may be due to you and to withhold other property of yours that the garnishee may hold or control until a lawsuit in which you are a defendant has been decided by the court. Service of this notice of your rights is required by law.

YOU HAVE A RIGHT TO A PROMPT HEARING. If notice of a hearing date and time is not served with this notice, you have the right to request the hearing. At the hearing, the plaintiff must give evidence that there is probable cause to believe that the statements in the enclosed affidavit are true and also that the claim stated in the lawsuit is probably valid, or else the garnishment will be released.

(5) If service of notice on the defendant must be effected by publication, only the following notice need be published under the caption of the case:

To, Defendant:

A writ of prejudgment garnishment has been issued in the above captioned case, directed to as Garnishee Defendant, commanding the Garnishee to withhold amounts due you or to withhold any of your property in the Garnishee's possession or control for application to any judgment that may be entered for plaintiff in the case.

YOU HAVE A RIGHT TO ASK FOR A HEARING. At the hearing, the plaintiff must give evidence that there is probable cause to believe that the ground for garnishment alleged in an affidavit filed with the court exists and also that the claim stated in the lawsuit is probably valid, or else the garnishment will be released.

If the defendant is an individual, the following paragraph shall be added to the published notice:

YOU MAY ALSO HAVE A RIGHT TO HAVE THE GARNISHMENT RELEASED if amounts or property withheld are exempt under federal or state statutes, for example, bank accounts in which benefits such as ~~((Aid to Families with Dependent Children (AFDC)))~~ Temporary Assistance for Needy Families, Supplemental Security Income (SSI), Social Security, United States pension, Unemployment Compensation, or Veterans' benefits have been deposited or certain personal property described in section 6.15.010 of the Revised Code of Washington.

Sec. 2. RCW 6.27.140 and 1987 c 442 s 1014 are each amended to read as follows:

(1) The notice required by RCW 6.27.130(1) to be mailed to or served on an individual judgment debtor shall be in the following form, printed or typed in type no smaller than elite type:

**NOTICE OF GARNISHMENT
AND OF YOUR RIGHTS**

A Writ of Garnishment issued by a Washington court has been or will be served on the garnishee named in the attached copy of the writ. After receipt of the writ, the garnishee is required to withhold payment of any money that was due to you and to withhold any other property of yours that the garnishee held or controlled. This notice of your rights is required by law.

YOU HAVE THE FOLLOWING EXEMPTION RIGHTS:

WAGES. If the garnishee is your employer who owes wages or other personal earnings to you, your employer is required to pay amounts to you that are exempt under state and federal laws, as explained in the writ of garnishment. You should receive a copy of your employer's answer, which will show how the exempt amount was calculated. If the garnishment is for child support, the exempt amount paid to you will be forty percent of wages due you, but if you are supporting a spouse or dependent child, you are entitled to claim an additional ten percent as exempt.

BANK ACCOUNTS. If the garnishee is a bank or other institution with which you have an account in which you have deposited benefits such as

~~((Aid to Families with Dependent Children (AFDC)))~~ Temporary Assistance for Needy Families, Supplemental Security Income (SSI), Social Security, veterans' benefits, unemployment compensation, or a United States pension, you may claim the account as fully exempt if you have deposited only such benefit funds in the account. It may be partially exempt even though you have deposited money from other sources in the same account. An exemption is also available under RCW 26.16.200, providing that funds in a community bank account that can be identified as the earnings of a stepparent are exempt from a garnishment on the child support obligation of the parent.

OTHER EXEMPTIONS. If the garnishee holds other property of yours, some or all of it may be exempt under RCW 6.15.010, a Washington statute that exempts up to five hundred dollars of property of your choice (including up to one hundred dollars in cash or in a bank account) and certain property such as household furnishings, tools of trade, and a motor vehicle (all limited by differing dollar values).

HOW TO CLAIM EXEMPTIONS. Fill out the enclosed claim form and mail or deliver it as described in instructions on the claim form. If the plaintiff does not object to your claim, the funds or other property that you have claimed as exempt must be released not later than 10 days after the plaintiff receives your claim form. If the plaintiff objects, the law requires a hearing not later than 14 days after the plaintiff receives your claim form, and notice of the objection and hearing date will be mailed to you at the address that you put on the claim form.

THE LAW ALSO PROVIDES OTHER EXEMPTION RIGHTS. IF NECESSARY, AN ATTORNEY CAN ASSIST YOU TO ASSERT THESE AND OTHER RIGHTS, BUT YOU MUST ACT IMMEDIATELY TO AVOID LOSS OF RIGHTS BY DELAY.

(2) The claim form required by RCW 6.27.130(1) to be mailed to or served on an individual judgment debtor shall be in the following form, printed or typed in type no smaller than elite type:

[Caption to be filled in by judgment creditor
or plaintiff before mailing.]

.....
Name of Court

.....

No.

Plaintiff,

vs.

.....

EXEMPTION CLAIM

Defendant,

.....

Garnishee Defendant

INSTRUCTIONS:

1. Read this whole form after reading the enclosed notice. Then put an X in the box or boxes that describe your exemption claim or claims and write in the necessary information on the blank lines.
2. Make two copies of the completed form. Deliver the original form by first class mail or in person to the clerk of the court, whose address is shown at the bottom of the writ of garnishment. Deliver one of the copies by first class mail or in person to the plaintiff or plaintiff's attorney, whose name and address are shown at the bottom of the writ. **Keep the other copy. YOU SHOULD DO THIS AS QUICKLY AS POSSIBLE, BUT NO LATER THAN 28 DAYS (4 WEEKS) AFTER THE DATE ON THE WRIT.**

I/We claim the following money or property as exempt:

IF BANK ACCOUNT IS GARNISHED:

[] The account contains payments from:

- [] ~~(AFDC)~~ Temporary assistance for needy families, SSI, or other public assistance. I receive \$. . . . monthly.
- [] Social Security. I receive \$. . . . monthly.
- [] Veterans' Benefits. I receive \$. . . . monthly.
- [] U.S. Government Pension. I receive \$. . . . monthly.
- [] Unemployment Compensation. I receive \$. . . . monthly.
- [] Child support. I receive \$. . . . monthly.
- [] Other. Explain

IF EXEMPTION IN BANK ACCOUNT IS CLAIMED, ANSWER ONE OR BOTH OF THE FOLLOWING:

- [] No money other than from above payments are in the account.
- [] Moneys in addition to the above payments have been deposited in the account. Explain

IF EARNINGS ARE GARNISHED FOR CHILD SUPPORT:

- I claim maximum exemption.
- I am supporting another child or other children.
- I am supporting a husband or a wife.

IF PENSION OR RETIREMENT BENEFITS ARE GARNISHED:

- Name and address of employer who is paying the benefits:

OTHER PROPERTY:

- Describe property
- (If you claim other personal property as exempt, you must attach a list of all other personal property that you own.)

Print: Your name	If married, name of husband/wife
Your signature	Signature of husband or wife
Address	Address (if different from yours)
Telephone number	Telephone number (if different from yours)

CAUTION: If the plaintiff objects to your claim, you will have to go to court and give proof of your claim. For example, if you claim that a bank account is exempt, you may have to show the judge your bank statements and papers that show the source of the money you deposited in the bank. Your claim may be granted more quickly if you attach copies of such proof to your claim.

IF THE JUDGE DENIES YOUR EXEMPTION CLAIM, YOU WILL HAVE TO PAY THE PLAINTIFF'S COSTS. IF THE JUDGE DECIDES THAT YOU DID NOT MAKE THE CLAIM IN GOOD FAITH, HE OR SHE MAY DECIDE THAT YOU MUST PAY THE PLAINTIFF'S ATTORNEY FEES.

Sec. 3. RCW 10.101.010 and 1989 c 409 s 2 are each amended to read as follows:

The following definitions shall be applied in connection with this chapter:

(1) "Indigent" means a person who, at any stage of a court proceeding, is:

(a) Receiving one of the following types of public assistance: ~~((Aid to families with dependent children))~~ Temporary assistance for needy families, general assistance, poverty-related veterans' benefits, food stamps, refugee resettlement benefits, medicaid, or supplemental security income; or

(b) Involuntarily committed to a public mental health facility; or

(c) Receiving an annual income, after taxes, of one hundred twenty-five percent or less of the current federally established poverty level; or

(d) Unable to pay the anticipated cost of counsel for the matter before the court because his or her available funds are insufficient to pay any amount for the retention of counsel.

(2) "Indigent and able to contribute" means a person who, at any stage of a court proceeding, is unable to pay the anticipated cost of counsel for the matter before the court because his or her available funds are less than the anticipated cost of counsel but sufficient for the person to pay a portion of that cost.

(3) "Anticipated cost of counsel" means the cost of retaining private counsel for representation on the matter before the court.

(4) "Available funds" means liquid assets and disposable net monthly income calculated after provision is made for bail obligations. For the purpose of determining available funds, the following definitions shall apply:

(a) "Liquid assets" means cash, savings accounts, bank accounts, stocks, bonds, certificates of deposit, equity in real estate, and equity in motor vehicles. A motor vehicle necessary to maintain employment and having a market value not greater than three thousand dollars shall not be considered a liquid asset.

(b) "Income" means salary, wages, interest, dividends, and other earnings which are reportable for federal income tax purposes, and cash payments such as reimbursements received from pensions, annuities, social security, and public assistance programs. It includes any contribution received from any family member or other person who is domiciled in the same residence as the defendant and who is helping to defray the defendant's basic living costs.

(c) "Disposable net monthly income" means the income remaining each month after deducting federal, state, or local income taxes, social security taxes, contributory retirement, union dues, and basic living costs.

(d) "Basic living costs" means the average monthly amount spent by the defendant for reasonable payments toward living costs, such as shelter, food, utilities, health care, transportation, clothing, loan payments, support payments, and court-imposed obligations.

Sec. 4. RCW 26.19.071 and 1993 c 358 s 4 are each amended to read as follows:

(1) **Consideration of all income.** All income and resources of each parent's household shall be disclosed and considered by the court when the court determines the child support obligation of each parent. Only the income of the parents of the children whose support is at issue shall be calculated for purposes

of calculating the basic support obligation. Income and resources of any other person shall not be included in calculating the basic support obligation.

(2) **Verification of income.** Tax returns for the preceding two years and current paystubs shall be provided to verify income and deductions. Other sufficient verification shall be required for income and deductions which do not appear on tax returns or paystubs.

(3) **Income sources included in gross monthly income.** Except as specifically excluded in subsection (4) of this section, monthly gross income shall include income from any source, including:

- (a) Salaries;
- (b) Wages;
- (c) Commissions;
- (d) Deferred compensation;
- (e) Overtime;
- (f) Contract-related benefits;
- (g) Income from second jobs;
- (h) Dividends;
- (i) Interest;
- (j) Trust income;
- (k) Severance pay;
- (l) Annuities;
- (m) Capital gains;
- (n) Pension retirement benefits;
- (o) Workers' compensation;
- (p) Unemployment benefits;
- (q) Spousal maintenance actually received;
- (r) Bonuses;
- (s) Social security benefits; and
- (t) Disability insurance benefits.

(4) **Income sources excluded from gross monthly income.** The following income and resources shall be disclosed but shall not be included in gross income:

- (a) Income of a new spouse or income of other adults in the household;
- (b) Child support received from other relationships;
- (c) Gifts and prizes;
- (d) ~~((Aid to families with dependent children))~~ Temporary assistance for needy families;
- (e) Supplemental security income;
- (f) General assistance; and
- (g) Food stamps.

Receipt of income and resources from ~~((aid to families with dependent children))~~ temporary assistance for needy families, supplemental security income, general assistance, and food stamps shall not be a reason to deviate from the standard calculation.

(5) Determination of net income. The following expenses shall be disclosed and deducted from gross monthly income to calculate net monthly income:

- (a) Federal and state income taxes;
- (b) Federal insurance contributions act deductions;
- (c) Mandatory pension plan payments;
- (d) Mandatory union or professional dues;
- (e) State industrial insurance premiums;
- (f) Court-ordered spousal maintenance to the extent actually paid;

(g) Up to two thousand dollars per year in voluntary pension payments actually made if the contributions were made for the two tax years preceding the earlier of the (i) tax year in which the parties separated with intent to live separate and apart or (ii) tax year in which the parties filed for dissolution; and

(h) Normal business expenses and self-employment taxes for self-employed persons. Justification shall be required for any business expense deduction about which there is disagreement.

Items deducted from gross income under this subsection shall not be a reason to deviate from the standard calculation.

(6) Imputation of income. The court shall impute income to a parent when the parent is voluntarily unemployed or voluntarily underemployed. The court shall determine whether the parent is voluntarily underemployed or voluntarily unemployed based upon that parent's work history, education, health, and age, or any other relevant factors. A court shall not impute income to a parent who is gainfully employed on a full-time basis, unless the court finds that the parent is voluntarily underemployed and finds that the parent is purposely underemployed to reduce the parent's child support obligation. Income shall not be imputed for an unemployable parent. Income shall not be imputed to a parent to the extent the parent is unemployed or significantly underemployed due to the parent's efforts to comply with court-ordered reunification efforts under chapter 13.34 RCW or under a voluntary placement agreement with an agency supervising the child. In the absence of information to the contrary, a parent's imputed income shall be based on the median income of year-round full-time workers as derived from the United States bureau of census, current populations reports, or such replacement report as published by the bureau of census.

Sec. 5. RCW 26.19.075 and 1993 c 358 s 5 are each amended to read as follows:

(1) Reasons for deviation from the standard calculation include but are not limited to the following:

(a) **Sources of income and tax planning.** The court may deviate from the standard calculation after consideration of the following:

(i) Income of a new spouse if the parent who is married to the new spouse is asking for a deviation based on any other reason. Income of a new spouse is not, by itself, a sufficient reason for deviation;

(ii) Income of other adults in the household if the parent who is living with the other adult is asking for a deviation based on any other reason. Income of the other adults in the household is not, by itself, a sufficient reason for deviation;

(iii) Child support actually received from other relationships;

(iv) Gifts;

(v) Prizes;

(vi) Possession of wealth, including but not limited to savings, investments, real estate holdings and business interests, vehicles, boats, pensions, bank accounts, insurance plans, or other assets;

(vii) Extraordinary income of a child; or

(viii) Tax planning considerations. A deviation for tax planning may be granted only if the child would not receive a lesser economic benefit due to the tax planning.

(b) **Nonrecurring income.** The court may deviate from the standard calculation based on a finding that a particular source of income included in the calculation of the basic support obligation is not a recurring source of income. Depending on the circumstances, nonrecurring income may include overtime, contract-related benefits, bonuses, or income from second jobs. Deviations for nonrecurring income shall be based on a review of the nonrecurring income received in the previous two calendar years.

(c) **Debt and high expenses.** The court may deviate from the standard calculation after consideration of the following expenses:

(i) Extraordinary debt not voluntarily incurred;

(ii) A significant disparity in the living costs of the parents due to conditions beyond their control;

(iii) Special needs of disabled children;

(iv) Special medical, educational, or psychological needs of the children; or

(v) Costs incurred or anticipated to be incurred by the parents in compliance with court-ordered reunification efforts under chapter 13.34 RCW or under a voluntary placement agreement with an agency supervising the child.

(d) **Residential schedule.** The court may deviate from the standard calculation if the child spends a significant amount of time with the parent who is obligated to make a support transfer payment. The court may not deviate on that basis if the deviation will result in insufficient funds in the household receiving the support to meet the basic needs of the child or if the child is receiving ~~((aid to families with dependent children))~~ temporary assistance for needy families. When determining the amount of the deviation, the court shall consider evidence concerning the increased expenses to a parent making support transfer payments resulting from the significant amount of time spent with that parent and shall consider the decreased expenses, if any, to the party receiving the support resulting from the significant amount of time the child spends with the parent making the support transfer payment.

(e) **Children from other relationships.** The court may deviate from the standard calculation when either or both of the parents before the court have children from other relationships to whom the parent owes a duty of support.

(i) The child support schedule shall be applied to the mother, father, and children of the family before the court to determine the presumptive amount of support.

(ii) Children from other relationships shall not be counted in the number of children for purposes of determining the basic support obligation and the standard calculation.

(iii) When considering a deviation from the standard calculation for children from other relationships, the court may consider only other children to whom the parent owes a duty of support. The court may consider court-ordered payments of child support for children from other relationships only to the extent that the support is actually paid.

(iv) When the court has determined that either or both parents have children from other relationships, deviations under this section shall be based on consideration of the total circumstances of both households. All child support obligations paid, received, and owed for all children shall be disclosed and considered.

(2) All income and resources of the parties before the court, new spouses, and other adults in the households shall be disclosed and considered as provided in this section. The presumptive amount of support shall be determined according to the child support schedule. Unless specific reasons for deviation are set forth in the written findings of fact and are supported by the evidence, the court shall order each parent to pay the amount of support determined by using the standard calculation.

(3) The court shall enter findings that specify reasons for any deviation or any denial of a party's request for any deviation from the standard calculation made by the court. The court shall not consider reasons for deviation until the court determines the standard calculation for each parent.

(4) When reasons exist for deviation, the court shall exercise discretion in considering the extent to which the factors would affect the support obligation.

(5) Agreement of the parties is not by itself adequate reason for any deviations from the standard calculation.

Sec. 6. RCW 43.20B.310 and 1983 1st ex.s. c 41 s 34 are each amended to read as follows:

No payment may be collected by the department for residential care if the collection will reduce the income as defined in RCW 74.04.005 of the head of household and remaining dependents below one hundred percent of the need standard for ~~((aid to families with dependent children))~~ temporary assistance for needy families.

Sec. 7. RCW 46.16.028 and 1987 c 142 s i are each amended to read as follows:

(1) For the purposes of vehicle license registration, a resident is a person who manifests an intent to live or be located in this state on more than a temporary or transient basis. Evidence of residency includes but is not limited to:

- (a) Becoming a registered voter in this state; or
- (b) Receiving benefits under one of the Washington public assistance programs; or
- (c) Declaring that he or she is a resident for the purpose of obtaining a state license or tuition fees at resident rates.

(2) The term "Washington public assistance programs" referred to in subsection (1)(b) of this section includes only public assistance programs for which more than fifty percent of the combined costs of benefits and administration are paid from state funds. Programs which are not included within the term "Washington public assistance programs" pursuant to the above criteria include, but are not limited to the food stamp program under the federal food stamp act of 1964; programs under the child nutrition act of 1966, 42 U.S.C. Secs. 1771 through 1788; and ~~((aid to families with dependent children, 42 U.S.C. Secs. 601 through 606))~~ temporary assistance for needy families.

(3) A resident of the state shall register under chapters 46.12 and 46.16 RCW a vehicle to be operated on the highways of the state. New Washington residents shall be allowed thirty days from the date they become residents as defined in this section to procure Washington registration for their vehicles. This thirty-day period shall not be combined with any other period of reciprocity provided for in this chapter or chapter 46.85 RCW.

Sec. 8. RCW 46.20.021 and 1996 c 307 s 5 are each amended to read as follows:

(1) No person, except as expressly exempted by this chapter, may drive any motor vehicle upon a highway in this state unless the person has a valid driver's license issued to Washington residents under the provisions of this chapter. A violation of this subsection is a misdemeanor and is a lesser included offense within the offenses described in RCW 46.20.342(1) or 46.20.420. However, if a person in violation of this section provides the citing officer with an expired driver's license or other valid identifying documentation under RCW 46.20.035 at the time of the stop and is not in violation of RCW 46.20.342(1) or 46.20.420, the violation of this section is an infraction and is subject to a penalty of two hundred fifty dollars. If the person appears in person before the court or submits by mail written proof that he or she obtained a valid license after being cited, the court shall reduce the penalty to fifty dollars.

(2) For the purposes of obtaining a valid driver's license, a resident is a person who manifests an intent to live or be located in this state on more than a temporary or transient basis. Evidence of residency includes but is not limited to:

- (a) Becoming a registered voter in this state; or
- (b) Receiving benefits under one of the Washington public assistance programs; or

(c) Declaring that he or she is a resident for the purpose of obtaining a state license or tuition fees at resident rates.

(3) The term "Washington public assistance programs" referred to in subsection (2)(b) of this section includes only public assistance programs for which more than fifty percent of the combined costs of benefits and administration are paid from state funds. Programs which are not included within the term "Washington public assistance programs" pursuant to the above criteria include, but are not limited to the food stamp program under the federal food stamp act of 1964; programs under the child nutrition act of 1966, 42 U.S.C. Secs. 1771 through 1788; and ~~((aid to families with dependent children, 42 U.S.C. Secs. 601 through 606))~~ temporary assistance for needy families.

(4) No person shall receive a driver's license unless and until he or she surrenders to the department all valid driver's licenses in his or her possession issued to him or her by any other jurisdiction. The department shall establish a procedure to invalidate the surrendered photograph license and return it to the person. The invalidated license, along with the valid temporary Washington driver's license provided for in RCW 46.20.055(3), shall be accepted as proper identification. The department shall notify the issuing department that the licensee is now licensed in a new jurisdiction. No person shall be permitted to have more than one valid driver's license at any time.

(5) New Washington residents are allowed thirty days from the date they become residents as defined in this section to procure a valid Washington driver's license.

(6) Any person licensed as a driver under this chapter may exercise the privilege thereby granted upon all streets and highways in this state and shall not be required to obtain any other license to exercise such privilege by any county, municipal or local board, or body having authority to adopt local police regulations.

Sec. 9. RCW 70.123.110 and 1979 ex.s. c 245 s 11 are each amended to read as follows:

General assistance or ~~((aid to families with dependent children))~~ temporary assistance for needy families payments shall be made to otherwise eligible individuals who are residing in a secure shelter, a housing network or other shelter facility which provides shelter services to persons who are victims of domestic violence. Provisions shall be made by the department for the confidentiality of the shelter addresses where victims are residing.

Sec. 10. RCW 74.04.005 and 1992 c 165 s 1 and 1992 c 136 s 1 are each reenacted and amended to read as follows:

For the purposes of this title, unless the context indicates otherwise, the following definitions shall apply:

(1) "Public assistance" or "assistance"—Public aid to persons in need thereof for any cause, including services, medical care, assistance grants, disbursing orders, work relief, general assistance and federal-aid assistance.

- (2) "Department"—The department of social and health services.
- (3) "County or local office"—The administrative office for one or more counties or designated service areas.
- (4) "Director" or "secretary" means the secretary of social and health services.
- (5) "Federal-aid assistance"—The specific categories of assistance for which provision is made in any federal law existing or hereafter passed by which payments are made from the federal government to the state in aid or in respect to payment by the state for public assistance rendered to any category of needy persons for which provision for federal funds or aid may from time to time be made, or a federally administered needs-based program.
- (6)(a) "General assistance"—Aid to persons in need who:
- (i) Are not eligible to receive federal-aid assistance, other than food stamps and medical assistance; however, an individual who refuses or fails to cooperate in obtaining federal-aid assistance, without good cause, is not eligible for general assistance;
- (ii) Meet one of the following conditions:
- (A) Pregnant: PROVIDED, That need is based on the current income and resource requirements of the federal (~~aid to families with dependent children~~) temporary assistance for needy families program: PROVIDED FURTHER, That during any period in which an aid for dependent children employable program is not in operation, only those pregnant women who are categorically eligible for medicaid are eligible for general assistance; or
- (B) Subject to chapter 165, Laws of 1992, incapacitated from gainful employment by reason of bodily or mental infirmity that will likely continue for a minimum of ninety days as determined by the department.
- (C) Persons who are unemployable due to alcohol or drug addiction are not eligible for general assistance. Persons receiving general assistance on July 26, 1987, or becoming eligible for such assistance thereafter, due to an alcohol or drug-related incapacity, shall be referred to appropriate assessment, treatment, shelter, or supplemental security income referral services as authorized under chapter 74.50 RCW. Referrals shall be made at the time of application or at the time of eligibility review. Alcoholic and drug addicted clients who are receiving general assistance on July 26, 1987, may remain on general assistance if they otherwise retain their eligibility until they are assessed for services under chapter 74.50 RCW. Subsection (6)(a)(ii)(B) of this section shall not be construed to prohibit the department from granting general assistance benefits to alcoholics and drug addicts who are incapacitated due to other physical or mental conditions that meet the eligibility criteria for the general assistance program;
- (iii) Are citizens or aliens lawfully admitted for permanent residence or otherwise residing in the United States under color of law; and
- (iv) Have furnished the department their social security account number. If the social security account number cannot be furnished because it has not been issued or is not known, an application for a number shall be made prior to

authorization of assistance, and the social security number shall be provided to the department upon receipt.

(b) Notwithstanding the provisions of subsection (6)(a)(i), (ii), and (c) of this section, general assistance shall be provided to the following recipients of federal-aid assistance:

(i) Recipients of supplemental security income whose need, as defined in this section, is not met by such supplemental security income grant because of separation from a spouse; or

(ii) To the extent authorized by the legislature in the biennial appropriations act, to recipients of (~~aid to families with dependent children~~) temporary assistance for needy families whose needs are not being met because of a temporary reduction in monthly income below the entitled benefit payment level caused by loss or reduction of wages or unemployment compensation benefits or some other unforeseen circumstances. The amount of general assistance authorized shall not exceed the difference between the entitled benefit payment level and the amount of income actually received.

(c) General assistance shall be provided only to persons who are not members of assistance units receiving federal aid assistance, except as provided in subsection (6)(a)(ii)(A) and (b) of this section, and will accept available services which can reasonably be expected to enable the person to work or reduce the need for assistance unless there is good cause to refuse. Failure to accept such services shall result in termination until the person agrees to cooperate in accepting such services and subject to the following maximum periods of ineligibility after reapplication:

(i) First failure: One week;

(ii) Second failure within six months: One month;

(iii) Third and subsequent failure within one year: Two months.

(d) Persons found eligible for general assistance based on incapacity from gainful employment may, if otherwise eligible, receive general assistance pending application for federal supplemental security income benefits. Any general assistance that is subsequently duplicated by the person's receipt of supplemental security income for the same period shall be considered a debt due the state and shall by operation of law be subject to recovery through all available legal remedies.

(e) The department shall adopt by rule medical criteria for general assistance eligibility to ensure that eligibility decisions are consistent with statutory requirements and are based on clear, objective medical information.

(f) The process implementing the medical criteria shall involve consideration of opinions of the treating or consulting physicians or health care professionals regarding incapacity, and any eligibility decision which rejects uncontroverted medical opinion must set forth clear and convincing reasons for doing so.

(g) Recipients of general assistance based upon a finding of incapacity from gainful employment who remain otherwise eligible shall not have their benefits terminated absent a clear showing of material improvement in their medical or

mental condition or specific error in the prior determination that found the recipient eligible by reason of incapacitation. Recipients of general assistance based upon pregnancy who relinquish their child for adoption, remain otherwise eligible, and are not eligible to receive benefits under the federal (~~aid to families with dependent children~~) temporary assistance for needy families program shall not have their benefits terminated until the end of the month in which the period of six weeks following the birth of the recipient's child falls. Recipients of the federal (~~aid to families with dependent children~~) temporary assistance for needy families program who lose their eligibility solely because of the birth and relinquishment of the qualifying child may receive general assistance through the end of the month in which the period of six weeks following the birth of the child falls.

(7) "Applicant"—Any person who has made a request, or on behalf of whom a request has been made, to any county or local office for assistance.

(8) "Recipient"—Any person receiving assistance and in addition those dependents whose needs are included in the recipient's assistance.

(9) "Standards of assistance"—The level of income required by an applicant or recipient to maintain a level of living specified by the department.

(10) "Resource"—Any asset, tangible or intangible, owned by or available to the applicant at the time of application, which can be applied toward meeting the applicant's need, either directly or by conversion into money or its equivalent: PROVIDED, That an applicant may retain the following described resources and not be ineligible for public assistance because of such resources.

(a) A home, which is defined as real property owned and used by an applicant or recipient as a place of residence, together with a reasonable amount of property surrounding and contiguous thereto, which is used by and useful to the applicant. Whenever a recipient shall cease to use such property for residential purposes, either for himself or herself or his or her dependents, the property shall be considered as a resource which can be made available to meet need, and if the recipient or his or her dependents absent themselves from the home for a period of ninety consecutive days such absence, unless due to hospitalization or health reasons or a natural disaster, shall raise a rebuttable presumption of abandonment: PROVIDED, That if in the opinion of three physicians the recipient will be unable to return to the home during his or her lifetime, and the home is not occupied by a spouse or dependent children or disabled sons or daughters, such property shall be considered as a resource which can be made available to meet need.

(b) Household furnishings and personal effects and other personal property having great sentimental value to the applicant or recipient, as limited by the department consistent with limitations on resources and exemptions for federal aid assistance.

(c) A motor vehicle, other than a motor home, used and useful having an equity value not to exceed one thousand five hundred dollars.

(d) All other resources, including any excess of values exempted, not to exceed one thousand dollars or other limit as set by the department, to be consistent with limitations on resources and exemptions necessary for federal aid assistance.

(e) Applicants for or recipients of general assistance shall have their eligibility based on resource limitations consistent with the (~~aid to families with dependent children~~) temporary assistance for needy families program rules adopted by the department.

(f) If an applicant for or recipient of public assistance possesses property and belongings in excess of the ceiling value, such value shall be used in determining the need of the applicant or recipient, except that: (i) The department may exempt resources or income when the income and resources are determined necessary to the applicant's or recipient's restoration to independence, to decrease the need for public assistance, or to aid in rehabilitating the applicant or recipient or a dependent of the applicant or recipient; and (ii) the department may provide grant assistance for a period not to exceed nine months from the date the agreement is signed pursuant to this section to persons who are otherwise ineligible because of excess real property owned by such persons when they are making a good faith effort to dispose of that property: PROVIDED, That:

(A) The applicant or recipient signs an agreement to repay the lesser of the amount of aid received or the net proceeds of such sale;

(B) If the owner of the excess property ceases to make good faith efforts to sell the property, the entire amount of assistance may become an overpayment and a debt due the state and may be recovered pursuant to RCW 43.20B.630;

(C) Applicants and recipients are advised of their right to a fair hearing and afforded the opportunity to challenge a decision that good faith efforts to sell have ceased, prior to assessment of an overpayment under this section; and

(D) At the time assistance is authorized, the department files a lien without a sum certain on the specific property.

(11) "Income"—(a) All appreciable gains in real or personal property (cash or kind) or other assets, which are received by or become available for use and enjoyment by an applicant or recipient during the month of application or after applying for or receiving public assistance. The department may by rule and regulation exempt income received by an applicant for or recipient of public assistance which can be used by him or her to decrease his or her need for public assistance or to aid in rehabilitating him or her or his or her dependents, but such exemption shall not, unless otherwise provided in this title, exceed the exemptions of resources granted under this chapter to an applicant for public assistance. In determining the amount of assistance to which an applicant or recipient of (~~aid to families with dependent children~~) temporary assistance for needy families is entitled, the department is hereby authorized to disregard as a resource or income the earned income exemptions consistent with federal requirements. The department may permit the above exemption of earnings of a child to be retained by such child to cover the cost of special future identifiable needs even though the

total exceeds the exemptions or resources granted to applicants and recipients of public assistance, but consistent with federal requirements. In formulating rules and regulations pursuant to this chapter, the department shall define income and resources and the availability thereof, consistent with federal requirements. All resources and income not specifically exempted, and any income or other economic benefit derived from the use of, or appreciation in value of, exempt resources, shall be considered in determining the need of an applicant or recipient of public assistance.

(h) If, under applicable federal requirements, the state has the option of considering property in the form of lump sum compensatory awards or related settlements received by an applicant or recipient as income or as a resource, the department shall consider such property to be a resource.

(12) "Need"—The difference between the applicant's or recipient's standards of assistance for himself or herself and the dependent members of his or her family, as measured by the standards of the department, and value of all nonexempt resources and nonexempt income received by or available to the applicant or recipient and the dependent members of his or her family.

(13) For purposes of determining eligibility for public assistance and participation levels in the cost of medical care, the department shall exempt restitution payments made to people of Japanese and Aleut ancestry pursuant to the Civil Liberties Act of 1988 and the Aleutian and Pribilof Island Restitution Act passed by congress, P.L. 100-383, including all income and resources derived therefrom.

(14) In the construction of words and phrases used in this title, the singular number shall include the plural, the masculine gender shall include both the feminine and neuter genders and the present tense shall include the past and future tenses, unless the context thereof shall clearly indicate to the contrary.

Sec. 11. RCW 74.04.770 and 1983 1st ex.s. c 41 s 38 are each amended to read as follows:

The department shall establish consolidated standards of need each fiscal year which may vary by geographical areas, program, and family size, for ~~((aid to families with dependent children))~~ temporary assistance for needy families, refugee assistance, supplemental security income, and general assistance. Standards for ~~((aid to families with dependent children))~~ temporary assistance for needy families, refugee assistance, and general assistance shall be based on studies of actual living costs and generally recognized inflation indices and shall include reasonable allowances for shelter, fuel, food, transportation, clothing, household maintenance and operations, personal maintenance, and necessary incidentals. The standard of need may take into account the economies of joint living arrangements, but unless explicitly required by federal statute, there shall not be proration of any portion of assistance grants unless the amount of the grant standard is equal to the standard of need.

The department is authorized to establish rateable reductions and grant maximums consistent with federal law.

Payment level will be equal to need or a lesser amount if rateable reductions or grant maximums are imposed. In no case shall a recipient of supplemental security income receive a state supplement less than the minimum required by federal law.

The department may establish a separate standard for shelter provided at no cost.

Sec. 12. RCW 74.08.080 and 1989 c 175 s 145 are each amended to read as follows:

(1)(a) A public assistance applicant or recipient who is aggrieved by a decision of the department or an authorized agency of the department has the right to an adjudicative proceeding. A current or former recipient who is aggrieved by a department claim that he or she owes a debt for an overpayment of assistance or food stamps, or both, has the right to an adjudicative proceeding.

(b) An applicant or recipient has no right to an adjudicative proceeding when the sole basis for the department's decision is a state or federal law that requires an assistance adjustment for a class of recipients.

(2) The adjudicative proceeding is governed by the Administrative Procedure Act, chapter 34.05 RCW, and this subsection.

(a) The applicant or recipient must file the application for an adjudicative proceeding with the secretary within ninety days after receiving notice of the aggrieving decision.

(b) The hearing shall be conducted at the local community services office or other location in Washington convenient to the appellant.

(c) The appellant or his or her representative has the right to inspect his or her department file and, upon request, to receive copies of department documents relevant to the proceedings free of charge.

(d) The appellant has the right to a copy of the tape recording of the hearing free of charge.

(e) The department is limited to recovering an overpayment arising from assistance being continued pending the adjudicative proceeding to the amount recoverable up to the sixtieth day after the secretary's receipt of the application for an adjudicative proceeding.

(f) If the final adjudicative order is made in favor of the appellant, assistance shall be paid from the date of denial of the application for assistance or thirty days following the date of application for ~~((aid to families with dependent children))~~ temporary assistance for needy families or forty-five days after date of application for all other programs, whichever is sooner; or in the case of a recipient, from the effective date of the local community services office decision.

(g) This subsection applies only to an adjudicative proceeding in which the appellant is an applicant for or recipient of medical assistance or the limited casualty program for the medically needy and the issue is his or her eligibility or

ineligibility due to the assignment or transfer of a resource. The burden is on the department to prove by a preponderance of the evidence that the person knowingly and willingly assigned or transferred the resource at less than market value for the purpose of qualifying or continuing to qualify for medical assistance or the limited casualty program for the medically needy. If the prevailing party in the adjudicative proceeding is the applicant or recipient, he or she is entitled to reasonable attorney's fees.

(3)(a) When a person files a petition for judicial review as provided in RCW 34.05.514 of an adjudicative order entered in a public assistance program, no filing fee shall be collected from the person and no bond shall be required on any appeal. In the event that the superior court, the court of appeals, or the supreme court renders a decision in favor of the appellant, said appellant shall be entitled to reasonable attorney's fees and costs. If a decision of the court is made in favor of the appellant, assistance shall be paid from date of the denial of the application for assistance or thirty days after the application for ~~((aid to families with dependent children))~~ temporary assistance for needy families or forty-five days following the date of application, whichever is sooner; or in the case of a recipient, from the effective date of the local community services office decision.

Sec. 13. RCW 74.08.335 and 1980 c 79 s 2 are each amended to read as follows:

~~((Aid to families with dependent children))~~ Temporary assistance for needy families and general assistance shall not be granted to any person who has made an assignment or transfer of property for the purpose of rendering himself or herself eligible for the assistance. There is a rebuttable presumption that a person who has transferred or transfers any real or personal property or any interest in property within two years of the date of application for the assistance without receiving adequate monetary consideration therefor, did so for the purpose of rendering himself or herself eligible for the assistance. Any person who transfers property for the purpose of rendering himself or herself eligible for assistance, or any person who after becoming a recipient transfers any property or any interest in property without the consent of the secretary, shall be ineligible for assistance for a period of time during which the reasonable value of the property so transferred would have been adequate to meet the person's needs under normal conditions of living: PROVIDED, That the secretary is hereby authorized to allow exceptions in cases where undue hardship would result from a denial of assistance.

Sec. 14. RCW 74.09.510 and 1991 sp.s. c 8 s 8 are each amended to read as follows:

Medical assistance may be provided in accordance with eligibility requirements established by the department of social and health services, as defined in the social security Title XIX state plan for mandatory categorically needy persons and: (1) Individuals who would be eligible for cash assistance except for their institutional status; (2) individuals who are under twenty-one years of age, who would be eligible for ~~((aid to families with dependent children))~~ medicaid, but

do not qualify as dependent children and who are in (a) foster care, (b) subsidized adoption, (c) a nursing facility or an intermediate care facility for the mentally retarded, or (d) inpatient psychiatric facilities; (3) the aged, blind, and disabled who: (a) Receive only a state supplement, or (b) would not be eligible for cash assistance if they were not institutionalized; (4) individuals who would be eligible for but choose not to receive cash assistance; (5) individuals who are enrolled in managed health care systems, who have otherwise lost eligibility for medical assistance, but who have not completed a current six-month enrollment in a managed health care system, and who are eligible for federal financial participation under Title XIX of the social security act; (6) children and pregnant women allowed by federal statute for whom funding is appropriated; and (7) other individuals eligible for medical services under RCW 74.09.035 and 74.09.700 for whom federal financial participation is available under Title XIX of the social security act.

Sec. 15. RCW 74.09.522 and 1989 c 260 s 2 are each amended to read as follows:

(1) For the purposes of this section, "managed health care system" means any health care organization, including health care providers, insurers, health care service contractors, health maintenance organizations, health insuring organizations, or any combination thereof, that provides directly or by contract health care services covered under RCW 74.09.520 and rendered by licensed providers, on a prepaid capitated case management basis and that meets the requirements of section 1903(m)(1)(A) of Title XIX of the federal social security act.

(2) No later than July 1, 1991, the department of social and health services shall enter into agreements with managed health care systems to provide health care services to recipients of ~~((aid to families with dependent children))~~ temporary assistance for needy families under the following conditions:

(a) Agreements shall be made for at least thirty thousand recipients state-wide;

(b) Agreements in at least one county shall include enrollment of all recipients of ~~((aid to families with dependent children))~~ temporary assistance for needy families;

(c) To the extent that this provision is consistent with section 1903(m) of Title XIX of the federal social security act, recipients shall have a choice of systems in which to enroll and shall have the right to terminate their enrollment in a system: PROVIDED, That the department may limit recipient termination of enrollment without cause to the first month of a period of enrollment, which period shall not exceed six months: AND PROVIDED FURTHER, That the department shall not restrict a recipient's right to terminate enrollment in a system for cause;

(d) To the extent that this provision is consistent with section 1903(m) of Title XIX of the federal social security act, participating managed health care systems shall not enroll a disproportionate number of medical assistance recipients within the total numbers of persons served by the managed health care systems, except

that this subsection (d) shall not apply to entities described in subparagraph (B) of section 1903(m) of Title XIX of the federal social security act;

(e) Prior to negotiating with any managed health care system, the department shall estimate, on an actuarially sound basis, the expected cost of providing the health care services expressed in terms of upper and lower limits, and recognizing variations in the cost of providing the services through the various systems and in different project areas. In negotiating with managed health care systems the department shall adopt a uniform procedure to negotiate and enter into contractual arrangements, including standards regarding the quality of services to be provided; and financial integrity of the responding system;

(f) The department shall seek waivers from federal requirements as necessary to implement this chapter;

(g) The department shall, wherever possible, enter into prepaid capitation contracts that include inpatient care. However, if this is not possible or feasible, the department may enter into prepaid capitation contracts that do not include inpatient care;

(h) The department shall define those circumstances under which a managed health care system is responsible for out-of-system services and assure that recipients shall not be charged for such services; and

(i) Nothing in this section prevents the department from entering into similar agreements for other groups of people eligible to receive services under chapter 74.09 RCW.

(3) The department shall seek to obtain a large number of contracts with providers of health services to medicaid recipients. The department shall ensure that publicly supported community health centers and providers in rural areas, who show serious intent and apparent capability to participate in the project as managed health care systems are seriously considered as providers in the project. The department shall coordinate these projects with the plans developed under chapter 70.47 RCW.

(4) The department shall work jointly with the state of Oregon and other states in this geographical region in order to develop recommendations to be presented to the appropriate federal agencies and the United States congress for improving health care of the poor, while controlling related costs.

Sec. 16. RCW 74.12.010 and 1992 c 136 s 2 are each amended to read as follows:

For the purposes of the administration of (~~aid to families with dependent children assistance~~) temporary assistance for needy families, the term "dependent child" means any child in need under the age of eighteen years who has been deprived of parental support or care by reason of the death, continued absence from the home, or physical or mental incapacity of the parent, and who is living with a relative as specified under federal (~~aid to families with dependent children~~) temporary assistance for needy families program requirements, in a place of residence maintained by one or more of such relatives as his or their homes. The

term a "dependent child" shall, notwithstanding the foregoing, also include a child who would meet such requirements except for his removal from the home of a relative specified above as a result of a judicial determination that continuation therein would be contrary to the welfare of such child, for whose placement and care the state department of social and health services or the county office is responsible, and who has been placed in a licensed or approved child care institution or foster home as a result of such determination and who: (1) Was receiving an aid to families with dependent children grant for the month in which court proceedings leading to such determination were initiated; or (2) would have received aid to families with dependent children for such month if application had been made therefor; or (3) in the case of a child who had been living with a specified relative within six months prior to the month in which such proceedings were initiated, would have received aid to families with dependent children for such month if in such month he had been living with such a relative and application had been made therefor, as authorized by the Social Security Act: PROVIDED, That to the extent authorized by the legislature in the biennial appropriations act and to the extent that matching funds are available from the federal government, ~~((aid to families with dependent children))~~ temporary assistance for needy families assistance shall be available to any child in need who has been deprived of parental support or care by reason of the unemployment of a parent or stepparent liable under this chapter for support of the child.

~~"((Aid to families with dependent children))~~ Temporary assistance for needy families" means money payments, services, and remedial care with respect to a dependent child or dependent children and the needy parent or relative with whom the child lives and may include another parent or stepparent of the dependent child if living with the parent and if the child is a dependent child by reason of the physical or mental incapacity or unemployment of a parent or stepparent liable under this chapter for the support of such child.

Sec. 17. RCW 74.12.030 and 1971 ex.s. c 169 s 6 are each amended to read as follows:

In addition to meeting the eligibility requirements of RCW 74.08.025, as now or hereafter amended, an applicant for ~~((aid to families with dependent children))~~ temporary assistance for needy families must be a needy child who is a resident of the state of Washington.

Sec. 18. RCW 74.12.035 and 1985 c 335 s 1 are each amended to read as follows:

(1) A family or assistance unit is not eligible for aid for any month if for that month the total income of the family or assistance unit, without application of income disregards, exceeds one hundred eighty-five percent of the state standard of need for a family of the same composition: PROVIDED, That for the purposes of determining the total income of the family or assistance unit, the earned income of a dependent child who is a full-time student for whom ~~((aid to families with~~

~~dependent children~~) temporary assistance for needy families is being provided shall be disregarded for six months per calendar year.

(2) Participation in a strike does not constitute good cause to leave or to refuse to seek or accept employment. Assistance is not payable to a family for any month in which any caretaker relative with whom the child is living is, on the last day of the month, participating in a strike. An individual's need shall not be included in determining the amount of aid payable for any month to a family or assistance unit if, on the last day of the month, the individual is participating in a strike.

(3) Children over eighteen years of age and under nineteen years of age who are full-time students reasonably expected to complete a program of secondary school, or the equivalent level of vocational or technical training, before reaching nineteen years of age are eligible to receive (~~aid to families with dependent children~~) temporary assistance for needy families: PROVIDED HOWEVER, That if such students do not successfully complete such program before reaching nineteen years of age, the assistance rendered under this subsection during such period shall not be a debt due the state.

Sec. 19. RCW 74.12.036 and 1994 c 299 s 11 are each amended to read as follows:

The department shall amend the state plan to eliminate the one hundred hour work rule for recipients of (~~aid to families with dependent children employable~~) temporary assistance for needy families.

***Sec. 20.** RCW 74.12.250 and 1963 c 228 s 21 are each amended to read as follows:

If the department, after investigation, finds that any recipient of funds under (~~an aid to families with dependent children~~) a temporary assistance for needy families grant is not utilizing the grant adequately for the needs of the child or children or is otherwise dissipating such grant, or is unable to manage adequately the funds paid on behalf of said child and that to continue said payments to him or her would be contrary to the welfare of the child, the department may make such payments to another individual who is interested in or concerned with the welfare of such child and relative: PROVIDED, That the department shall provide such counseling and other services as are available and necessary to develop greater ability on the part of the relative to manage funds in such manner as to protect the welfare of the family. Periodic review of each case shall be made by the department to determine if said relative is able to resume management of the assistance grant. If after a reasonable period of time the payments to the relative cannot be resumed, the department may request the attorney general to file a petition in the superior court for the appointment of a guardian for the child or children. Such petition shall set forth the facts warranting such appointment. Notice of the hearing on such petition shall be served upon the recipient and the department not less than ten days before the date set for such hearing. Such petition may be filed with the clerk of superior court and all process issued and served without payment of costs. If upon the

hearing of such petition the court is satisfied that it is for the best interest of the child or children, and all parties concerned, that a guardian be appointed, he or she shall order the appointment, and may require the guardian to render to the court a detailed itemized account of expenditures of such assistance payments at such time as the court may deem advisable.

It is the intention of this section that the guardianship herein provided for shall be a special and limited guardianship solely for the purpose of safeguarding the assistance grants made to dependent children. Such guardianship shall terminate upon the termination of such assistance grant, or sooner on order of the court, upon good cause shown.

*Sec. 20 was vetoed. See message at end of chapter.

Sec. 21. RCW 74.12.260 and 1979 c 141 s 351 are each amended to read as follows:

~~((Aid to families with dependent children))~~ Temporary assistance for needy families grants shall be made to persons specified in RCW 74.12.010 as amended or such others as the federal department of health, education and welfare shall recognize for the sole purposes of giving benefits to the children whose needs are included in the grant paid to such persons. The recipient of each ~~((aid to families with dependent children's))~~ temporary assistance for needy families grant shall be and hereby is required to present reasonable proof to the department of social and health services as often as may be required by the department that all funds received in the form of ~~((an aid to families with dependent children))~~ a temporary assistance for needy families grant for the children represented in the grant are being spent for the benefit of the children.

Sec. 22. RCW 74.12.280 and 1983 c 3 s 191 are each amended to read as follows:

The department is hereby authorized to ~~((promulgate))~~ adopt rules ~~((and regulations which))~~ that will provide for coordination between the services provided pursuant to chapter 74.13 RCW and the services provided under the ~~((aid to families with dependent children))~~ temporary assistance for needy families program in order to provide welfare and related services which will best promote the welfare of such children and their families and conform with the provisions of Public Law 87-543 (HR 10606).

Sec. 23. RCW 74.12.361 and 1994 c 299 s 35 are each amended to read as follows:

The department shall actively develop mechanisms for the income assistance program, the medical assistance program, and the community services administration to facilitate the enrollment in the federal supplemental security income program of disabled persons currently part of assistance units receiving ~~((aid to families with dependent children))~~ temporary assistance for needy families benefits.

Sec. 24. RCW 74.12.400 and 1994 c 299 s 2 are each amended to read as follows:

The department shall train financial services and social work staff who provide direct service to recipients of ~~((aid to families with dependent children))~~ temporary assistance for needy families to:

(1) Effectively communicate the transitional nature of ~~((aid to families with dependent children))~~ temporary assistance for needy families and the expectation that recipients will enter employment;

(2) Actively refer clients to the job opportunities and basic skills program;

(3) Provide social services needed to overcome obstacles to employability; and

(4) Provide family planning information and assistance, including alternatives to abortion, which shall be conducted in consultation with the department of health.

**Sec. 25. RCW 74.12.410 and 1994 c 299 s 3 are each amended to read as follows:*

At time of application or reassessment under this chapter the department shall offer or contract for family planning information and assistance, including alternatives to abortion, and any other available locally based teen pregnancy prevention programs, to prospective and current recipients of ~~((aid to families with dependent children))~~ temporary assistance for needy families.

**Sec. 25 was vetoed. See message at end of chapter.*

Sec. 26. RCW 74.12.420 and 1994 c 299 s 9 are each amended to read as follows:

The legislature recognizes that long-term recipients of ~~((aid to families with dependent children))~~ temporary assistance for needy families may require a period of several years to attain economic self-sufficiency. To provide incentives for long-term recipients to leave public assistance and accept paid employment, the legislature finds that less punitive and onerous sanctions than those required by the federal government are appropriate. The legislature finds that a ten percent reduction in grants for long-term recipients that may be replaced through earned income is a more positive approach than sanctions required by the federal government for long-term recipients who fail to comply with requirements of the job opportunities and basic skills program. A long-term recipient shall not be subject to two simultaneous sanctions for failure to comply with the participation requirements of the job opportunities and basic skills program and for exceeding the length of stay provisions of this section.

(1) After forty-eight monthly benefit payments in a sixty-month period, and after each additional twelve monthly benefit payments, the ~~((aid to families with dependent children))~~ temporary assistance for needy families monthly benefit payment shall be reduced by ten percent of the payment standard, except that after forty-eight monthly payments in a sixty-month period, full monthly benefit payments may be made if:

(a) The person is incapacitated or is needed in the home to care for a member of the household who is incapacitated;

(b) The person is needed in the home to care for a child who is under three years of age;

(c) There are no adults in the assistance unit;

(d) The person is cooperating in the development and implementation of an employability plan while receiving ~~((aid to families with dependent children))~~ temporary assistance for needy families and no present full-time, part-time, or unpaid work experience job is offered; or

(e) During a month in which a grant reduction would be imposed under this section, the person is participating in an unpaid work experience program.

(2) For purposes of determining the amount of the food stamp benefit for recipients subject to benefit reductions provided for in subsection (1) of this section, countable income from the ~~((aid to families with dependent children))~~ temporary assistance for needy families program shall be set at the payment standard.

(3) For purposes of determining monthly benefit payments for two-parent ~~((aid to families with dependent children))~~ temporary assistance for needy families households, the length of stay criterion will be applied to the parent with the longer history of public assistance receipt.

Sec. 27. RCW 74.12.425 and 1994 c 299 s 10 are each amended to read as follows:

For purposes of determining the amount of monthly benefit payment to recipients of ~~((aid to families with dependent children))~~ temporary assistance for needy families who are subject to benefit reductions due to length of stay, all countable nonexempt earned income shall be subtracted from an amount equal to the payment standard.

Sec. 28. RCW 74.12.900 and 1994 c 299 s 12 are each amended to read as follows:

The revisions to the ~~((aid to families with dependent children))~~ temporary assistance for needy families program and job opportunities and basic skills training program shall be implemented by the department of social and health services on a state-wide basis.

Sec. 29. RCW 74.25.010 and 1994 c 299 s 6 are each amended to read as follows:

The legislature establishes as state policy the goal of economic self-sufficiency for employable recipients of public assistance, through employment, training, and education. In furtherance of this policy, the legislature intends to comply with the requirements of the federal social security act, as amended, by creating a job opportunities and basic skills training program for applicants and recipients of ~~((aid to families with dependent children))~~ temporary assistance for needy families. The purpose of this program is to provide recipients of ~~((aid to families with dependent children))~~ temporary assistance for needy families the opportunity to obtain appropriate education, training, skills, and supportive services, including child care, consistent with their needs, that will help them enter or reenter gainful

employment, thereby avoiding long-term welfare dependence and achieving economic self-sufficiency. The program shall be operated by the department of social and health services in conformance with federal law and consistent with the following legislative findings:

(1) The legislature finds that the well-being of children depends not only on meeting their material needs, but also on the ability of parents to become economically self-sufficient. The job opportunities and basic skills training program is specifically directed at increasing the labor force participation and household earnings of ~~((aid to families with dependent children))~~ temporary assistance for needy families recipients, through the removal of barriers preventing them from achieving self-sufficiency. These barriers include, but are not limited to, the lack of recent work experience, supportive services such as affordable and reliable child care, adequate transportation, appropriate counseling, and necessary job-related tools, equipment, books, clothing, and supplies, the absence of basic literacy skills, the lack of educational attainment sufficient to meet labor market demands for career employees, and the nonavailability of useful labor market assessments.

(2) The legislature also recognizes that ~~((aid to families with dependent children))~~ temporary assistance for needy families recipients must be acknowledged as active participants in self-sufficiency planning under the program. The legislature finds that the department of social and health services should communicate concepts of the importance of work and how performance and effort directly affect future career and educational opportunities and economic well-being, as well as personal empowerment, self-motivation, and self-esteem to program participants. The legislature further recognizes that informed choice is consistent with individual responsibility, and that parents should be given a range of options for available child care while participating in the program.

(3) The legislature finds that current work experience is one of the most important factors influencing an individual's ability to work toward financial stability and an adequate standard of living in the long term, and that work experience should be the most important component of the program.

(4) The legislature finds that education, including, but not limited to, literacy, high school equivalency, vocational, secondary, and postsecondary, is one of the most important tools an individual needs to achieve full independence, and that this should be an important component of the program.

(5) The legislature further finds that the objectives of this program are to assure that ~~((aid to families with dependent children))~~ temporary assistance for needy families recipients gain experience in the labor force and thereby enhance their long-term ability to achieve financial stability and an adequate standard of living at wages that will meet family needs.

Sec. 30. RCW 74.25.040 and 1994 c 299 s 8 are each amended to read as follows:

Recipients of (~~aid to families with dependent children~~) temporary assistance for needy families who are not participating in an education or work training program may volunteer to work in a licensed child care facility, or other willing volunteer work site. Licensed child care facilities participating in this effort shall provide care for the recipient's children and provide for the development of positive child care skills.

Sec. 31. RCW 74.25A.045 and 1994 c 299 s 23 are each amended to read as follows:

A local employment partnership council shall be established in each pilot project area to assist the department of social and health services in the administration of this chapter and to allow local flexibility in dealing with the particular needs of each pilot project area. Each council shall be primarily responsible for recruiting and encouraging participation of employment providers in the project site. Each council shall be composed of nine members who shall be appointed by the county legislative authority of the county in which the pilot project operates. Councilmembers shall be residents of or employers in the pilot project area in which they are appointed and shall serve three-year terms. The council shall have two members who are current or former recipients of the aid to families with dependent children or temporary assistance for needy families programs or food stamp program, two members who represent labor, and five members who represent the local business community. In addition, one person representing the local community service office of the department of social and health services, one person representing a community action agency or other nonprofit service provider, and one person from a local city or county government shall serve as nonvoting members.

Sec. 32. RCW 74.25A.050 and 1994 c 299 s 24 are each amended to read as follows:

Participants shall be considered recipients of (~~aid to families with dependent children~~) temporary assistance for needy families and remain eligible for medicaid benefits even if the participant does not receive a residual grant. Work supplementation participants shall be eligible for (1) the thirty-dollar plus one-third of earned income exclusion from income, (2) the work related expense disregard, and (3) any applicable child care expense disregard deemed available to recipient of aid in computing his or her grant under this chapter, unless prohibited by federal law.

Passed the House March 10, 1997.

Passed the Senate April 7, 1997.

Approved by the Governor April 17, 1997, with the exception of certain items that were vetoed.

Filed in Office of Secretary of State April 17, 1997.

Note: Governor's explanation of partial veto is as follows:

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

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

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

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

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

CHAPTER 60

[House Bill 1187]

COORDINATING COMMUNITY AND ECONOMIC SERVICES—CONTRACTS WITH ASSOCIATE DEVELOPMENT ORGANIZATIONS

AN ACT Relating to associate development organizations; and amending RCW 43.330.080.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 43.330.080 and 1993 c 280 s 11 are each amended to read as follows:

(1) The department ((may)) shall contract with associate development organizations or other local organizations to increase the support for and coordination of community and economic development services in communities or regional areas. The organizations contracted with in each community or regional area shall be broadly representative of community and economic interests. The organization shall be capable of identifying key economic and community development problems, developing appropriate solutions, and mobilizing broad support for recommended initiatives. The contracting organization shall work with and include local governments, local chambers of commerce, private industry councils, port districts, labor groups, institutions of higher education, community action programs, and other appropriate private, public, or nonprofit community and economic development groups. The department shall be responsible for determining the scope of services delivered under these contracts.

(2) Associate development organizations or other local development organizations contracted with shall promote and coordinate, through local service agreements with local governments, small business development centers, port districts, community and technical colleges, private industry councils, and other development organizations, for the efficient delivery of community and economic development services in their areas.

(3) The department shall consult with associate development organizations, port districts, local governments, and other local development organizations in the establishment of service delivery regions throughout the state. The legislature encourages local associate development organizations to form partnerships with other associate development organizations in their region to combine resources for better access to available services, to encourage regional delivery of state services, and to build the local capacity of communities in the region more effectively.

(4) The department shall contract on a regional basis for surveys of key sectors of the regional economy and the coordination of technical assistance to businesses and employees within the key sectors. The department's selection of contracting organizations or consortiums shall be based on the sufficiency of the organization's or consortium's proposal to examine key sectors of the local economy within its region adequately and its ability to coordinate the delivery of services required by businesses within the targeted sectors. Organizations contracting with the department shall work closely with the department to examine the local economy and to develop strategies to focus on developing key sectors that show potential for long-term sustainable growth. The contracting organization shall survey businesses and employees in targeted sectors on a periodic basis to gather information on the sector's business needs, expansion plans, relocation decisions, training needs, potential layoffs, financing needs, availability of financing, and other appropriate information about economic trends and specific employer and employee needs in the region.

(5) The contracting organization shall participate with the work force training and education coordinating board as created in chapter 28C.18 RCW, and any regional entities designated by that board, in providing for the coordination of job skills training within its region.

Passed the House March 10, 1997.

Passed the Senate April 8, 1997.

Approved by the Governor April 17, 1997.

Filed in Office of Secretary of State April 17, 1997.

CHAPTER 61

[Substitute House Bill 1813]

MOTION PICTURE AND VIDEO PRODUCTION—SALES AND USE TAX EXEMPTIONS

AN ACT Relating to sales and use tax exemptions for motion picture and video production equipment and production services; amending RCW 82.08.0315; and declaring an emergency.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 82.08.0315 and 1995 2nd sp.s. c 5 s 1 are each amended to read as follows:

(1) As used in this section:

(a) "Production equipment" means the following when used in motion picture or video production or postproduction: Grip and lighting equipment, cameras,

camera mounts including tripods, jib arms, steadicams, and other camera mounts, cranes, dollies, generators, helicopter mounts, helicopters rented for motion picture or video production, walkie talkies, vans ((and)), trucks, and other vehicles specifically equipped for motion picture or video production or used solely for production activities, wardrobe and makeup trailers, special effects and stunt equipment, video assists, videotape recorders, cables and connectors, telepromoters, sound recording equipment, and editorial equipment.

(b) "Production services" means motion picture and video processing, printing, editing, duplicating, animation, graphics, special effects, negative cutting, conversions to other formats or media, stock footage, sound mixing, rerecording, sound sweetening, sound looping, sound effects, and automatic dialog replacement.

(c) "Motion picture or video production business" means a person engaged in the production of motion pictures and video tapes for exhibition, sale, or for broadcast by a person other than the person producing the motion picture or video tape.

(2) The tax levied by RCW 82.08.020 does not apply to the rental of production equipment, or the sale of production services, to a motion picture or video production business.

(3) The exemption provided for in this section shall not apply to rental of production equipment, or the sale of production services, to a motion picture or video production business that is engaged, to any degree, in the production of erotic material, as defined in RCW 9.68.050.

(4) In order to claim an exemption under this section, the purchaser must provide the seller with an exemption certificate in a form and manner prescribed by the department. The seller shall retain a copy of the certificate for the seller's files.

****NEW SECTION. Sec. 2. This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately.***

*Sec. 2 was vetoed. See message at end of chapter.

Passed the House March 19, 1997.

Passed the Senate April 8, 1997.

Approved by the Governor April 17, 1997, with the exception of certain items that were vetoed.

Filed in Office of Secretary of State April 17, 1997.

Note: Governor's explanation of partial veto is as follows:

"I am returning herewith, without my approval as to section 2, Substitute House Bill No. 1813 entitled:

"AN ACT Relating to sales and use tax exemptions for motion picture and video production equipment and production services;"

Substitute House Bill No. 1813 contains an emergency clause in section 2. The emergency clause was included to make the bill's tax reduction available to motion picture and video production companies as soon as possible.

Although this legislation is important, it is not a matter necessary for the immediate preservation of the public peace, health or safety, or support of the state government and its existing public institutions.

For these reasons, I have vetoed section 2, of Substitute House Bill No. 1813.

With the exception of section 2, Substitute House Bill No. 1813 is approved."

CHAPTER 62

[Senate Bill 5364]

911 EMERGENCY COMMUNICATIONS SYSTEMS—AUTHORIZING UNCLASSIFIED EMPLOYEES

AN ACT Relating to local government unclassified employees; and amending RCW 41.14.070.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 41.14.070 and 1991 c 363 s 116 are each amended to read as follows:

(1) The classified civil service and provisions of this chapter shall include all deputy sheriffs and other employees of the office of sheriff in each county except the county sheriff in every county and an additional number of positions, designated the unclassified service, determined as follows:

Staff Personnel	Unclassified Position Appointments
1 through 10	2
11 through 20	3
21 through 50	4
51 through 100	5
101 and over	6

(2) The unclassified position appointments authorized by this section must include selections from the following positions up to the limit of the number of positions authorized: Undersheriff, inspector, chief criminal deputy, chief civil deputy, jail superintendent, and administrative assistant or administrative secretary. The initial selection of specific positions to be exempt shall be made by the sheriff, who shall notify the civil service commission of his or her selection. Subsequent changes in the designation of which positions are to be exempt may be made only with the concurrence of the sheriff and the civil service commission, and then only after the civil service commission has heard the issue in open meeting. Should the position or positions initially selected by the sheriff to be exempt (unclassified) pursuant to this section be under the classified civil service at the time of such selection, and should it (or they) be occupied, the employee(s) occupying said position(s) shall have the right to return to the next highest position or a like position under classified civil service.

(3) In counties with a sheriff's department that operates the 911 emergency communications system, in addition to the unclassified positions authorized in

subsections (1), (2), and (4) of this section, the sheriff may designate one unclassified position for the 911 emergency communications system.

(4) The county legislative authority of any county with a population of five hundred thousand or more operating under a home rule charter may designate unclassified positions of administrative responsibility not to exceed twelve positions.

Passed the Senate March 11, 1997.

Passed the House April 8, 1997.

Approved by the Governor April 17, 1997.

Filed in Office of Secretary of State April 17, 1997.

CHAPTER 63

[Senate Bill 5155]

VEHICLE WITH—ADDITIONAL EXTENSIONS BEYOND VEHICLE BODY

AN ACT Relating to vehicle width; and amending RCW 46.44.010.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 46.44.010 and 1983 c 278 s 1 are each amended to read as follows:

The total outside width of any vehicle or load thereon shall not exceed eight and one-half feet: PROVIDED, That no rear vision mirror may extend more than five inches beyond the extreme limits of the body: PROVIDED FURTHER, That excluded from this calculation of width are safety appliances such as clearance lights, rub rails, flexible fender extensions, mud flaps, and splash and spray suppressant devices, and appurtenances such as door handles, door hinges, and turning signal brackets and such other safety appliances and appurtenances as the department may determine are necessary for the safe and efficient operation of motor vehicles: AND PROVIDED FURTHER, That no appliances or appurtenances may extend more than ~~((two))~~ three inches beyond the extreme limits of the body.

Passed the Senate March 10, 1997.

Passed the House April 9, 1997.

Approved by the Governor April 18, 1997.

Filed in Office of Secretary of State April 18, 1997.

CHAPTER 64

[House Bill 1942]

COAL MINING CODE—REPEAL

AN ACT Relating to the repeal of the coal mining code; and repealing RCW 78.40.010, 78.40.160, 78.40.163, 78.40.166, 78.40.169, 78.40.172, 78.40.175, 78.40.178, 78.40.181, 78.40.184, 78.40.187, 78.40.190, 78.40.193, 78.40.196, 78.40.199, 78.40.202, 78.40.205, 78.40.208, 78.40.211, 78.40.214, 78.40.217, 78.40.220, 78.40.223, 78.40.226, 78.40.229, 78.40.235, 78.40.238, 78.40.241, 78.40.244, 78.40.247, 78.40.250, 78.40.253, 78.40.256, 78.40.259, 78.40.262, 78.40.270, 78.40.273, 78.40.276, 78.40.279, 78.40.281, 78.40.284, 78.40.287, 78.40.290, 78.40.293, 78.40.296, 78.40.300,

78.40.303, 78.40.306, 78.40.309, 78.40.312, 78.40.315, 78.40.318, 78.40.321, 78.40.324, 78.40.327, 78.40.330, 78.40.333, 78.40.336, 78.40.339, 78.40.342, 78.40.345, 78.40.348, 78.40.351, 78.40.354, 78.40.357, 78.40.360, 78.40.363, 78.40.366, 78.40.369, 78.40.372, 78.40.375, 78.40.378, 78.40.381, 78.40.390, 78.40.393, 78.40.396, 78.40.399, 78.40.402, 78.40.405, 78.40.408, 78.40.411, 78.40.414, 78.40.417, 78.40.420, 78.40.423, 78.40.426, 78.40.429, 78.40.432, 78.40.435, 78.40.438, 78.40.441, 78.40.444, 78.40.450, 78.40.453, 78.40.456, 78.40.459, 78.40.462, 78.40.470, 78.40.473, 78.40.476, 78.40.479, 78.40.482, 78.40.485, 78.40.488, 78.40.500, 78.40.503, 78.40.506, 78.40.509, 78.40.512, 78.40.515, 78.40.518, 78.40.521, 78.40.524, 78.40.527, 78.40.530, 78.40.533, 78.40.536, 78.40.540, 78.40.543, 78.40.546, 78.40.549, 78.40.552, 78.40.555, 78.40.558, 78.40.561, 78.40.564, 78.40.567, 78.40.570, 78.40.573, 78.40.576, 78.40.579, 78.40.581, 78.40.585, 78.40.588, 78.40.591, 78.40.594, 78.40.600, 78.40.603, 78.40.606, 78.40.609, 78.40.612, 78.40.615, 78.40.618, 78.40.621, 78.40.624, 78.40.627, 78.40.630, 78.40.633, 78.40.636, 78.40.639, 78.40.642, 78.40.645, 78.40.648, 78.40.651, 78.40.654, 78.40.657, 78.40.660, 78.40.663, 78.40.666, 78.40.669, 78.40.672, 78.40.675, 78.40.678, 78.40.681, 78.40.684, 78.40.687, 78.40.690, 78.40.693, 78.40.696, 78.40.699, 78.40.702, 78.40.705, 78.40.708, 78.40.711, 78.40.714, 78.40.717, 78.40.720, 78.40.723, 78.40.726, 78.40.729, 78.40.732, 78.40.735, 78.40.738, 78.40.741, 78.40.744, 78.40.747, 78.40.750, 78.40.753, 78.40.756, 78.40.759, 78.40.765, 78.40.770, 78.40.771, 78.40.772, 78.40.773, 78.40.780, 78.40.783, 78.40.786, 78.40.789, 78.40.791, 78.40.794, and 78.40.797.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. Sec. 1. The following acts or parts of acts are each repealed:

- (1) RCW 78.40.010 and 1917 c 36 s 1;
- (2) RCW 78.40.160 and 1947 c 166 s 2 & 1917 c 36 s 27;
- (3) RCW 78.40.163 and 1917 c 36 s 28;
- (4) RCW 78.40.166 and 1917 c 36 s 29;
- (5) RCW 78.40.169 and 1917 c 36 s 30;
- (6) RCW 78.40.172 and 1917 c 36 s 31;
- (7) RCW 78.40.175 and 1917 c 36 s 32;
- (8) RCW 78.40.178 and 1947 c 166 s 3 & 1917 c 36 s 33;
- (9) RCW 78.40.181 and 1989 c 12 s 20 & 1917 c 36 s 34;
- (10) RCW 78.40.184 and 1917 c 36 s 35;
- (11) RCW 78.40.187 and 1919 c 201 s 2 & 1917 c 36 s 36;
- (12) RCW 78.40.190 and 1943 c 211 s 2 & 1917 c 36 s 37;
- (13) RCW 78.40.193 and 1917 c 36 s 38;
- (14) RCW 78.40.196 and 1917 c 36 s 39;
- (15) RCW 78.40.199 and 1917 c 36 s 40;
- (16) RCW 78.40.202 and 1917 c 36 s 41;
- (17) RCW 78.40.205 and 1917 c 36 s 42;
- (18) RCW 78.40.208 and 1917 c 36 s 43;
- (19) RCW 78.40.211 and 1917 c 36 s 44;
- (20) RCW 78.40.214 and 1917 c 36 s 45;
- (21) RCW 78.40.217 and 1919 c 201 s 3 & 1917 c 36 s 46;
- (22) RCW 78.40.220 and 1919 c 201 s 4 & 1917 c 36 s 47;
- (23) RCW 78.40.223 and 1917 c 36 s 48;
- (24) RCW 78.40.226 and 1917 c 36 s 49;
- (25) RCW 78.40.229 and 1917 c 36 s 50;
- (26) RCW 78.40.235 and 1917 c 36 s 51;
- (27) RCW 78.40.238 and 1917 c 36 s 52;

- (28) RCW 78.40.241 and 1917 c 36 s 53;
- (29) RCW 78.40.244 and 1917 c 36 s 54;
- (30) RCW 78.40.247 and 1917 c 36 s 55;
- (31) RCW 78.40.250 and 1988 c 127 s 32, 1947 c 87 s 1, & 1917 c 36 s 56;
- (32) RCW 78.40.253 and 1917 c 36 s 57;
- (33) RCW 78.40.256 and 1917 c 36 s 58;
- (34) RCW 78.40.259 and 1917 c 36 s 59;
- (35) RCW 78.40.262 and 1989 c 12 s 21 & 1917 c 36 s 60;
- (36) RCW 78.40.270 and 1917 c 36 s 61;
- (37) RCW 78.40.273 and 1917 c 36 s 62;
- (38) RCW 78.40.276 and 1917 c 36 s 63;
- (39) RCW 78.40.279 and 1917 c 36 s 64;
- (40) RCW 78.40.281 and 1917 c 36 s 65;
- (41) RCW 78.40.284 and 1917 c 36 s 66;
- (42) RCW 78.40.287 and 1943 c 211 s 3 & 1917 c 36 s 67;
- (43) RCW 78.40.290 and 1917 c 36 s 68;
- (44) RCW 78.40.293 and 1971 ex.s. c 292 s 68, 1939 c 51 s 1, & 1917 c 36 s 69;
- (45) RCW 78.40.296 and 1917 c 36 s 70;
- (46) RCW 78.40.300 and 1917 c 36 s 71;
- (47) RCW 78.40.303 and 1917 c 36 s 72;
- (48) RCW 78.40.306 and 1917 c 36 s 73;
- (49) RCW 78.40.309 and 1917 c 36 s 74;
- (50) RCW 78.40.312 and 1917 c 36 s 75;
- (51) RCW 78.40.315 and 1917 c 36 s 76;
- (52) RCW 78.40.318 and 1917 c 36 s 77;
- (53) RCW 78.40.321 and 1917 c 36 s 78;
- (54) RCW 78.40.324 and 1917 c 36 s 79;
- (55) RCW 78.40.327 and 1917 c 36 s 80;
- (56) RCW 78.40.330 and 1917 c 36 s 81;
- (57) RCW 78.40.333 and 1917 c 36 s 82;
- (58) RCW 78.40.336 and 1917 c 36 s 83;
- (59) RCW 78.40.339 and 1945 c 83 s 1 & 1917 c 36 s 84;
- (60) RCW 78.40.342 and 1917 c 36 s 85;
- (61) RCW 78.40.345 and 1989 c 12 s 22 & 1917 c 36 s 86;
- (62) RCW 78.40.348 and 1917 c 36 s 87 & 1907 c 105 s 3;
- (63) RCW 78.40.351 and 1987 c 202 s 235, 1939 c 51 s 2, & 1917 c 36 s 88;
- (64) RCW 78.40.354 and 1917 c 36 s 89;
- (65) RCW 78.40.357 and 1943 c 211 s 4 & 1917 c 36 s 90;
- (66) RCW 78.40.360 and 1917 c 36 s 91;
- (67) RCW 78.40.363 and 1917 c 36 s 92;
- (68) RCW 78.40.366 and 1917 c 36 s 93;
- (69) RCW 78.40.369 and 1917 c 36 s 94;

- (70) RCW 78.40.372 and 1917 c 36 s 95;
- (71) RCW 78.40.375 and 1943 c 211 s 5 & 1917 c 36 s 96;
- (72) RCW 78.40.378 and 1917 c 36 s 97;
- (73) RCW 78.40.381 and 1917 c 36 s 98;
- (74) RCW 78.40.390 and 1917 c 36 s 99;
- (75) RCW 78.40.393 and 1917 c 36 s 100;
- (76) RCW 78.40.396 and 1917 c 36 s 101;
- (77) RCW 78.40.399 and 1917 c 36 s 102;
- (78) RCW 78.40.402 and 1917 c 36 s 103;
- (79) RCW 78.40.405 and 1989 c 12 s 23 & 1917 c 36 s 104;
- (80) RCW 78.40.408 and 1917 c 36 s 105;
- (81) RCW 78.40.411 and 1917 c 36 s 106;
- (82) RCW 78.40.414 and 1919 c 201 s 5 & 1917 c 36 s 107;
- (83) RCW 78.40.417 and 1943 c 211 s 6 & 1917 c 36 s 108;
- (84) RCW 78.40.420 and 1917 c 36 s 109;
- (85) RCW 78.40.423 and 1917 c 36 s 110;
- (86) RCW 78.40.426 and 1917 c 36 s 111;
- (87) RCW 78.40.429 and 1917 c 36 s 112;
- (88) RCW 78.40.432 and 1917 c 36 s 113;
- (89) RCW 78.40.435 and 1917 c 36 s 114;
- (90) RCW 78.40.438 and 1917 c 36 s 115;
- (91) RCW 78.40.441 and 1917 c 36 s 116;
- (92) RCW 78.40.444 and 1943 c 211 s 7 & 1917 c 36 s 117;
- (93) RCW 78.40.450 and 1947 c 166 s 4, 1943 c 211 s 8, & 1917 c 36 s 118;
- (94) RCW 78.40.453 and 1917 c 36 s 119;
- (95) RCW 78.40.456 and 1917 c 36 s 120;
- (96) RCW 78.40.459 and 1917 c 36 s 121;
- (97) RCW 78.40.462 and 1917 c 36 s 122;
- (98) RCW 78.40.470 and 1917 c 36 s 123;
- (99) RCW 78.40.473 and 1917 c 36 s 124;
- (100) RCW 78.40.476 and 1917 c 36 s 125;
- (101) RCW 78.40.479 and 1917 c 36 s 126;
- (102) RCW 78.40.482 and 1917 c 36 s 127;
- (103) RCW 78.40.485 and 1943 c 211 s 9 & 1917 c 36 s 128;
- (104) RCW 78.40.488 and 1917 c 36 s 129;
- (105) RCW 78.40.500 and 1917 c 36 s 131;
- (106) RCW 78.40.503 and 1917 c 36 s 132;
- (107) RCW 78.40.506 and 1917 c 36 s 133;
- (108) RCW 78.40.509 and 1917 c 36 s 134;
- (109) RCW 78.40.512 and 1917 c 36 s 135;
- (110) RCW 78.40.515 and 1917 c 36 s 136;
- (111) RCW 78.40.518 and 1917 c 36 s 137;
- (112) RCW 78.40.521 and 1917 c 36 s 138;

- (113) RCW 78.40.524 and 1917 c 36 s 139;
- (114) RCW 78.40.527 and 1917 c 36 s 140;
- (115) RCW 78.40.530 and 1917 c 36 s 141;
- (116) RCW 78.40.533 and 1917 c 36 s 142;
- (117) RCW 78.40.536 and 1917 c 36 s 143;
- (118) RCW 78.40.540 and 1917 c 36 s 144;
- (119) RCW 78.40.543 and 1917 c 36 s 145;
- (120) RCW 78.40.546 and 1917 c 36 s 146;
- (121) RCW 78.40.549 and 1917 c 36 s 147;
- (122) RCW 78.40.552 and 1917 c 36 s 148;
- (123) RCW 78.40.555 and 1917 c 36 s 149;
- (124) RCW 78.40.558 and 1917 c 36 s 150;
- (125) RCW 78.40.561 and 1917 c 36 s 151;
- (126) RCW 78.40.564 and 1917 c 36 s 152;
- (127) RCW 78.40.567 and 1917 c 36 s 153;
- (128) RCW 78.40.570 and 1947 c 166 s 5, 1943 c 211 s 10, 1933 c 137 s 1,
& 1917 c 36 s 154;
- (129) RCW 78.40.573 and 1917 c 36 s 155;
- (130) RCW 78.40.576 and 1917 c 36 s 156;
- (131) RCW 78.40.579 and 1917 c 36 s 157;
- (132) RCW 78.40.581 and 1917 c 36 s 158;
- (133) RCW 78.40.585 and 1917 c 36 s 159;
- (134) RCW 78.40.588 and 1917 c 36 s 160;
- (135) RCW 78.40.591 and 1917 c 36 s 161;
- (136) RCW 78.40.594 and 1917 c 36 s 162;
- (137) RCW 78.40.600 and 1917 c 36 s 163;
- (138) RCW 78.40.603 and 1917 c 36 s 164;
- (139) RCW 78.40.606 and 1987 c 202 s 236, 1973 1st ex.s. c 154 s 114, 1943
c 211 s 11, & 1917 c 36 s 165;
- (140) RCW 78.40.609 and 1917 c 36 s 166;
- (141) RCW 78.40.612 and 1917 c 36 s 167;
- (142) RCW 78.40.615 and 1917 c 36 s 168;
- (143) RCW 78.40.618 and 1917 c 36 s 169;
- (144) RCW 78.40.621 and 1917 c 36 s 170;
- (145) RCW 78.40.624 and 1917 c 36 s 171;
- (146) RCW 78.40.627 and 1917 c 36 s 172;
- (147) RCW 78.40.630 and 1917 c 36 s 173;
- (148) RCW 78.40.633 and 1917 c 36 s 174;
- (149) RCW 78.40.636 and 1917 c 36 s 175;
- (150) RCW 78.40.639 and 1917 c 36 s 176;
- (151) RCW 78.40.642 and 1917 c 36 s 177;
- (152) RCW 78.40.645 and 1917 c 36 s 178;
- (153) RCW 78.40.648 and 1917 c 36 s 179;

- (154) RCW 78.40.651 and 1917 c 36 s 180;
- (155) RCW 78.40.654 and 1917 c 36 s 181;
- (156) RCW 78.40.657 and 1917 c 36 s 182;
- (157) RCW 78.40.660 and 1917 c 36 s 183;
- (158) RCW 78.40.663 and 1943 c 211 s 12 & 1917 c 36 s 184;
- (159) RCW 78.40.666 and 1917 c 36 s 185;
- (160) RCW 78.40.669 and 1917 c 36 s 186;
- (161) RCW 78.40.672 and 1989 c 12 s 24 & 1917 c 36 s 187;
- (162) RCW 78.40.675 and 1917 c 36 s 188;
- (163) RCW 78.40.678 and 1917 c 36 s 189;
- (164) RCW 78.40.681 and 1917 c 36 s 190;
- (165) RCW 78.40.684 and 1917 c 36 s 191;
- (166) RCW 78.40.687 and 1943 c 211 s 13 & 1917 c 36 s 192;
- (167) RCW 78.40.690 and 1917 c 36 s 193;
- (168) RCW 78.40.693 and 1989 c 12 s 25 & 1917 c 36 s 194;
- (169) RCW 78.40.696 and 1917 c 36 s 195;
- (170) RCW 78.40.699 and 1917 c 36 s 196;
- (171) RCW 78.40.702 and 1917 c 36 s 197;
- (172) RCW 78.40.705 and 1917 c 36 s 198;
- (173) RCW 78.40.708 and 1917 c 36 s 199;
- (174) RCW 78.40.711 and 1919 c 201 s 6 & 1917 c 36 s 200;
- (175) RCW 78.40.714 and 1917 c 36 s 201;
- (176) RCW 78.40.717 and 1917 c 36 s 202;
- (177) RCW 78.40.720 and 1917 c 36 s 203;
- (178) RCW 78.40.723 and 1987 c 202 s 237, 1935 c 6 s 1, & 1917 c 36 s 204;
- (179) RCW 78.40.726 and 1917 c 36 s 205;
- (180) RCW 78.40.729 and 1917 c 36 s 206;
- (181) RCW 78.40.732 and 1943 c 211 s 14 & 1917 c 36 s 207;
- (182) RCW 78.40.735 and 1917 c 36 s 208;
- (183) RCW 78.40.738 and 1917 c 36 s 209;
- (184) RCW 78.40.741 and 1989 c 12 s 26 & 1917 c 36 s 210;
- (185) RCW 78.40.744 and 1917 c 36 s 211;
- (186) RCW 78.40.747 and 1917 c 36 s 212;
- (187) RCW 78.40.750 and 1917 c 36 s 213;
- (188) RCW 78.40.753 and 1917 c 36 s 214;
- (189) RCW 78.40.756 and 1917 c 36 s 215;
- (190) RCW 78.40.759 and 1917 c 36 s 216;
- (191) RCW 78.40.765 and 1917 c 36 s 217, 1891 c 81 s 21, & 1887 c 21 s 16;
- (192) RCW 78.40.770 and 1917 c 36 s 218;
- (193) RCW 78.40.771 and 1917 c 36 s 219;
- (194) RCW 78.40.772 and 1917 c 36 s 220;
- (195) RCW 78.40.773 a1.d 1917 c 36 s 221;
- (196) RCW 78.40.780 and 1927 c 306 s 12;

(197) RCW 78.40.783 and 1989 c 12 s 27 & 1927 c 306 s 13;
 (198) RCW 78.40.786 and 1989 c 12 s 28 & 1927 c 306 s 14;
 (199) RCW 78.40.789 and 1927 c 306 s 15;
 (200) RCW 78.40.791 and 1927 c 306 s 16;
 (201) RCW 78.40.794 and 1927 c 306 s 17; and
 (202) RCW 78.40.797 and 1927 c 306 s 18.

Passed the House March 11, 1997.

Passed the Senate April 8, 1997.

Approved by the Governor April 19, 1997.

Filed in Office of Secretary of State April 19, 1997.

CHAPTER 65

[House Bill 2143]

VOLUNTEER AMBULANCE SERVICES BY MEMBERS OF CITY OR TOWN LEGISLATIVE BODIES

AN ACT Relating to volunteer ambulance personnel; and amending RCW 35.21.770.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 35.21.770 and 1993 c 303 s 1 are each amended to read as follows:

Notwithstanding any other provision of law, the legislative body of any city or town, by resolution adopted by a two-thirds vote of the full legislative body, may authorize any of its members to serve as volunteer fire fighters, volunteer ambulance personnel, or reserve law enforcement officers, or ~~((both))~~ two or more of such positions, and to receive the same compensation, insurance, and other benefits as are applicable to other volunteer fire fighters, volunteer ambulance personnel, or reserve law enforcement officers employed by the city or town.

Passed the House March 12, 1997.

Passed the Senate April 8, 1997.

Approved by the Governor April 19, 1997.

Filed in Office of Secretary of State April 19, 1997.

CHAPTER 66

[Substitute Senate Bill 5060]

DRIVING STATUTES—CLARIFICATIONS

AN ACT Relating to clarifying driving statutes; amending RCW 46.20.021, 46.61.525, 13.40.0357, 46.55.113, 7.68.035, 10.31.100, 46.01.260, 46.61.005, and 46.61.5055; reenacting and amending RCW 46.63.020 and 46.52.130; adding new sections to chapter 46.20 RCW; adding a new section to chapter 46.61 RCW; and prescribing penalties.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. **Sec. 1.** A new section is added to chapter 46.20 RCW to read as follows:

Except as expressly exempted by this chapter, it is a misdemeanor for a person to drive any motor vehicle upon a highway in this state without a valid driver's license issued to Washington residents under this chapter. This section does not apply if at the time of the stop the person is not in violation of RCW 46.20.342(1) or 46.20.420 and has in his or her possession an expired driver's license or other valid identifying documentation under RCW 46.20.035. A violation of this section is a lesser included offense within the offenses described in RCW 46.20.342(1) or 46.20.420.

NEW SECTION. Sec. 2. A new section is added to chapter 46.20 RCW to read as follows:

Except as expressly exempted by this chapter, it is a traffic infraction and not a misdemeanor under section 1 of this act for a person to drive any motor vehicle upon a highway in this state without a valid driver's license issued to Washington residents under this chapter in his or her possession if the person provides the citing officer with an expired driver's license or other valid identifying documentation under RCW 46.20.035 at the time of the stop and the person is not in violation of RCW 46.20.342(1) or 46.20.420. A violation of this section is subject to a penalty of two hundred fifty dollars. If the person appears in person before the court or submits by mail written proof that he or she obtained a valid license after being cited, the court shall reduce the penalty to fifty dollars.

Sec. 3. RCW 46.20.021 and 1996 c 307 s 5 are each amended to read as follows:

~~(1) (No person, except as expressly exempted by this chapter, may drive any motor vehicle upon a highway in this state unless the person has a valid driver's license issued to Washington residents under the provisions of this chapter. A violation of this subsection is a misdemeanor and is a lesser included offense within the offenses described in RCW 46.20.342(1) or 46.20.420. However, if a person in violation of this section provides the citing officer with an expired driver's license or other valid identifying documentation under RCW 46.20.035 at the time of the stop and is not in violation of RCW 46.20.342(1) or 46.20.420, the violation of this section is an infraction and is subject to a penalty of two hundred fifty dollars. If the person appears in person before the court or submits by mail written proof that he or she obtained a valid license after being cited, the court shall reduce the penalty to fifty dollars.~~

~~—(2))~~ For the purposes of obtaining a valid driver's license, a resident is a person who manifests an intent to live or be located in this state on more than a temporary or transient basis. Evidence of residency includes but is not limited to:

- (a) Becoming a registered voter in this state; or
- (b) Receiving benefits under one of the Washington public assistance programs; or
- (c) Declaring that he or she is a resident for the purpose of obtaining a state license or tuition fees at resident rates.

~~((3))~~ (2) The term "Washington public assistance programs" referred to in subsection ~~((2))~~ (1)(b) of this section includes only public assistance programs for which more than fifty percent of the combined costs of benefits and administration are paid from state funds. Programs which are not included within the term "Washington public assistance programs" pursuant to the above criteria include, but are not limited to the food stamp program under the federal food stamp act of 1964; programs under the child nutrition act of 1966, 42 U.S.C. Secs. 1771 through 1788; and aid to families with dependent children, 42 U.S.C. Secs. 601 through 606.

~~((4))~~ (3) No person shall receive a driver's license unless and until he or she surrenders to the department all valid driver's licenses in his or her possession issued to him or her by any other jurisdiction. The department shall establish a procedure to invalidate the surrendered photograph license and return it to the person. The invalidated license, along with the valid temporary Washington driver's license provided for in RCW 46.20.055(3), shall be accepted as proper identification. The department shall notify the issuing department that the licensee is now licensed in a new jurisdiction. No person shall be permitted to have more than one valid driver's license at any time.

~~((5))~~ (4) New Washington residents are allowed thirty days from the date they become residents as defined in this section to procure a valid Washington driver's license.

~~((6))~~ (5) Any person licensed as a driver under this chapter may exercise the privilege thereby granted upon all streets and highways in this state and shall not be required to obtain any other license to exercise such privilege by any county, municipal or local board, or body having authority to adopt local police regulations.

NEW SECTION. Sec. 4. A new section is added to chapter 46.61 RCW to read as follows:

(1)(a) A person is guilty of negligent driving in the first degree if he or she operates a motor vehicle in a manner that is both negligent and endangers or is likely to endanger any person or property, and exhibits the effects of having consumed liquor or an illegal drug.

(b) It is an affirmative defense to negligent driving in the first degree by means of exhibiting the effects of having consumed an illegal drug that must be proved by the defendant by a preponderance of the evidence, that the driver has a valid prescription for the drug consumed, and has been consuming it according to the prescription directions and warnings.

(c) Negligent driving in the first degree is a misdemeanor.

(2) For the purposes of this section:

(a) "Negligent" means the failure to exercise ordinary care, and is the doing of some act that a reasonably careful person would not do under the same or similar circumstances or the failure to do something that a reasonably careful person would do under the same or similar circumstances.

(b) "Exhibiting the effects of having consumed liquor" means that a person has the odor of liquor on his or her breath, or that by speech, manner, appearance, behavior, lack of coordination, or otherwise exhibits that he or she has consumed liquor, and either:

(i) Is in possession of or in close proximity to a container that has or recently had liquor in it; or

(ii) Is shown by other evidence to have recently consumed liquor.

(c) "Exhibiting the effects of having consumed an illegal drug" means that a person by speech, manner, appearance, behavior, lack of coordination, or otherwise exhibits that he or she has consumed an illegal drug and either:

(i) Is in possession of an illegal drug; or

(ii) Is shown by other evidence to have recently consumed an illegal drug.

(d) "Illegal drug" means a controlled substance under chapter 69.50 RCW for which the driver does not have a valid prescription or that is not being consumed in accordance with the prescription directions and warnings, or a legend drug under chapter 69.41 RCW for which the driver does not have a valid prescription or that is not being consumed in accordance with the prescription directions and warnings.

(3) Any act prohibited by this section that also constitutes a crime under any other law of this state may be the basis of prosecution under such other law notwithstanding that it may also be the basis for prosecution under this section.

Sec. 5. RCW 46.61.525 and 1996 c 307 s 1 are each amended to read as follows:

~~(1)(a) ((A person is guilty of negligent driving in the first degree if he or she operates a motor vehicle in a manner that is both negligent and endangers or is likely to endanger any person or property, and exhibits the effects of having consumed liquor or an illegal drug.~~

~~—(b) It is an affirmative defense to negligent driving in the first degree by means of exhibiting the effects of having consumed an illegal drug that must be proved by the defendant by a preponderance of the evidence, that the driver has a valid prescription for the drug consumed, and has been consuming it according to the prescription directions and warnings.~~

~~—(c) Negligent driving in the first degree is a misdemeanor.~~

~~(2)(a)) A person is guilty of negligent driving in the second degree if, under circumstances not constituting negligent driving in the first degree, he or she operates a motor vehicle in a manner that is both negligent and endangers or is likely to endanger any person or property.~~

~~(b) It is an affirmative defense to negligent driving in the second degree that must be proved by the defendant by a preponderance of the evidence, that the driver was operating the motor vehicle on private property with the consent of the owner in a manner consistent with the owner's consent.~~

~~(c) Negligent driving in the second degree is a traffic infraction and is subject to a penalty of two hundred fifty dollars.~~

~~((3)) (2) For the purposes of this section((:~~

—(a) "Negligent"), "negligent" means the failure to exercise ordinary care, and is the doing of some act that a reasonably careful person would not do under the same or similar circumstances or the failure to do something that a reasonably careful person would do under the same or similar circumstances.

~~((b) "Exhibiting the effects of having consumed liquor" means that a person has the odor of liquor on his or her breath, or that by speech, manner, appearance, behavior, lack of coordination, or otherwise exhibits that he or she has consumed liquor, and either:~~

~~—(i) Is in possession of or in close proximity to a container that has or recently had liquor in it; or~~

~~—(ii) Is shown by other evidence to have recently consumed liquor.~~

~~—(c) "Exhibiting the effects of having consumed an illegal drug" means that a person by speech, manner, appearance, behavior, lack of coordination, or otherwise exhibits that he or she has consumed an illegal drug and either:~~

~~—(i) Is in possession of an illegal drug; or~~

~~—(ii) Is shown by other evidence to have recently consumed an illegal drug.~~

~~—(d) "Illegal drug" means a controlled substance under chapter 69.50 RCW for which the driver does not have a valid prescription or that is not being consumed in accordance with the prescription directions and warnings, or a legend drug under chapter 69.41 RCW for which the driver does not have a valid prescription or that is not being consumed in accordance with the prescription directions and warnings.~~

~~—(4)) (3) Any act prohibited by this section that also constitutes a crime under any other law of this state may be the basis of prosecution under such other law notwithstanding that it may also be the basis for prosecution under this section.~~

Sec. 6. RCW 13.40.0357 and 1996 c 205 s 6 are each amended to read as follows:

**SCHEDULE A
DESCRIPTION AND OFFENSE CATEGORY**

JUVENILE DISPOSITION		JUVENILE DISPOSITION CATEGORY FOR ATTEMPT,
OFFENSE CATEGORY	DESCRIPTION (RCW CITATION)	BAILJUMP, CONSPIRACY, OR SOLICITATION

.....

Arson and Malicious Mischief

A	Arson 1 (9A.48.020)	B+
B	Arson 2 (9A.48.030)	C
C	Reckless Burning 1 (9A.48.040)	D
D	Reckless Burning 2 (9A.48.050)	E
B	Malicious Mischief 1 (9A.48.070)	C
C	Malicious Mischief 2 (9A.48.080)	D
D	Malicious Mischief 3 (<\$50 is E class) (9A.48.090)	E

E	Tampering with Fire Alarm Apparatus (9.40.100)	E
A	Possession of Incendiary Device (9.40.120)	B+
Assault and Other Crimes Involving Physical Harm		
A	Assault 1 (9A.36.011)	B+
B+	Assault 2 (9A.36.021)	C+
C+	Assault 3 (9A.36.031)	D+
D+	Assault 4 (9A.36.041)	E
D+	Reckless Endangerment (9A.36.050)	E
C+	Promoting Suicide Attempt (9A.36.060)	D+
D+	Coercion (9A.36.070)	E
C+	Custodial Assault (9A.36.100)	D+
Burglary and Trespass		
B+	Burglary 1 (9A.52.020)	C+
B	Burglary 2 (9A.52.030)	C
D	Burglary Tools (Possession of) (9A.52.060)	E
D	Criminal Trespass 1 (9A.52.070)	E
E	Criminal Trespass 2 (9A.52.080)	E
D	Vehicle Prowling (9A.52.100)	E
Drugs		
E	Possession/Consumption of Alcohol (66.44.270)	E
C	Illegally Obtaining Legend Drug (69.41.020)	D
C+	Sale, Delivery, Possession of Legend Drug with Intent to Sell (69.41.030)	D+
E	Possession of Legend Drug (69.41.030)	E
B+	Violation of Uniform Controlled Substances Act - Narcotic or Methamphetamine Sale (69.50.401(a)(1)(i) or (ii))	B+
C	Violation of Uniform Controlled Substances Act - Nonnarcotic Sale (69.50.401(a)(1)(iii))	C

E	Possession of Marihuana <40 grams (69.50.401(e))	E
C	Fraudulently Obtaining Controlled Substance (69.50.403)	C
C+	Sale of Controlled Substance for Profit (69.50.410)	C+
E	Unlawful Inhalation (9.47A.020)	E
B	Violation of Uniform Controlled Substances Act - Narcotic or Methamphetamine Counterfeit Substances (69.50.401(b)(1)(i) or (ii))	B
C	Violation of Uniform Controlled Substances Act - Nonnarcotic Counterfeit Substances (69.50.401(b)(1) (iii), (iv), (v))	C
C	Violation of Uniform Controlled Substances Act - Possession of a Controlled Substance (69.50.401(d))	C
C	Violation of Uniform Controlled Substances Act - Possession of a Controlled Substance (69.50.401(c))	C
Firearms and Weapons		
E	Carrying Loaded Pistol Without Permit (9.41.050)	E
C	Possession of Firearms by Minor (<18) (9.41.040(1) (b)((+))) (iii))	C
D+	Possession of Dangerous Weapon (9.41.250)	E
D	Intimidating Another Person by use of Weapon (9.41.270)	E
Homicide		
A+	Murder 1 (9A.32.030)	A
A+	Murder 2 (9A.32.050)	B+
B+	Manslaughter 1 (9A.32.060)	C+
C+	Manslaughter 2 (9A.32.070)	D+
B+	Vehicular Homicide (46.61.520)	C+

	Kidnapping	
A	Kidnap 1 (9A.40.020)	B+
B+	Kidnap 2 (9A.40.030)	C+
C+	Unlawful Imprisonment (9A.40.040)	D+
	Obstructing Governmental Operation	
E	Obstructing a Law Enforcement Officer (9A.76.020)	E
E	Resisting Arrest (9A.76.040)	E
B	Introducing Contraband 1 (9A.76.140)	C
C	Introducing Contraband 2 (9A.76.150)	D
E	Introducing Contraband 3 (9A.76.160)	E
B+	Intimidating a Public Servant (9A.76.180)	C+
B+	Intimidating a Witness (9A.72.110)	C+
	Public Disturbance	
C+	Riot with Weapon (9A.84.010)	D+
D+	Riot Without Weapon (9A.84.010)	E
E	Failure to Disperse (9A.84.020)	E
E	Disorderly Conduct (9A.84.030)	E
	Sex Crimes	
A	Rape 1 (9A.44.040)	B+
A-	Rape 2 (9A.44.050)	B+
C+	Rape 3 (9A.44.060)	D+
A-	Rape of a Child 1 (9A.44.073)	B+
B	Rape of a Child 2 (9A.44.076)	C+
B	Incest 1 (9A.64.020(1))	C
C	Incest 2 (9A.64.020(2))	D
D+	Indecent Exposure (Victim <14) (9A.88.010)	E
E	Indecent Exposure (Victim 14 or over) (9A.88.010)	E
B+	Promoting Prostitution 1 (9A.88.070)	C+
C+	Promoting Prostitution 2 (9A.88.080)	D+

E	O & A (Prostitution) (9A.88.030)	E
B+	Indecent Liberties (9A.44.100)	C+
B+	Child Molestation 1 (9A.44.083)	C+
C+	Child Molestation 2 (9A.44.086)	C
	Theft, Robbery, Extortion, and Forgery	
B	Theft 1 (9A.56.030)	C
C	Theft 2 (9A.56.040)	D
D	Theft 3 (9A.56.050)	E
B	Theft of Livestock (9A.56.080)	C
C	Forgery (9A.60.020)	D
A	Robbery 1 (9A.56.200)	B+
B+	Robbery 2 (9A.56.210)	C+
B+	Extortion 1 (9A.56.120)	C+
C+	Extortion 2 (9A.56.130)	D+
B	Possession of Stolen Property 1 (9A.56.150)	C
C	Possession of Stolen Property 2 (9A.56.160)	D
D	Possession of Stolen Property 3 (9A.56.170)	E
C	Taking Motor Vehicle Without Owner's Permission (9A.56.070)	D
	Motor Vehicle Related Crimes	
E	Driving Without a License ((46.20.021)) <u>Section 1 of this act</u>	E
C	Hit and Run - Injury (46.52.020(4))	D
D	Hit and Run-Attended (46.52.020(5))	E
E	Hit and Run-Unattended (46.52.010)	E
C	Vehicular Assault (46.61.522)	D
C	Attempting to Elude Pursuing Police Vehicle (46.61.024)	D
E	Reckless Driving (46.61.500)	E
D	Driving While Under the Influence (46.61.502 and 46.61.504)	E
D	Vehicle Prowling (9A.52.100)	E
C	Taking Motor Vehicle Without Owner's Permission (9A.56.070)	D
	Other	
B	Bomb Threat (9.61.160)	C

C	Escape 1 ¹ (9A.76.110)	C
C	Escape 2 ¹ (9A.76.120)	C
D	Escape 3 (9A.76.130)	E
E	Obscene, Harassing, Etc., Phone Calls (9.61.230)	E
A	Other Offense Equivalent to an Adult Class A Felony	B+
B	Other Offense Equivalent to an Adult Class B Felony	C
C	Other Offense Equivalent to an Adult Class C Felony	D
D	Other Offense Equivalent to an Adult Gross Misdemeanor	E
E	Other Offense Equivalent to an Adult Misdemeanor	E
V	Violation of Order of Restitution, Community Supervision, or Confinement (13.40.200) ²	V

¹Escape 1 and 2 and Attempted Escape 1 and 2 are classed as C offenses and the standard range is established as follows:

- 1st escape or attempted escape during 12-month period - 4 weeks confinement
- 2nd escape or attempted escape during 12-month period - 8 weeks confinement
- 3rd and subsequent escape or attempted escape during 12-month period - 12 weeks confinement

²If the court finds that a respondent has violated terms of an order, it may impose a penalty of up to 30 days of confinement.

**SCHEDULE B
PRIOR OFFENSE INCREASE FACTOR**

For use with all CURRENT OFFENSES occurring on or after July 1, 1989.

TIME SPAN

OFFENSE CATEGORY	0-12 Months	13-24 Months	25 Months or More
.....			
A+	.9	.9	.9
A	.9	.8	.6
A-	.9	.8	.5
B+	.9	.7	.4
B	.9	.6	.3
C+	.6	.3	.2

C	.5	.2	.2
D+	.3	.2	.1
D	.2	.1	.1
E	.1	.1	.1

Prior history - Any offense in which a diversion agreement or counsel and release form was signed, or any offense which has been adjudicated by court to be correct prior to the commission of the current offense(s).

**SCHEDULE C
CURRENT OFFENSE POINTS**

For use with all CURRENT OFFENSES occurring on or after July 1, 1989.

AGE

OFFENSE CATEGORY	12 & Under	13	14	15	16	17
.....						
A+	STANDARD RANGE 180-224 WEEKS					
A	250	300	350	375	375	375
A-	150	150	150	200	200	200
B+	110	110	120	130	140	150
B	45	45	50	50	57	57
C+	44	44	49	49	55	55
C	40	40	45	45	50	50
D+	16	18	20	22	24	26
D	14	16	18	20	22	24
E	4	4	4	6	8	10

**JUVENILE SENTENCING STANDARDS
SCHEDULE D-1**

This schedule may only be used for minor/first offenders. After the determination is made that a youth is a minor/first offender, the court has the discretion to select sentencing option A, B, or C.

MINOR/FIRST OFFENDER

**OPTION A
STANDARD RANGE**

Points	Community Supervision	Community Service Hours	Fine
.....			
1-9	0-3 months	and/or 0-8	and/or 0-\$10
10-19	0-3 months	and/or 0-8	and/or 0-\$10

20-29	0-3 months	and/or 0-16	and/or 0-\$10
30-39	0-3 months	and/or 8-24	and/or 0-\$25
40-49	3-6 months	and/or 16-32	and/or 0-\$25
50-59	3-6 months	and/or 24-40	and/or 0-\$25
60-69	6-9 months	and/or 32-48	and/or 0-\$50
70-79	6-9 months	and/or 40-56	and/or 0-\$50
80-89	9-12 months	and/or 48-64	and/or 10-\$100
90-109	9-12 months	and/or 56-72	and/or 10-\$100

OR

**OPTION B
STATUTORY OPTION**

0-12 Months Community Supervision

0-150 Hours Community Service

0-100 Fine

Posting of a Probation Bond

A term of community supervision with a maximum of 150 hours, \$100.00 fine, and 12 months supervision.

OR

**OPTION C
MANIFEST INJUSTICE**

When a term of community supervision would effectuate a manifest injustice, another disposition may be imposed. When a judge imposes a sentence of confinement exceeding 30 days, the court shall sentence the juvenile to a maximum term and the provisions of RCW 13.40.030(2) shall be used to determine the range.

**JUVENILE SENTENCING STANDARDS
SCHEDULE D-2**

This schedule may only be used for middle offenders. After the determination is made that a youth is a middle offender, the court has the discretion to select sentencing option A, B, or C.

MIDDLE OFFENDER

**OPTION A
STANDARD RANGE**

Points	Community Supervision	Community Service Hours	Fine	Confinement Days/Weeks
1-9	0-3 months	and/or 0-8	and/or 0-\$10	and/or 0
10-19	0-3 months	and/or 0-8	and/or 0-\$10	and/or 0

20-29	0-3 months	and/or 0-16	and/or 0-\$10	and/or 0
30-39	0-3 months	and/or 8-24	and/or 0-\$25	and/or 2-4
40-49	3-6 months	and/or 16-32	and/or 0-\$25	and/or 2-4
50-59	3-6 months	and/or 24-40	and/or 0-\$25	and/or 5-10
60-69	6-9 months	and/or 32-48	and/or 0-\$50	and/or 5-10
70-79	6-9 months	and/or 40-56	and/or 0-\$50	and/or 10-20
80-89	9-12 months	and/or 48-64	and/or 0-\$100	and/or 10-20
90-109	9-12 months	and/or 56-72	and/or 0-\$100	and/or 15-30
110-129				8-12
130-149				13-16
150-199				21-28
200-249				30-40
250-299				52-65
300-374				80-100
375+				103-129

Middle offenders with 110 points or more do not have to be committed. They may be assigned community supervision under option B.
 All A+ offenses 180-224 weeks

OR

**OPTION B
 STATUTORY OPTION**

- 0-12 Months Community Supervision
- 0-150 Hours Community Service
- 0-100 Fine
- Posting of a Probation Bond

If the offender has less than 110 points, the court may impose a determinate disposition of community supervision and/or up to 30 days confinement; in which case, if confinement has been imposed, the court shall state either aggravating or mitigating factors as set forth in RCW 13.40.150.

If the middle offender has 110 points or more, the court may impose a disposition under option A and may suspend the disposition on the condition that the offender serve up to thirty days of confinement and follow all conditions of community supervision. If the offender fails to comply with the terms of community supervision, the court may impose sanctions pursuant to RCW 13.40.200 or may revoke the suspended disposition and order execution of the disposition. If the court imposes confinement for offenders with 110 points or more, the court shall state either aggravating or mitigating factors set forth in RCW 13.40.150.

OR

**OPTION C
 MANIFEST INJUSTICE**

If the court determines that a disposition under A or B would effectuate a manifest injustice, the court shall sentence the juvenile to a maximum term and the provisions of RCW 13.40.030(2) shall be used to determine the range.

**JUVENILE SENTENCING STANDARDS
SCHEDULE D-3**

This schedule may only be used for serious offenders. After the determination is made that a youth is a serious offender, the court has the discretion to select sentencing option A or B.

**SERIOUS OFFENDER
OPTION A
STANDARD RANGE**

Points	Institution Time
.....	
0-129	8-12 weeks
130-149	13-16 weeks
150-199	21-28 weeks
200-249	30-40 weeks
250-299	52-65 weeks
300-374	80-100 weeks
375+	103-129 weeks
All A+ Offenses	180-224 weeks

OR

**OPTION B
MANIFEST INJUSTICE**

A disposition outside the standard range shall be determined and shall be comprised of confinement or community supervision including posting a probation bond or a combination thereof. When a judge finds a manifest injustice and imposes a sentence of confinement exceeding 30 days, the court shall sentence the juvenile to a maximum term, and the provisions of RCW 13.40.030(2) shall be used to determine the range.

Sec. 7. RCW 46.55.113 and 1996 c 89 s 1 are each amended to read as follows:

Whenever the driver of a vehicle is arrested for a violation of RCW 46.61.502 or 46.61.504, the arresting officer may take custody of the vehicle and provide for its prompt removal to a place of safety. In addition, a police officer may take custody of a vehicle and provide for its prompt removal to a place of safety under any of the following circumstances:

(1) Whenever a police officer finds a vehicle standing upon the roadway in violation of any of the provisions of RCW 46.61.560, the officer may provide for

the removal of the vehicle or require the driver or other person in charge of the vehicle to move the vehicle to a position off the roadway;

(2) Whenever a police officer finds a vehicle unattended upon a highway where the vehicle constitutes an obstruction to traffic or jeopardizes public safety;

(3) Whenever a police officer finds an unattended vehicle at the scene of an accident or when the driver of a vehicle involved in an accident is physically or mentally incapable of deciding upon steps to be taken to protect his or her property;

(4) Whenever the driver of a vehicle is arrested and taken into custody by a police officer;

(5) Whenever a police officer discovers a vehicle that the officer determines to be a stolen vehicle;

(6) Whenever a vehicle without a special license plate, card, or decal indicating that the vehicle is being used to transport a disabled person under RCW 46.16.381 is parked in a stall or space clearly and conspicuously marked under RCW 46.61.581 which space is provided on private property without charge or on public property;

(7) Upon determining that a person is operating a motor vehicle without a valid driver's license in violation of ~~((RCW 46.20.02+))~~ section 1 of this act or with a license that has been expired for ninety days or more, or with a suspended or revoked license in violation of RCW 46.20.342 or 46.20.420.

Nothing in this section may derogate from the powers of police officers under the common law. For the purposes of this section, a place of safety may include the business location of a registered tow truck operator.

Sec. 8. RCW 46.63.020 and 1996 c 307 s 6, 1996 c 287 s 7, 1996 c 93 s 3, 1996 c 87 s 21, and 1996 c 31 s 3 are each reenacted and amended to read as follows:

Failure to perform any act required or the performance of any act prohibited by this title or an equivalent administrative regulation or local law, ordinance, regulation, or resolution relating to traffic including parking, standing, stopping, and pedestrian offenses, is designated as a traffic infraction and may not be classified as a criminal offense, except for an offense contained in the following provisions of this title or a violation of an equivalent administrative regulation or local law, ordinance, regulation, or resolution:

(1) RCW 46.09.120(2) relating to the operation of a nonhighway vehicle while under the influence of intoxicating liquor or a controlled substance;

(2) RCW 46.09.130 relating to operation of nonhighway vehicles;

(3) RCW 46.10.090(2) relating to the operation of a snowmobile while under the influence of intoxicating liquor or narcotics or habit-forming drugs or in a manner endangering the person of another;

(4) RCW 46.10.130 relating to the operation of snowmobiles;

(5) Chapter 46.12 RCW relating to certificates of ownership and registration and markings indicating that a vehicle has been destroyed or declared a total loss;

(6) RCW 46.16.010 relating to initial registration of motor vehicles;

- (7) RCW 46.16.011 relating to permitting unauthorized persons to drive;
- (8) RCW 46.16.160 relating to vehicle trip permits;
- (9) RCW 46.16.381 (6) or (9) relating to unauthorized use or acquisition of a special placard or license plate for disabled persons' parking;
- (10) ~~((RCW 46.20.021))~~ Section 1 of this act relating to driving without a valid driver's license ~~((unless the person cited for the violation provided the citing officer with an expired driver's license or other valid identifying documentation under RCW 46.20.035 at the time of the stop and was not in violation of RCW 46.20.342(1) or 46.20.420, in which case the violation is an infraction));~~
- (11) RCW 46.20.091 relating to false statements regarding a driver's license or instruction permit;
- (12) RCW 46.20.336 relating to the unlawful possession and use of a driver's license;
- (13) RCW 46.20.342 relating to driving with a suspended or revoked license or status;
- (14) RCW 46.20.410 relating to the violation of restrictions of an occupational driver's license;
- (15) RCW 46.20.420 relating to the operation of a motor vehicle with a suspended or revoked license;
- (16) RCW 46.20.750 relating to assisting another person to start a vehicle equipped with an ignition interlock device;
- (17) RCW 46.25.170 relating to commercial driver's licenses;
- (18) Chapter 46.29 RCW relating to financial responsibility;
- (19) RCW 46.30.040 relating to providing false evidence of financial responsibility;
- (20) RCW 46.37.435 relating to wrongful installation of suncreening material;
- (21) RCW 46.44.180 relating to operation of mobile home pilot vehicles;
- (22) RCW 46.48.175 relating to the transportation of dangerous articles;
- (23) RCW 46.52.010 relating to duty on striking an unattended car or other property;
- (24) RCW 46.52.020 relating to duty in case of injury to or death of a person or damage to an attended vehicle;
- (25) RCW 46.52.090 relating to reports by repairmen, storagemen, and appraisers;
- (26) RCW 46.52.100 relating to driving under the influence of liquor or drugs;
- (27) RCW 46.52.130 relating to confidentiality of the driving record to be furnished to an insurance company, an employer, and an alcohol/drug assessment or treatment agency;
- (28) RCW 46.55.020 relating to engaging in the activities of a registered tow truck operator without a registration certificate;
- (29) RCW 46.55.035 relating to prohibited practices by tow truck operators;

- (30) RCW 46.61.015 relating to obedience to police officers, flagmen, or fire fighters;
- (31) RCW 46.61.020 relating to refusal to give information to or cooperate with an officer;
- (32) RCW 46.61.022 relating to failure to stop and give identification to an officer;
- (33) RCW 46.61.024 relating to attempting to elude pursuing police vehicles;
- (34) RCW 46.61.500 relating to reckless driving;
- (35) RCW 46.61.502 and 46.61.504 relating to persons under the influence of intoxicating liquor or drugs;
- (36) RCW 46.61.503 relating to a person under age twenty-one driving a motor vehicle after consuming alcohol;
- (37) RCW 46.61.520 relating to vehicular homicide by motor vehicle;
- (38) RCW 46.61.522 relating to vehicular assault;
- (39) (~~RCW 46.61.525(+)~~) Section 4 of this act relating to first degree negligent driving;
- (40) RCW 46.61.527(4) relating to reckless endangerment of roadway workers;
- (41) RCW 46.61.530 relating to racing of vehicles on highways;
- (42) RCW 46.61.685 relating to leaving children in an unattended vehicle with the motor running;
- (43) RCW 46.64.010 relating to unlawful cancellation of or attempt to cancel a traffic citation;
- (44) RCW 46.64.048 relating to attempting, aiding, abetting, coercing, and committing crimes;
- (45) Chapter 46.65 RCW relating to habitual traffic offenders;
- (46) RCW 46.68.010 relating to false statements made to obtain a refund;
- (47) Chapter 46.70 RCW relating to unfair motor vehicle business practices, except where that chapter provides for the assessment of monetary penalties of a civil nature;
- (48) Chapter 46.72 RCW relating to the transportation of passengers in for hire vehicles;
- (49) RCW 46.72A.060 relating to limousine carrier insurance;
- (50) RCW 46.72A.070 relating to operation of a limousine without a vehicle certificate;
- (51) RCW 46.72A.080 relating to false advertising by a limousine carrier;
- (52) Chapter 46.80 RCW relating to motor vehicle wreckers;
- (53) Chapter 46.82 RCW relating to driver's training schools;
- (54) RCW 46.87.260 relating to alteration or forgery of a cab card, letter of authority, or other temporary authority issued under chapter 46.87 RCW;
- (55) RCW 46.87.290 relating to operation of an unregistered or unlicensed vehicle under chapter 46.87 RCW.

Sec. 9. RCW 7.68.035 and 1996 c 122 s 2 are each amended to read as follows:

(1)(a) Whenever any person is found guilty in any superior court of having committed a crime, except as provided in subsection (2) of this section, there shall be imposed by the court upon such convicted person a penalty assessment. The assessment shall be in addition to any other penalty or fine imposed by law and shall be five hundred dollars for each case or cause of action that includes one or more convictions of a felony or gross misdemeanor and two hundred fifty dollars for any case or cause of action that includes convictions of only one or more misdemeanors.

(b) Whenever any juvenile is adjudicated of any offense in any juvenile offense disposition under Title 13 RCW, except as provided in subsection (2) of this section, there shall be imposed upon the juvenile offender a penalty assessment. The assessment shall be in addition to any other penalty or fine imposed by law and shall be one hundred dollars for each case or cause of action that includes one or more adjudications for a felony or gross misdemeanor and seventy-five dollars for each case or cause of action that includes adjudications of only one or more misdemeanors.

(2) The assessment imposed by subsection (1) of this section shall not apply to motor vehicle crimes defined in Title 46 RCW except those defined in the following sections: RCW 46.61.520, 46.61.522, 46.61.024, 46.52.090, 46.70.140, 46.61.502, 46.61.504, 46.52.100, 46.20.410, 46.52.020, 46.10.130, 46.09.130, section 4 of this act, 46.61.525, 46.61.685, 46.61.530, 46.61.500, 46.61.015, 46.52.010, 46.44.180, 46.10.090(2), and 46.09.120(2).

(3) Whenever any person accused of having committed a crime posts bail in superior court pursuant to the provisions of chapter 10.19 RCW and such bail is forfeited, there shall be deducted from the proceeds of such forfeited bail a penalty assessment, in addition to any other penalty or fine imposed by law, equal to the assessment which would be applicable under subsection (1) of this section if the person had been convicted of the crime.

(4) Such penalty assessments shall be paid by the clerk of the superior court to the county treasurer who shall monthly transmit the money as provided in RCW 10.82.070. Each county shall deposit fifty percent of the money it receives per case or cause of action under subsection (1) of this section and retains under RCW 10.82.070, not less than one and seventy-five one-hundredths percent of the remaining money it retains under RCW 10.82.070 and the money it retains under chapter 3.62 RCW, and all money it receives under subsection (7) of this section into a fund maintained exclusively for the support of comprehensive programs to encourage and facilitate testimony by the victims of crimes and witnesses to crimes. A program shall be considered "comprehensive" only after approval of the department upon application by the county prosecuting attorney. The department shall approve as comprehensive only programs which:

(a) Provide comprehensive services to victims and witnesses of all types of crime with particular emphasis on serious crimes against persons and property. It is the intent of the legislature to make funds available only to programs which do not restrict services to victims or witnesses of a particular type or types of crime and that such funds supplement, not supplant, existing local funding levels;

(b) Are administered by the county prosecuting attorney either directly through the prosecuting attorney's office or by contract between the county and agencies providing services to victims of crime;

(c) Make a reasonable effort to inform the known victim or his surviving dependents of the existence of this chapter and the procedure for making application for benefits;

(d) Assist victims in the restitution and adjudication process; and

(e) Assist victims of violent crimes in the preparation and presentation of their claims to the department of labor and industries under this chapter.

Before a program in any county west of the Cascade mountains is submitted to the department for approval, it shall be submitted for review and comment to each city within the county with a population of more than one hundred fifty thousand. The department will consider if the county's proposed comprehensive plan meets the needs of crime victims in cases adjudicated in municipal, district or superior courts and of crime victims located within the city and county.

(5) Upon submission to the department of a letter of intent to adopt a comprehensive program, the prosecuting attorney shall retain the money deposited by the county under subsection (4) of this section until such time as the county prosecuting attorney has obtained approval of a program from the department. Approval of the comprehensive plan by the department must be obtained within one year of the date of the letter of intent to adopt a comprehensive program. The county prosecuting attorney shall not make any expenditures from the money deposited under subsection (4) of this section until approval of a comprehensive plan by the department. If a county prosecuting attorney has failed to obtain approval of a program from the department under subsection (4) of this section or failed to obtain approval of a comprehensive program within one year after submission of a letter of intent under this section, the county treasurer shall monthly transmit one hundred percent of the money deposited by the county under subsection (4) of this section to the state treasurer for deposit in the public safety and education account established under RCW 43.08.250.

(6) County prosecuting attorneys are responsible to make every reasonable effort to insure that the penalty assessments of this chapter are imposed and collected.

(7) Every city and town shall transmit monthly one and seventy-five one-hundredths percent of all money, other than money received for parking infractions, retained under RCW 3.46.120, 3.50.100, and 35.20.220 to the county treasurer for deposit as provided in subsection (4) of this section.

Sec. 10. RCW 10.31.100 and 1996 c 248 s 4 are each amended to read as follows:

A police officer having probable cause to believe that a person has committed or is committing a felony shall have the authority to arrest the person without a warrant. A police officer may arrest a person without a warrant for committing a misdemeanor or gross misdemeanor only when the offense is committed in the presence of the officer, except as provided in subsections (1) through (10) of this section.

(1) Any police officer having probable cause to believe that a person has committed or is committing a misdemeanor or gross misdemeanor, involving physical harm or threats of harm to any person or property or the unlawful taking of property or involving the use or possession of cannabis, or involving the acquisition, possession, or consumption of alcohol by a person under the age of twenty-one years under RCW 66.44.270, or involving criminal trespass under RCW 9A.52.070 or 9A.52.080, shall have the authority to arrest the person.

(2) A police officer shall arrest and take into custody, pending release on bail, personal recognizance, or court order, a person without a warrant when the officer has probable cause to believe that:

(a) An order has been issued of which the person has knowledge under RCW 10.99.040(2), 10.99.050, 26.09.050, 26.09.060, 26.10.040, 26.10.115, 26.44.063, chapter 26.26 RCW, or chapter 26.50 RCW restraining the person and the person has violated the terms of the order restraining the person from acts or threats of violence or restraining the person from going onto the grounds of or entering a residence, workplace, school, or day care or, in the case of an order issued under RCW 26.44.063, imposing any other restrictions or conditions upon the person; or

(b) The person is sixteen years or older and within the preceding four hours has assaulted a family or household member as defined in RCW 10.99.020 and the officer believes: (i) A felonious assault has occurred; (ii) an assault has occurred which has resulted in bodily injury to the victim, whether the injury is observable by the responding officer or not; or (iii) that any physical action has occurred which was intended to cause another person reasonably to fear imminent serious bodily injury or death. Bodily injury means physical pain, illness, or an impairment of physical condition. When the officer has probable cause to believe that family or household members have assaulted each other, the officer is not required to arrest both persons. The officer shall arrest the person whom the officer believes to be the primary physical aggressor. In making this determination, the officer shall make every reasonable effort to consider: (i) The intent to protect victims of domestic violence under RCW 10.99.010; (ii) the comparative extent of injuries inflicted or serious threats creating fear of physical injury; and (iii) the history of domestic violence between the persons involved.

(3) Any police officer having probable cause to believe that a person has committed or is committing a violation of any of the following traffic laws shall have the authority to arrest the person:

(a) RCW 46.52.010, relating to duty on striking an unattended car or other property;

(b) RCW 46.52.020, relating to duty in case of injury to or death of a person or damage to an attended vehicle;

(c) RCW 46.61.500 or 46.61.530, relating to reckless driving or racing of vehicles;

(d) RCW 46.61.502 or 46.61.504, relating to persons under the influence of intoxicating liquor or drugs;

(e) RCW 46.20.342, relating to driving a motor vehicle while operator's license is suspended or revoked;

(f) ~~(RCW 46.61.525)~~ Section 4 of this act, relating to operating a motor vehicle in a negligent manner.

(4) A law enforcement officer investigating at the scene of a motor vehicle accident may arrest the driver of a motor vehicle involved in the accident if the officer has probable cause to believe that the driver has committed in connection with the accident a violation of any traffic law or regulation.

(5) Any police officer having probable cause to believe that a person has committed or is committing a violation of RCW 88.12.025 shall have the authority to arrest the person.

(6) An officer may act upon the request of a law enforcement officer in whose presence a traffic infraction was committed, to stop, detain, arrest, or issue a notice of traffic infraction to the driver who is believed to have committed the infraction. The request by the witnessing officer shall give an officer the authority to take appropriate action under the laws of the state of Washington.

(7) Any police officer having probable cause to believe that a person has committed or is committing any act of indecent exposure, as defined in RCW 9A.88.010, may arrest the person.

(8) A police officer may arrest and take into custody, pending release on bail, personal recognizance, or court order, a person without a warrant when the officer has probable cause to believe that an order has been issued of which the person has knowledge under chapter 10.14 RCW and the person has violated the terms of that order.

(9) Any police officer having probable cause to believe that a person has, within twenty-four hours of the alleged violation, committed a violation of RCW 9A.50.020 may arrest such person.

(10) A police officer having probable cause to believe that a person illegally possesses or illegally has possessed a firearm or other dangerous weapon on private or public elementary or secondary school premises shall have the authority to arrest the person.

For purposes of this subsection, the term "firearm" has the meaning defined in RCW 9.41.010 and the term "dangerous weapon" has the meaning defined in RCW 9.41.250 and 9.41.280(1) (c) through (e).

(11) Except as specifically provided in subsections (2), (3), (4), and (6) of this section, nothing in this section extends or otherwise affects the powers of arrest prescribed in Title 46 RCW.

(12) No police officer may be held criminally or civilly liable for making an arrest pursuant to RCW 10.31.100 (2) or (8) if the police officer acts in good faith and without malice.

Sec. 11. RCW 46.01.260 and 1996 c 199 s 4 are each amended to read as follows:

(1) Except as provided in subsection (2) of this section, the director, in his or her discretion, may destroy applications for vehicle licenses, copies of vehicle licenses issued, applications for drivers' licenses, copies of issued drivers' licenses, certificates of title and registration or other documents, records or supporting papers on file in his or her office which have been microfilmed or photographed or are more than five years old. If the applications for vehicle licenses are renewal applications, the director may destroy such applications when the computer record thereof has been updated.

(2)(a) The director shall not destroy records of convictions or adjudications of RCW 46.61.520 and 46.61.522 and shall maintain such records permanently on file.

(b) The director shall not, within ten years from the date of conviction, adjudication, or entry of deferred prosecution, destroy records of the following:

(i) Convictions or adjudications of the following offenses: RCW 46.61.502 or 46.61.504;

(ii) If the offense was originally charged as one of the offenses designated in (a) or (b)(i) of this subsection, convictions or adjudications of the following offenses: RCW 46.61.500 or (~~46.61.525;~~) section 4 of this act or any other violation that was originally charged as one of the offenses designated in (a) or (b)(i) of this subsection; or

(iii) Deferred prosecutions granted under RCW 10.05.120.

(c) For purposes of RCW 46.52.100 and 46.52.130, offenses subject to this subsection shall be considered "alcohol-related" offenses.

Sec. 12. RCW 46.52.130 and 1996 c 307 s 4 and 1996 c 183 s 2 are each reenacted and amended to read as follows:

A certified abstract of the driving record shall be furnished only to the individual named in the abstract, an employer or prospective employer or an agent acting on behalf of an employer or prospective employer, the insurance carrier that has insurance in effect covering the employer or a prospective employer, the insurance carrier that has insurance in effect covering the named individual, the insurance carrier to which the named individual has applied, an alcohol/drug assessment or treatment agency approved by the department of social and health services, to which the named individual has applied or been assigned for evaluation or treatment, or city and county prosecuting attorneys. City attorneys and county prosecuting attorneys may provide the driving record to alcohol/drug assessment

or treatment agencies approved by the department of social and health services to which the named individual has applied or been assigned for evaluation or treatment. The director, upon proper request, shall furnish a certified abstract covering the period of not more than the last three years to insurance companies. Upon proper request, the director shall furnish a certified abstract covering a period of not more than the last five years to state approved alcohol/drug assessment or treatment agencies, except that the certified abstract shall also include records of alcohol-related offenses as defined in RCW 46.01.260(2) covering a period of not more than the last ten years. Upon proper request, a certified abstract of the full driving record maintained by the department shall be furnished to a city or county prosecuting attorney, to the individual named in the abstract or to an employer or prospective employer or an agent acting on behalf of an employer or prospective employer of the named individual. The abstract, whenever possible, shall include an enumeration of motor vehicle accidents in which the person was driving; the total number of vehicles involved; whether the vehicles were legally parked or moving; whether the vehicles were occupied at the time of the accident; any reported convictions, forfeitures of bail, or findings that an infraction was committed based upon a violation of any motor vehicle law; and the status of the person's driving privilege in this state. The enumeration shall include any reports of failure to appear in response to a traffic citation or failure to respond to a notice of infraction served upon the named individual by an arresting officer. Certified abstracts furnished to prosecutors and alcohol/drug assessment or treatment agencies shall also indicate whether a recorded violation is an alcohol-related offense as defined in RCW 46.01.260(2) that was originally charged as one of the alcohol-related offenses designated in RCW 46.01.260(2)(~~(a)~~) (b)(i).

The abstract provided to the insurance company shall exclude any information, except that related to the commission of misdemeanors or felonies by the individual, pertaining to law enforcement officers or fire fighters as defined in RCW 41.26.030, or any officer of the Washington state patrol, while driving official vehicles in the performance of occupational duty. The abstract provided to the insurance company shall include convictions for section 4 of this act and RCW 46.61.525 (~~((1) and (2))~~) except that the abstract shall report them only as negligent driving without reference to whether they are for first or second degree negligent driving. The abstract provided to the insurance company shall exclude any deferred prosecution under RCW 10.05.060, except that if a person is removed from a deferred prosecution under RCW 10.05.090, the abstract shall show the deferred prosecution as well as the removal.

The director shall collect for each abstract the sum of four dollars and fifty cents which shall be deposited in the highway safety fund.

Any insurance company or its agent receiving the certified abstract shall use it exclusively for its own underwriting purposes and shall not divulge any of the information contained in it to a third party. No policy of insurance may be canceled, nonrenewed, denied, or have the rate increased on the basis of such

information unless the policyholder was determined to be at fault. No insurance company or its agent for underwriting purposes relating to the operation of commercial motor vehicles may use any information contained in the abstract relative to any person's operation of motor vehicles while not engaged in such employment, nor may any insurance company or its agent for underwriting purposes relating to the operation of noncommercial motor vehicles use any information contained in the abstract relative to any person's operation of commercial motor vehicles.

Any employer or prospective employer or an agent acting on behalf of an employer or prospective employer receiving the certified abstract shall use it exclusively for his or her own purpose to determine whether the licensee should be permitted to operate a commercial vehicle or school bus upon the public highways of this state and shall not divulge any information contained in it to a third party.

Any alcohol/drug assessment or treatment agency approved by the department of social and health services receiving the certified abstract shall use it exclusively for the purpose of assisting its employees in making a determination as to what level of treatment, if any, is appropriate. The agency, or any of its employees, shall not divulge any information contained in the abstract to a third party.

Release of a certified abstract of the driving record of an employee or prospective employee requires a statement signed by: (1) The employee or prospective employee that authorizes the release of the record, and (2) the employer attesting that the information is necessary to determine whether the licensee should be employed to operate a commercial vehicle or school bus upon the public highways of this state. If the employer or prospective employer authorizes an agent to obtain this information on their behalf, this must be noted in the statement.

Any violation of this section is a gross misdemeanor.

Sec. 13. RCW 46.61.005 and 1990 c 291 s 4 are each amended to read as follows:

The provisions of this chapter relating to the operation of vehicles refer exclusively to the operation of vehicles upon highways except:

- (1) Where a different place is specifically referred to in a given section.
- (2) The provisions of RCW 46.52.010 through 46.52.090 (~~and~~), 46.61.500 through 46.61.525, and section 4 of this act shall apply upon highways and elsewhere throughout the state.

Sec. 14. RCW 46.61.5055 and 1996 c 307 s 3 are each amended to read as follows:

(1) A person who is convicted of a violation of RCW 46.61.502 or 46.61.504 and who has no prior offense within five years shall be punished as follows:

(a) In the case of a person whose alcohol concentration was less than 0.15, or for whom for reasons other than the person's refusal to take a test offered pursuant

to RCW 46.20.308 there is no test result indicating the person's alcohol concentration:

(i) By imprisonment for not less than one day nor more than one year. Twenty-four consecutive hours of the imprisonment may not be suspended or deferred unless the court finds that the imposition of this mandatory minimum sentence would impose a substantial risk to the offender's physical or mental well-being. Whenever the mandatory minimum sentence is suspended or deferred, the court shall state in writing the reason for granting the suspension or deferral and the facts upon which the suspension or deferral is based; and

(ii) By a fine of not less than three hundred fifty dollars nor more than five thousand dollars. Three hundred fifty dollars of the fine may not be suspended or deferred unless the court finds the offender to be indigent; and

(iii) By suspension of the offender's license or permit to drive, or suspension of any nonresident privilege to drive, for a period of ninety days. The period of license, permit, or privilege suspension may not be suspended. The court shall notify the department of licensing of the conviction, and upon receiving notification of the conviction the department shall suspend the offender's license, permit, or privilege; or

(b) In the case of a person whose alcohol concentration was at least 0.15, or for whom by reason of the person's refusal to take a test offered pursuant to RCW 46.20.308 there is no test result indicating the person's alcohol concentration:

(i) By imprisonment for not less than two days nor more than one year. Two consecutive days of the imprisonment may not be suspended or deferred unless the court finds that the imposition of this mandatory minimum sentence would impose a substantial risk to the offender's physical or mental well-being. Whenever the mandatory minimum sentence is suspended or deferred, the court shall state in writing the reason for granting the suspension or deferral and the facts upon which the suspension or deferral is based; and

(ii) By a fine of not less than five hundred dollars nor more than five thousand dollars. Five hundred dollars of the fine may not be suspended or deferred unless the court finds the offender to be indigent; and

(iii) By suspension of the offender's license or permit to drive, or suspension of any nonresident privilege to drive, for a period of one hundred twenty days. The period of license, permit, or privilege suspension may not be suspended. The court shall notify the department of licensing of the conviction, and upon receiving notification of the conviction the department shall suspend the offender's license, permit, or privilege.

(2) A person who is convicted of a violation of RCW 46.61.502 or 46.61.504 and who has one prior offense within five years shall be punished as follows:

(a) In the case of a person whose alcohol concentration was less than 0.15, or for whom for reasons other than the person's refusal to take a test offered pursuant to RCW 46.20.308 there is no test result indicating the person's alcohol concentration:

(i) By imprisonment for not less than thirty days nor more than one year. Thirty days of the imprisonment may not be suspended or deferred unless the court finds that the imposition of this mandatory minimum sentence would impose a substantial risk to the offender's physical or mental well-being. Whenever the mandatory minimum sentence is suspended or deferred, the court shall state in writing the reason for granting the suspension or deferral and the facts upon which the suspension or deferral is based; and

(ii) By a fine of not less than five hundred dollars nor more than five thousand dollars. Five hundred dollars of the fine may not be suspended or deferred unless the court finds the offender to be indigent; and

(iii) By revocation of the offender's license or permit to drive, or suspension of any nonresident privilege to drive, for a period of one year. The period of license, permit, or privilege revocation may not be suspended. The court shall notify the department of licensing of the conviction, and upon receiving notification of the conviction the department shall revoke the offender's license, permit, or privilege; or

(b) In the case of a person whose alcohol concentration was at least 0.15, or for whom by reason of the person's refusal to take a test offered pursuant to RCW 46.20.308 there is no test result indicating the person's alcohol concentration:

(i) By imprisonment for not less than forty-five days nor more than one year. Forty-five days of the imprisonment may not be suspended or deferred unless the court finds that the imposition of this mandatory minimum sentence would impose a substantial risk to the offender's physical or mental well-being. Whenever the mandatory minimum sentence is suspended or deferred, the court shall state in writing the reason for granting the suspension or deferral and the facts upon which the suspension or deferral is based; and

(ii) By a fine of not less than seven hundred fifty dollars nor more than five thousand dollars. Seven hundred fifty dollars of the fine may not be suspended or deferred unless the court finds the offender to be indigent; and

(iii) By revocation of the offender's license or permit to drive, or suspension of any nonresident privilege to drive, for a period of four hundred fifty days. The period of license, permit, or privilege revocation may not be suspended. The court shall notify the department of licensing of the conviction, and upon receiving notification of the conviction the department shall revoke the offender's license, permit, or privilege.

(3) A person who is convicted of a violation of RCW 46.61.502 or 46.61.504 and who has two or more prior offenses within five years shall be punished as follows:

(a) In the case of a person whose alcohol concentration was less than 0.15, or for whom for reasons other than the person's refusal to take a test offered pursuant to RCW 46.20.308 there is no test result indicating the person's alcohol concentration:

(i) By imprisonment for not less than ninety days nor more than one year. Ninety days of the imprisonment may not be suspended or deferred unless the court finds that the imposition of this mandatory minimum sentence would impose a substantial risk to the offender's physical or mental well-being. Whenever the mandatory minimum sentence is suspended or deferred, the court shall state in writing the reason for granting the suspension or deferral and the facts upon which the suspension or deferral is based; and

(ii) By a fine of not less than one thousand dollars nor more than five thousand dollars. One thousand dollars of the fine may not be suspended or deferred unless the court finds the offender to be indigent; and

(iii) By revocation of the offender's license or permit to drive, or suspension of any nonresident privilege to drive, for a period of two years. The period of license, permit, or privilege revocation may not be suspended. The court shall notify the department of licensing of the conviction, and upon receiving notification of the conviction the department shall revoke the offender's license, permit, or privilege; or

(b) In the case of a person whose alcohol concentration was at least 0.15, or for whom by reason of the person's refusal to take a test offered pursuant to RCW 46.20.308 there is no test result indicating the person's alcohol concentration:

(i) By imprisonment for not less than one hundred twenty days nor more than one year. One hundred twenty days of the imprisonment may not be suspended or deferred unless the court finds that the imposition of this mandatory minimum sentence would impose a substantial risk to the offender's physical or mental well-being. Whenever the mandatory minimum sentence is suspended or deferred, the court shall state in writing the reason for granting the suspension or deferral and the facts upon which the suspension or deferral is based; and

(ii) By a fine of not less than one thousand five hundred dollars nor more than five thousand dollars. One thousand five hundred dollars of the fine may not be suspended or deferred unless the court finds the offender to be indigent; and

(iii) By revocation of the offender's license or permit to drive, or suspension of any nonresident privilege to drive, for a period of three years. The period of license, permit, or privilege revocation may not be suspended. The court shall notify the department of licensing of the conviction, and upon receiving notification of the conviction the department shall revoke the offender's license, permit, or privilege.

(4) In exercising its discretion in setting penalties within the limits allowed by this section, the court shall particularly consider whether the person's driving at the time of the offense was responsible for injury or damage to another or another's property.

(5) An offender punishable under this section is subject to the alcohol assessment and treatment provisions of RCW 46.61.5056.

(6) After expiration of any period of suspension or revocation of the offender's license, permit, or privilege to drive required by this section, the department shall

place the offender's driving privilege in probationary status pursuant to RCW 46.20.355.

(7)(a) In addition to any nonsuspendable and nondeferrable jail sentence required by this section, whenever the court imposes less than one year in jail, the court shall also suspend but shall not defer a period of confinement for a period not exceeding two years. The court shall impose conditions of probation that include: (i) Not driving a motor vehicle within this state without a valid license to drive and proof of financial responsibility for the future; (ii) not driving a motor vehicle within this state while having an alcohol concentration of 0.08 or more within two hours after driving; and (iii) not refusing to submit to a test of his or her breath or blood to determine alcohol concentration upon request of a law enforcement officer who has reasonable grounds to believe the person was driving or was in actual physical control of a motor vehicle within this state while under the influence of intoxicating liquor. The court may impose conditions of probation that include nonrepetition, alcohol or drug treatment, supervised probation, or other conditions that may be appropriate. The sentence may be imposed in whole or in part upon violation of a condition of probation during the suspension period.

(b) For each violation of mandatory conditions of probation under (a)(i) and (ii) or (a)(i) and (iii) of this subsection, the court shall order the convicted person to be confined for thirty days, which shall not be suspended or deferred.

(c) For each incident involving a violation of a mandatory condition of probation imposed under this subsection, the license, permit, or privilege to drive of the person shall be suspended by the court for thirty days or, if such license, permit, or privilege to drive already is suspended, revoked, or denied at the time the finding of probation violation is made, the suspension, revocation, or denial then in effect shall be extended by thirty days. The court shall notify the department of any suspension, revocation, or denial or any extension of a suspension, revocation, or denial imposed under this subsection.

(8)(a) A "prior offense" means any of the following:

(i) A conviction for a violation of RCW 46.61.502 or an equivalent local ordinance;

(ii) A conviction for a violation of RCW 46.61.504 or an equivalent local ordinance;

(iii) A conviction for a violation of RCW 46.61.520 committed while under the influence of intoxicating liquor or any drug;

(iv) A conviction for a violation of RCW 46.61.522 committed while under the influence of intoxicating liquor or any drug;

(v) A conviction for a violation of (~~RCW 46.61.525(1)~~) section 4 of this act or an equivalent local ordinance, if the conviction is the result of a charge that was originally filed as a violation of RCW 46.61.502 or 46.61.504, or an equivalent local ordinance, or of RCW 46.61.520 or 46.61.522;

(vi) An out-of-state conviction for a violation that would have been a violation of (a)(i), (ii), (iii), (iv), or (v) of this subsection if committed in this state;

(vii) A deferred prosecution under chapter 10.05 RCW granted in a prosecution for a violation of RCW 46.61.502, 46.61.504, or an equivalent local ordinance; or

(viii) A deferred prosecution under chapter 10.05 RCW granted in a prosecution for a violation of (~~RCW 46.61.525(1)~~) section 4 of this act, or an equivalent local ordinance, if the charge under which the deferred prosecution was granted was originally filed as a violation of RCW 46.61.502 or (~~46.61.502~~) 46.61.504, or an equivalent local ordinance, or of RCW 46.61.520 or 46.61.522.

(b) "Within five years" means that the arrest for a prior offense occurred within five years of the arrest for the current offense.

Passed the Senate March 10, 1997.

Passed the House April 9, 1997.

Approved by the Governor April 19, 1997.

Filed in Office of Secretary of State April 19, 1997.

CHAPTER 67

[Substitute Senate Bill 5112]

PROPERTY TAX REFUNDS—PAYMENT OF INTEREST

AN ACT Relating to interest on property tax refunds; amending RCW 84.69.100; and creating a new section.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 84.69.100 and 1989 c 14 s 6 are each amended to read as follows:

Refunds of taxes made pursuant to RCW 84.69.010 through 84.69.090 shall include interest from the date of collection of the portion refundable (~~or from the date of claim for refund, whichever is later~~): PROVIDED, That refunds on a state, county, or district wide basis shall not commence to accrue interest until six months following the date of the final order of the court. No written protest by individual taxpayers need to be filed to receive a refund on a state, county, or district wide basis. The rate of interest shall be the equivalent coupon issue yield (as published by the Board of Governors of the Federal Reserve System) of the average bill rate for twenty-six week treasury bills as determined at the first bill market auction conducted after June 30th of the calendar year preceding the date the taxes were paid (~~or the claim for refund is filed, whichever is later~~). The department of revenue shall adopt this rate of interest by rule.

NEW SECTION. **Sec. 2.** This act applies to claims made after January 1, 1998.

Passed the Senate March 11, 1997.

Passed the House April 9, 1997.

Approved by the Governor April 19, 1997.

Filed in Office of Secretary of State April 19, 1997.

CHAPTER 68

[Substitute Senate Bill 5118]

TRUANCY PETITIONS—INTERVENTION—DRUG AND ALCOHOL TESTING

AN ACT Relating to truancy petitions; reenacting and amending RCW 28A.225.035 and 28A.225.090; and creating a new section.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 28A.225.035 and 1996 c 134 s 4 and 1996 c 133 s 31 are each reenacted and amended to read as follows:

(1) A petition for a civil action under RCW 28A.225.030 shall consist of a written notification to the court alleging that:

- (a) The child has unexcused absences during the current school year;
- (b) Actions taken by the school district have not been successful in substantially reducing the child's absences from school; and
- (c) Court intervention and supervision are necessary to assist the school district or parent to reduce the child's absences from school.

(2) The petition shall set forth the name, age, school, and residence of the child and the names and residence of the child's parents.

(3) The petition shall set forth facts that support the allegations in this section and shall generally request relief available under this chapter and provide information about what the court might order under RCW 28A.225.090.

(4) When a petition is filed under RCW 28A.225.030, the juvenile court shall schedule a hearing at which the court shall consider the petition. However, a hearing shall not be required if other actions by the court would substantially reduce the child's unexcused absences. When a hearing is held, the court shall:

(a) Separately notify the child, the parent of the child, and the school district of the hearing;

(b) Notify the parent and the child of their rights to present evidence at the hearing; and

(c) Notify the parent and the child of the options and rights available under chapter 13.32A RCW.

(5) The court may require the attendance of both the child and the parents at any hearing on a petition filed under RCW 28A.225.030.

(6) The court may permit the first hearing to be held without requiring that either party be represented by legal counsel, and to be held without a guardian ad litem for the child under RCW 4.08.050. At the request of the school district, the court may permit a school district representative who is not an attorney to represent the school district at any future hearings.

(7) If the allegations in the petition are established by a preponderance of the evidence, the court shall grant the petition and enter an order assuming jurisdiction to intervene for the ((remainder of the school year, if the allegations in the petition are established by a preponderance of the evidence)) period of time determined by the court, after considering the facts alleged in the petition and the circumstances

of the juvenile, to most likely cause the juvenile to return to and remain in school while the juvenile is subject to this chapter. In no case may the order expire before the end of the school year in which it is entered.

(8) If the court assumes jurisdiction, the school district shall regularly report to the court any additional unexcused absences by the child.

(9) Community truancy boards and the courts shall coordinate, to the extent possible, proceedings and actions pertaining to children who are subject to truancy petitions and at-risk youth petitions in RCW 13.32A.191 or child in need of services petitions in RCW 13.32A.140.

Sec. 2. RCW 28A.225.090 and 1996 c 134 s 6 and 1996 c 133 s 32 are each reenacted and amended to read as follows:

(1) A court may order a child subject to a petition under RCW 28A.225.035 to:

(a) Attend the child's current school;

(h) If there is space available and the program can provide educational services appropriate for the child, order the child to attend another public school, an alternative education program, center, a skill center, dropout prevention program, or another public educational program;

(c) Attend a private nonsectarian school or program including an education center. Before ordering a child to attend an approved or certified private nonsectarian school or program, the court shall: (i) Consider the public and private programs available; (ii) find that placement is in the best interest of the child; and (iii) find that the private school or program is willing to accept the child and will not charge any fees in addition to those established by contract with the student's school district. If the court orders the child to enroll in a private school or program, the child's school district shall contract with the school or program to provide educational services for the child. The school district shall not be required to contract for a weekly rate that exceeds the state general apportionment dollars calculated on a weekly basis generated by the child and received by the district. A school district shall not be required to enter into a contract that is longer than the remainder of the school year. A school district shall not be required to enter into or continue a contract if the child is no longer enrolled in the district; ((or))

(d) Be referred to a community truancy board, if available; or

(e) Submit to testing for the use of controlled substances or alcohol based on a determination that such testing is appropriate to the circumstances and behavior of the child and will facilitate the child's compliance with the mandatory attendance law.

(2) If the child fails to comply with the court order, the court may order the child to be punished by detention or may impose alternatives to detention such as community service. Failure by a child to comply with an order issued under this subsection shall not be punishable by detention for a period greater than that permitted pursuant to a civil contempt proceeding against a child under chapter 13.32A RCW.

(3) Any parent violating any of the provisions of either RCW 28A.225.010 or 28A.225.080 shall be fined not more than twenty-five dollars for each day of unexcused absence from school. It shall be a defense for a parent charged with violating RCW 28A.225.010 to show that he or she exercised reasonable diligence in attempting to cause a child in his or her custody to attend school or that the child's school did not perform its duties as required in RCW 28A.225.020. The court may order the parent to provide community service instead of imposing a fine. Any fine imposed pursuant to this section may be suspended upon the condition that a parent charged with violating RCW 28A.225.010 shall participate with the school and the child in a supervised plan for the child's attendance at school or upon condition that the parent attend a conference or conferences scheduled by a school for the purpose of analyzing the causes of a child's absence.

NEW SECTION. Sec. 3. The authority of a court to issue an order for testing to determine whether the child has consumed or used alcohol or controlled substances applies to all persons subject to a petition under RCW 28A.225.030 regardless of whether the petition was filed before the effective date of this section.

Passed the Senate March 12, 1997.

Passed the House April 9, 1997.

Approved by the Governor April 19, 1997.

Filed in Office of Secretary of State April 19, 1997.

CHAPTER 69

[Senate Bill 5140]

COMMUNITY PLACEMENT OF OFFENDERS—ADDITIONAL CONDITIONS

AN ACT Relating to community placement of offenders; and reenacting and amending RCW 9.94A.120.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 9.94A.120 and 1996 c 275 s 2, 1996 c 215 s 5, 1996 c 199 s 1, and 1996 c 93 s 1 are each reenacted and amended to read as follows:

When a person is convicted of a felony, the court shall impose punishment as provided in this section.

(1) Except as authorized in subsections (2), (4), (5), (6), and (8) of this section, the court shall impose a sentence within the sentence range for the offense.

(2) The court may impose a sentence outside the standard sentence range for that offense if it finds, considering the purpose of this chapter, that there are substantial and compelling reasons justifying an exceptional sentence.

(3) Whenever a sentence outside the standard range is imposed, the court shall set forth the reasons for its decision in written findings of fact and conclusions of law. A sentence outside the standard range shall be a determinate sentence.

(4) A persistent offender shall be sentenced to a term of total confinement for life without the possibility of parole or, when authorized by RCW 10.95.030 for the crime of aggravated murder in the first degree, sentenced to death,

notwithstanding the maximum sentence under any other law. An offender convicted of the crime of murder in the first degree shall be sentenced to a term of total confinement not less than twenty years. An offender convicted of the crime of assault in the first degree or assault of a child in the first degree where the offender used force or means likely to result in death or intended to kill the victim shall be sentenced to a term of total confinement not less than five years. An offender convicted of the crime of rape in the first degree shall be sentenced to a term of total confinement not less than five years. The foregoing minimum terms of total confinement are mandatory and shall not be varied or modified as provided in subsection (2) of this section. In addition, all offenders subject to the provisions of this subsection shall not be eligible for community custody, earned early release time, furlough, home detention, partial confinement, work crew, work release, or any other form of early release as defined under RCW 9.94A.150 (1), (2), (3), (5), (7), or (8), or any other form of authorized leave of absence from the correctional facility while not in the direct custody of a corrections officer or officers during such minimum terms of total confinement except in the case of an offender in need of emergency medical treatment or for the purpose of commitment to an inpatient treatment facility in the case of an offender convicted of the crime of rape in the first degree.

(5) In sentencing a first-time offender the court may waive the imposition of a sentence within the sentence range and impose a sentence which may include up to ninety days of confinement in a facility operated or utilized under contract by the county and a requirement that the offender refrain from committing new offenses. The sentence may also include up to two years of community supervision, which, in addition to crime-related prohibitions, may include requirements that the offender perform any one or more of the following:

- (a) Devote time to a specific employment or occupation;
- (b) Undergo available outpatient treatment for up to two years, or inpatient treatment not to exceed the standard range of confinement for that offense;
- (c) Pursue a prescribed, secular course of study or vocational training;
- (d) Remain within prescribed geographical boundaries and notify the court or the community corrections officer prior to any change in the offender's address or employment;
- (e) Report as directed to the court and a community corrections officer; or
- (f) Pay all court-ordered legal financial obligations as provided in RCW 9.94A.030 and/or perform community service work.

(6)(a) An offender is eligible for the special drug offender sentencing alternative if:

- (i) The offender is convicted of the manufacture, delivery, or possession with intent to manufacture or deliver a controlled substance classified in Schedule I or II that is a narcotic drug or a felony that is, under chapter 9A.28 RCW or RCW 69.50.407, a criminal attempt, criminal solicitation, or criminal conspiracy to

commit such crimes, and the violation does not involve a sentence enhancement under RCW 9.94A.310 (3) or (4);

(ii) The offender has no prior convictions for a felony in this state, another state, or the United States; and

(iii) The offense involved only a small quantity of the particular controlled substance as determined by the judge upon consideration of such factors as the weight, purity, packaging, sale price, and street value of the controlled substance.

(b) If the midpoint of the standard range is greater than one year and the sentencing judge determines that the offender is eligible for this option and that the offender and the community will benefit from the use of the special drug offender sentencing alternative, the judge may waive imposition of a sentence within the standard range and impose a sentence that must include a period of total confinement in a state facility for one-half of the midpoint of the standard range. During incarceration in the state facility, offenders sentenced under this subsection shall undergo a comprehensive substance abuse assessment and receive, within available resources, treatment services appropriate for the offender. The treatment services shall be designed by the division of alcohol and substance abuse of the department of social and health services, in cooperation with the department of corrections. If the midpoint of the standard range is twenty-four months or less, no more than three months of the sentence may be served in a work release status. The court shall also impose one year of concurrent community custody and community supervision that must include appropriate outpatient substance abuse treatment, crime-related prohibitions including a condition not to use illegal controlled substances, and a requirement to submit to urinalysis or other testing to monitor that status. The court may require that the monitoring for controlled substances be conducted by the department or by a treatment alternatives to street crime program or a comparable court or agency-referred program. The offender may be required to pay thirty dollars per month while on community custody to offset the cost of monitoring. In addition, the court shall impose three or more of the following conditions:

(i) Devote time to a specific employment or training;

(ii) Remain within prescribed geographical boundaries and notify the court or the community corrections officer before any change in the offender's address or employment;

(iii) Report as directed to a community corrections officer;

(iv) Pay all court-ordered legal financial obligations;

(v) Perform community service work;

(vi) Stay out of areas designated by the sentencing judge.

(c) If the offender violates any of the sentence conditions in (h) of this subsection, the department shall impose sanctions administratively, with notice to the prosecuting attorney and the sentencing court. Upon motion of the court or the prosecuting attorney, a violation hearing shall be held by the court. If the court finds that conditions have been willfully violated, the court may impose

confinement consisting of up to the remaining one-half of the midpoint of the standard range. All total confinement served during the period of community custody shall be credited to the offender, regardless of whether the total confinement is served as a result of the original sentence, as a result of a sanction imposed by the department, or as a result of a violation found by the court. The term of community supervision shall be tolled by any period of time served in total confinement as a result of a violation found by the court.

(d) The department shall determine the rules for calculating the value of a day fine based on the offender's income and reasonable obligations which the offender has for the support of the offender and any dependents. These rules shall be developed in consultation with the administrator for the courts, the office of financial management, and the commission.

(7) If a sentence range has not been established for the defendant's crime, the court shall impose a determinate sentence which may include not more than one year of confinement, community service work, a term of community supervision not to exceed one year, and/or other legal financial obligations. The court may impose a sentence which provides more than one year of confinement if the court finds, considering the purpose of this chapter, that there are substantial and compelling reasons justifying an exceptional sentence.

(8)(a)(i) When an offender is convicted of a sex offense other than a violation of RCW 9A.44.050 or a sex offense that is also a serious violent offense and has no prior convictions for a sex offense or any other felony sex offenses in this or any other state, the sentencing court, on its own motion or the motion of the state or the defendant, may order an examination to determine whether the defendant is amenable to treatment.

The report of the examination shall include at a minimum the following: The defendant's version of the facts and the official version of the facts, the defendant's offense history, an assessment of problems in addition to alleged deviant behaviors, the offender's social and employment situation, and other evaluation measures used. The report shall set forth the sources of the evaluator's information.

The examiner shall assess and report regarding the defendant's amenability to treatment and relative risk to the community. A proposed treatment plan shall be provided and shall include, at a minimum:

- (A) Frequency and type of contact between offender and therapist;
- (B) Specific issues to be addressed in the treatment and description of planned treatment modalities;
- (C) Monitoring plans, including any requirements regarding living conditions, lifestyle requirements, and monitoring by family members and others;
- (D) Anticipated length of treatment; and
- (E) Recommended crime-related prohibitions.

The court on its own motion may order, or on a motion by the state shall order, a second examination regarding the offender's amenability to treatment. The evaluator shall be selected by the party making the motion. The defendant shall

pay the cost of any second examination ordered unless the court finds the defendant to be indigent in which case the state shall pay the cost.

(ii) After receipt of the reports, the court shall consider whether the offender and the community will benefit from use of this special (~~sexual~~) sex offender sentencing alternative and consider the victim's opinion whether the offender should receive a treatment disposition under this subsection. If the court determines that this special sex offender sentencing alternative is appropriate, the court shall then impose a sentence within the sentence range. If this sentence is less than eight years of confinement, the court may suspend the execution of the sentence and impose the following conditions of suspension:

(A) The court shall place the defendant on community custody for the length of the suspended sentence or three years, whichever is greater, and require the offender to comply with any conditions imposed by the department of corrections under subsection (14) of this section; (~~and~~)

(B) The court shall order treatment for any period up to three years in duration. The court in its discretion shall order outpatient sex offender treatment or inpatient sex offender treatment, if available. A community mental health center may not be used for such treatment unless it has an appropriate program designed for sex offender treatment. The offender shall not change sex offender treatment providers or treatment conditions without first notifying the prosecutor, the community corrections officer, and the court, and shall not change providers without court approval after a hearing if the prosecutor or community corrections officer object to the change. In addition, as conditions of the suspended sentence, the court may impose other sentence conditions including up to six months of confinement, not to exceed the sentence range of confinement for that offense, crime-related prohibitions, and requirements that the offender perform any one or more of the following:

(I) Devote time to a specific employment or occupation;

(II) Remain within prescribed geographical boundaries and notify the court or the community corrections officer prior to any change in the offender's address or employment;

(III) Report as directed to the court and a community corrections officer;

(IV) Pay all court-ordered legal financial obligations as provided in RCW 9.94A.030, perform community service work, or any combination thereof; or

(V) Make recoupment to the victim for the cost of any counseling required as a result of the offender's crime; and

(C) Sex offenders sentenced under this special sex offender sentencing alternative are not eligible to accrue any earned early release time while serving a suspended sentence.

(iii) The sex offender therapist shall submit quarterly reports on the defendant's progress in treatment to the court and the parties. The report shall reference the treatment plan and include at a minimum the following: Dates of attendance, defendant's compliance with requirements, treatment activities, the

defendant's relative progress in treatment, and any other material as specified by the court at sentencing.

(iv) At the time of sentencing, the court shall set a treatment termination hearing for three months prior to the anticipated date for completion of treatment. Prior to the treatment termination hearing, the treatment professional and community corrections officer shall submit written reports to the court and parties regarding the defendant's compliance with treatment and monitoring requirements, and recommendations regarding termination from treatment, including proposed community supervision conditions. Either party may request and the court may order another evaluation regarding the advisability of termination from treatment. The defendant shall pay the cost of any additional evaluation ordered unless the court finds the defendant to be indigent in which case the state shall pay the cost. At the treatment termination hearing the court may: (A) Modify conditions of community custody, and either (B) terminate treatment, or (C) extend treatment for up to the remaining period of community custody.

(v) If a violation of conditions occurs during community custody, the department shall either impose sanctions as provided for in RCW 9.94A.205(2)(a) or refer the violation to the court and recommend revocation of the suspended sentence as provided for in (a)(vi) of this subsection.

(vi) The court may revoke the suspended sentence at any time during the period of community custody and order execution of the sentence if: (A) The defendant violates the conditions of the suspended sentence, or (B) the court finds that the defendant is failing to make satisfactory progress in treatment. All confinement time served during the period of community custody shall be credited to the offender if the suspended sentence is revoked.

(vii) Except as provided in (a) (viii) of this subsection, after July 1, 1991, examinations and treatment ordered pursuant to this subsection shall only be conducted by sex offender treatment providers certified by the department of health pursuant to chapter 18.155 RCW.

(viii) A sex offender therapist who examines or treats a sex offender pursuant to this subsection (8) does not have to be certified by the department of health pursuant to chapter 18.155 RCW if the court finds that: (A) The offender has already moved to another state or plans to move to another state for reasons other than circumventing the certification requirements; (B) no certified providers are available for treatment within a reasonable geographical distance of the offender's home; and (C) the evaluation and treatment plan comply with this subsection (8) and the rules adopted by the department of health.

For purposes of this subsection, "victim" means any person who has sustained emotional, psychological, physical, or financial injury to person or property as a result of the crime charged. "Victim" also means a parent or guardian of a victim who is a minor child unless the parent or guardian is the perpetrator of the offense.

(b) When an offender commits any felony sex offense on or after July 1, 1987, and is sentenced to a term of confinement of more than one year but less than six

years, the sentencing court may, on its own motion or on the motion of the offender or the state, request the department of corrections to evaluate whether the offender is amenable to treatment and the department may place the offender in a treatment program within a correctional facility operated by the department.

Except for an offender who has been convicted of a violation of RCW 9A.44.040 or 9A.44.050, if the offender completes the treatment program before the expiration of his or her term of confinement, the department of corrections may request the court to convert the balance of confinement to community supervision and to place conditions on the offender including crime-related prohibitions and requirements that the offender perform any one or more of the following:

- (i) Devote time to a specific employment or occupation;
- (ii) Remain within prescribed geographical boundaries and notify the court or the community corrections officer prior to any change in the offender's address or employment;
- (iii) Report as directed to the court and a community corrections officer;
- (iv) Undergo available outpatient treatment.

If the offender violates any of the terms of his or her community supervision, the court may order the offender to serve out the balance of his or her community supervision term in confinement in the custody of the department of corrections.

Nothing in this subsection (8)(b) shall confer eligibility for such programs for offenders convicted and sentenced for a sex offense committed prior to July 1, 1987. This subsection (8)(b) does not apply to any crime committed after July 1, 1990.

(c) Offenders convicted and sentenced for a sex offense committed prior to July 1, 1987, may, subject to available funds, request an evaluation by the department of corrections to determine whether they are amenable to treatment. If the offender is determined to be amenable to treatment, the offender may request placement in a treatment program within a correctional facility operated by the department. Placement in such treatment program is subject to available funds.

(9)(a) When a court sentences a person to a term of total confinement to the custody of the department of corrections for an offense categorized as a sex offense or a serious violent offense committed after July 1, 1988, but before July 1, 1990, assault in the second degree, assault of a child in the second degree, any crime against a person where it is determined in accordance with RCW 9.94A.125 that the defendant or an accomplice was armed with a deadly weapon at the time of commission, or any felony offense under chapter 69.50 or 69.52 RCW not sentenced under subsection (6) of this section, committed on or after July 1, 1988, the court shall in addition to the other terms of the sentence, sentence the offender to a one-year term of community placement beginning either upon completion of the term of confinement or at such time as the offender is transferred to community custody in lieu of earned early release in accordance with RCW 9.94A.150 (1) and (2). When the court sentences an offender under this subsection to the statutory maximum period of confinement then the community placement portion of the

sentence shall consist entirely of such community custody to which the offender may become eligible, in accordance with RCW 9.94A.150 (1) and (2). Any period of community custody actually served shall be credited against the community placement portion of the sentence.

(b) When a court sentences a person to a term of total confinement to the custody of the department of corrections for an offense categorized as a sex offense committed on or after July 1, 1990, but before June 6, 1996, a serious violent offense, vehicular homicide, or vehicular assault, committed on or after July 1, 1990, the court shall in addition to other terms of the sentence, sentence the offender to community placement for two years or up to the period of earned early release awarded pursuant to RCW 9.94A.150 (1) and (2), whichever is longer. The community placement shall begin either upon completion of the term of confinement or at such time as the offender is transferred to community custody in lieu of earned early release in accordance with RCW 9.94A.150 (1) and (2). When the court sentences an offender under this subsection to the statutory maximum period of confinement then the community placement portion of the sentence shall consist entirely of the community custody to which the offender may become eligible, in accordance with RCW 9.94A.150 (1) and (2). Any period of community custody actually served shall be credited against the community placement portion of the sentence. Unless a condition is waived by the court, the terms of community placement for offenders sentenced pursuant to this section shall include the following conditions:

(i) The offender shall report to and be available for contact with the assigned community corrections officer as directed;

(ii) The offender shall work at department of corrections-approved education, employment, and/or community service;

(iii) The offender shall not possess or consume controlled substances except pursuant to lawfully issued prescriptions;

(iv) ~~((An offender in community custody shall not unlawfully possess controlled substances;~~

~~—(v))~~ The offender shall pay supervision fees as determined by the department of corrections; and

~~((v+))~~ (v) The residence location and living arrangements are subject to the prior approval of the department of corrections during the period of community placement.

(c) As a part of any sentence imposed under (a) or (b) of this subsection, the court may also order any of the following special conditions:

(i) The offender shall remain within, or outside of, a specified geographical boundary;

(ii) The offender shall not have direct or indirect contact with the victim of the crime or a specified class of individuals;

(iii) The offender shall participate in crime-related treatment or counseling services;

(iv) The offender shall not consume alcohol;

(v) The offender shall comply with any crime-related prohibitions; or

(vi) For an offender convicted of a felony sex offense against a minor victim after June 6, 1996, the offender shall comply with any terms and conditions of community placement imposed by the department of corrections relating to contact between the sex offender and a minor victim or a child of similar age or circumstance as a previous victim.

(d) Prior to transfer to, or during, community placement, any conditions of community placement may be removed or modified so as not to be more restrictive by the sentencing court, upon recommendation of the department of corrections.

(10)(a) When a court sentences a person to the custody of the department of corrections for an offense categorized as a sex offense committed on or after June 6, 1996, the court shall, in addition to other terms of the sentence, sentence the offender to community custody for three years or up to the period of earned early release awarded pursuant to RCW 9.94A.150 (1) and (2), whichever is longer. The community custody shall begin either upon completion of the term of confinement or at such time as the offender is transferred to community custody in lieu of earned early release in accordance with RCW 9.94A.150 (1) and (2).

(b) Unless a condition is waived by the court, the terms of community custody shall be the same as those provided for in subsection (9)(b) of this section and may include those provided for in subsection (9)(c) of this section. As part of any sentence that includes a term of community custody imposed under this subsection, the court shall also require the offender to comply with any conditions imposed by the department of corrections under subsection (14) of this section.

(c) At any time prior to the completion of a sex offender's term of community custody, if the court finds that public safety would be enhanced, the court may impose and enforce an order extending any or all of the conditions imposed pursuant to this section for a period up to the maximum allowable sentence for the crime as it is classified in chapter 9A.20 RCW, regardless of the expiration of the offender's term of community custody. If a violation of a condition extended under this subsection occurs after the expiration of the offender's term of community custody, it shall be deemed a violation of the sentence for the purposes of RCW 9.94A.195 and may be punishable as contempt of court as provided for in RCW 7.21.040.

(11) If the court imposes a sentence requiring confinement of thirty days or less, the court may, in its discretion, specify that the sentence be served on consecutive or intermittent days. A sentence requiring more than thirty days of confinement shall be served on consecutive days. Local jail administrators may schedule court-ordered intermittent sentences as space permits.

(12) If a sentence imposed includes payment of a legal financial obligation, the sentence shall specify the total amount of the legal financial obligation owed, and shall require the offender to pay a specified monthly sum toward that legal financial obligation. Restitution to victims shall be paid prior to any other

payments of monetary obligations. Any legal financial obligation that is imposed by the court may be collected by the department, which shall deliver the amount paid to the county clerk for credit. The offender's compliance with payment of legal financial obligations shall be supervised by the department. All monetary payments ordered shall be paid no later than ten years after the last date of release from confinement pursuant to a felony conviction or the date the sentence was entered. Independent of the department, the party or entity to whom the legal financial obligation is owed shall have the authority to utilize any other remedies available to the party or entity to collect the legal financial obligation. Nothing in this section makes the department, the state, or any of its employees, agents, or other persons acting on their behalf liable under any circumstances for the payment of these legal financial obligations. If an order includes restitution as one of the monetary assessments, the county clerk shall make disbursements to victims named in the order.

(13) Except as provided under RCW 9.94A.140(1) and 9.94A.142(1), a court may not impose a sentence providing for a term of confinement or community supervision or community placement which exceeds the statutory maximum for the crime as provided in chapter 9A.20 RCW.

(14) All offenders sentenced to terms involving community supervision, community service, community placement, or legal financial obligation shall be under the supervision of the department of corrections and shall follow explicitly the instructions and conditions of the department of corrections.

(a) The instructions shall include, at a minimum, reporting as directed to a community corrections officer, remaining within prescribed geographical boundaries, notifying the community corrections officer of any change in the offender's address or employment, and paying the supervision fee assessment.

(b) For ~~((sex))~~ offenders sentenced to terms involving community custody for crimes committed on or after June 6, 1996, the department may include, in addition to the instructions in (a) of this subsection, any appropriate conditions of supervision, including but not limited to, prohibiting the offender from having contact with any other specified individuals or specific class of individuals. The conditions authorized under this subsection (14)(b) may be imposed by the department prior to or during ~~((a-sex))~~ an offender's community custody term. If a violation of conditions imposed by the court or the department pursuant to subsection (10) of this section occurs during community custody, it shall be deemed a violation of community placement for the purposes of RCW 9.94A.207 and shall authorize the department to transfer an offender to a more restrictive confinement status as provided in RCW 9.94A.205. At any time prior to the completion of a sex offender's term of community custody, the department may recommend to the court that any or all of the conditions imposed by the court or the department pursuant to subsection (10) of this section be continued beyond the expiration of the offender's term of community custody as authorized in subsection (10)(c) of this section.

The department may require offenders to pay for special services rendered on or after July 25, 1993, including electronic monitoring, day reporting, and telephone reporting, dependent upon the offender's ability to pay. The department may pay for these services for offenders who are not able to pay.

(15) All offenders sentenced to terms involving community supervision, community service, or community placement under the supervision of the department of corrections shall not own, use, or possess firearms or ammunition. Offenders who own, use, or are found to be in actual or constructive possession of firearms or ammunition shall be subject to the appropriate violation process and sanctions. "Constructive possession" as used in this subsection means the power and intent to control the firearm or ammunition. "Firearm" as used in this subsection means a weapon or device from which a projectile may be fired by an explosive such as gunpowder.

(16) The sentencing court shall give the offender credit for all confinement time served before the sentencing if that confinement was solely in regard to the offense for which the offender is being sentenced.

(17) A departure from the standards in RCW 9.94A.400 (1) and (2) governing whether sentences are to be served consecutively or concurrently is an exceptional sentence subject to the limitations in subsections (2) and (3) of this section, and may be appealed by the defendant or the state as set forth in RCW 9.94A.210 (2) through (6).

(18) The court shall order restitution whenever the offender is convicted of a felony that results in injury to any person or damage to or loss of property, whether the offender is sentenced to confinement or placed under community supervision, unless extraordinary circumstances exist that make restitution inappropriate in the court's judgment. The court shall set forth the extraordinary circumstances in the record if it does not order restitution.

(19) As a part of any sentence, the court may impose and enforce an order that relates directly to the circumstances of the crime for which the offender has been convicted, prohibiting the offender from having any contact with other specified individuals or a specific class of individuals for a period not to exceed the maximum allowable sentence for the crime, regardless of the expiration of the offender's term of community supervision or community placement.

(20) In any sentence of partial confinement, the court may require the defendant to serve the partial confinement in work release, in a program of home detention, on work crew, or in a combined program of work crew and home detention.

(21) All court-ordered legal financial obligations collected by the department and remitted to the county clerk shall be credited and paid where restitution is ordered. Restitution shall be paid prior to any other payments of monetary obligations.

Passed the Senate March 6, 1997.
Passed the House April 9, 1997.
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CHAPTER 70

[Substitute Senate Bill 5509]

REDEFINING OFFENDERS AND PERSISTENT OFFENDERS

AN ACT Relating to definitions regarding offenders; and reenacting and amending RCW 9.94A.030.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 9.94A.030 and 1996 c 289 s 1 and 1996 c 275 s 5 are each reenacted and amended to read as follows:

Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter.

(1) "Collect," or any derivative thereof, "collect and remit," or "collect and deliver," when used with reference to the department of corrections, means that the department is responsible for monitoring and enforcing the offender's sentence with regard to the legal financial obligation, receiving payment thereof from the offender, and, consistent with current law, delivering daily the entire payment to the superior court clerk without depositing it in a departmental account.

(2) "Commission" means the sentencing guidelines commission.

(3) "Community corrections officer" means an employee of the department who is responsible for carrying out specific duties in supervision of sentenced offenders and monitoring of sentence conditions.

(4) "Community custody" means that portion of an inmate's sentence of confinement in lieu of earned early release time or imposed pursuant to RCW 9.94A.120 (6), (8), or (10) served in the community subject to controls placed on the inmate's movement and activities by the department of corrections.

(5) "Community placement" means that period during which the offender is subject to the conditions of community custody and/or postrelease supervision, which begins either upon completion of the term of confinement (postrelease supervision) or at such time as the offender is transferred to community custody in lieu of earned early release. Community placement may consist of entirely community custody, entirely postrelease supervision, or a combination of the two.

(6) "Community service" means compulsory service, without compensation, performed for the benefit of the community by the offender.

(7) "Community supervision" means a period of time during which a convicted offender is subject to crime-related prohibitions and other sentence conditions imposed by a court pursuant to this chapter or RCW 16.52.200(6) or 46.61.524. For first-time offenders, the supervision may include crime-related prohibitions and other conditions imposed pursuant to RCW 9.94A.120(5). For purposes of the interstate compact for out-of-state supervision of parolees and

probationers, RCW 9.95.270, community supervision is the functional equivalent of probation and should be considered the same as probation by other states.

(8) "Confinement" means total or partial confinement as defined in this section.

(9) "Conviction" means an adjudication of guilt pursuant to Titles 10 or 13 RCW and includes a verdict of guilty, a finding of guilty, and acceptance of a plea of guilty.

(10) "Court-ordered legal financial obligation" means a sum of money that is ordered by a superior court of the state of Washington for legal financial obligations which may include restitution to the victim, statutorily imposed crime victims' compensation fees as assessed pursuant to RCW 7.68.035, court costs, county or interlocal drug funds, court-appointed attorneys' fees, and costs of defense, fines, and any other financial obligation that is assessed to the offender as a result of a felony conviction. Upon conviction for vehicular assault while under the influence of intoxicating liquor or any drug, RCW 46.61.522(1)(b), or vehicular homicide while under the influence of intoxicating liquor or any drug, RCW 46.61.520(1)(a), legal financial obligations may also include payment to a public agency of the expense of an emergency response to the incident resulting in the conviction, subject to the provisions in RCW 38.52.430.

(11) "Crime-related prohibition" means an order of a court prohibiting conduct that directly relates to the circumstances of the crime for which the offender has been convicted, and shall not be construed to mean orders directing an offender affirmatively to participate in rehabilitative programs or to otherwise perform affirmative conduct.

(12)(a) "Criminal history" means the list of a defendant's prior convictions, whether in this state, in federal court, or elsewhere. The history shall include, where known, for each conviction (i) whether the defendant has been placed on probation and the length and terms thereof; and (ii) whether the defendant has been incarcerated and the length of incarceration.

(b) "Criminal history" shall always include juvenile convictions for sex offenses and serious violent offenses and shall also include a defendant's other prior convictions in juvenile court if: (i) The conviction was for an offense which is a felony or a serious traffic offense and is criminal history as defined in RCW 13.40.020(9); (ii) the defendant was fifteen years of age or older at the time the offense was committed; and (iii) with respect to prior juvenile class B and C felonies or serious traffic offenses, the defendant was less than twenty-three years of age at the time the offense for which he or she is being sentenced was committed.

(13) "Day fine" means a fine imposed by the sentencing judge that equals the difference between the offender's net daily income and the reasonable obligations that the offender has for the support of the offender and any dependents.

(14) "Day reporting" means a program of enhanced supervision designed to monitor the defendant's daily activities and compliance with sentence conditions,

and in which the defendant is required to report daily to a specific location designated by the department or the sentencing judge.

(15) "Department" means the department of corrections.

(16) "Determinate sentence" means a sentence that states with exactitude the number of actual years, months, or days of total confinement, of partial confinement, of community supervision, the number of actual hours or days of community service work, or dollars or terms of a legal financial obligation. The fact that an offender through "earned early release" can reduce the actual period of confinement shall not affect the classification of the sentence as a determinate sentence.

(17) "Disposable earnings" means that part of the earnings of an individual remaining after the deduction from those earnings of any amount required by law to be withheld. For the purposes of this definition, "earnings" means compensation paid or payable for personal services, whether denominated as wages, salary, commission, bonuses, or otherwise, and, notwithstanding any other provision of law making the payments exempt from garnishment, attachment, or other process to satisfy a court-ordered legal financial obligation, specifically includes periodic payments pursuant to pension or retirement programs, or insurance policies of any type, but does not include payments made under Title 50 RCW, except as provided in RCW 50.40.020 and 50.40.050, or Title 74 RCW.

(18) "Drug offense" means:

(a) Any felony violation of chapter 69.50 RCW except possession of a controlled substance (RCW 69.50.401(d)) or forged prescription for a controlled substance (RCW 69.50.403);

(b) Any offense defined as a felony under federal law that relates to the possession, manufacture, distribution, or transportation of a controlled substance; or

(c) Any out-of-state conviction for an offense that under the laws of this state would be a felony classified as a drug offense under (a) of this subsection.

(19) "Escape" means:

(a) Escape in the first degree (RCW 9A.76.110), escape in the second degree (RCW 9A.76.120), willful failure to return from furlough (RCW 72.66.060), willful failure to return from work release (RCW 72.65.070), or willful failure to be available for supervision by the department while in community custody (RCW 72.09.310); or

(b) Any federal or out-of-state conviction for an offense that under the laws of this state would be a felony classified as an escape under (a) of this subsection.

(20) "Felony traffic offense" means:

(a) Vehicular homicide (RCW 46.61.520), vehicular assault (RCW 46.61.522), eluding a police officer (RCW 46.61.024), or felony hit-and-run injury-accident (RCW 46.52.020(4)); or

(b) Any federal or out-of-state conviction for an offense that under the laws of this state would be a felony classified as a felony traffic offense under (a) of this subsection.

(21) "Fines" means the requirement that the offender pay a specific sum of money over a specific period of time to the court.

(22)(a) "First-time offender" means any person who is convicted of a felony (i) not classified as a violent offense or a sex offense under this chapter, or (ii) that is not the manufacture, delivery, or possession with intent to manufacture or deliver a controlled substance classified in schedule I or II that is a narcotic drug, nor the manufacture, delivery, or possession with intent to deliver methamphetamine, its salts, isomers, and salts of its isomers as defined in RCW 69.50.206(d)(2), nor the selling for profit of any controlled substance or counterfeit substance classified in schedule I, RCW 69.50.204, except leaves and flowering tops of marihuana, and except as provided in (b) of this subsection, who previously has never been convicted of a felony in this state, federal court, or another state, and who has never participated in a program of deferred prosecution for a felony offense.

(b) For purposes of (a) of this subsection, a juvenile adjudication for an offense committed before the age of fifteen years is not a previous felony conviction except for adjudications of sex offenses and serious violent offenses.

(23) "Most serious offense" means any of the following felonies or a felony attempt to commit any of the following felonies, as now existing or hereafter amended:

(a) Any felony defined under any law as a class A felony or criminal solicitation of or criminal conspiracy to commit a class A felony;

(b) Assault in the second degree;

(c) Assault of a child in the second degree;

(d) Child molestation in the second degree;

(e) Controlled substance homicide;

(f) Extortion in the first degree;

(g) Incest when committed against a child under age fourteen;

(h) Indecent liberties;

(i) Kidnapping in the second degree;

(j) Leading organized crime;

(k) Manslaughter in the first degree;

(l) Manslaughter in the second degree;

(m) Promoting prostitution in the first degree;

(n) Rape in the third degree;

(o) Robbery in the second degree;

(p) Sexual exploitation;

(q) Vehicular assault;

(r) Vehicular homicide, when proximately caused by the driving of any vehicle by any person while under the influence of intoxicating liquor or any drug

as defined by RCW 46.61.502, or by the operation of any vehicle in a reckless manner;

(s) Any other class B felony offense with a finding of sexual motivation, as "sexual motivation" is defined under this section;

(t) Any other felony with a deadly weapon verdict under RCW 9.94A.125;

(u) Any felony offense in effect at any time prior to December 2, 1993, that is comparable to a most serious offense under this subsection, or any federal or out-of-state conviction for an offense that under the laws of this state would be a felony classified as a most serious offense under this subsection.

(24) "Nonviolent offense" means an offense which is not a violent offense.

(25) "Offender" means a person who has committed a felony established by state law and is eighteen years of age or older or is less than eighteen years of age but whose case is under superior court jurisdiction under RCW 13.04.030 or has been transferred by the appropriate juvenile court to a criminal court pursuant to RCW 13.40.110. Throughout this chapter, the terms "offender" and "defendant" are used interchangeably.

(26) "Partial confinement" means confinement for no more than one year in a facility or institution operated or utilized under contract by the state or any other unit of government, or, if home detention or work crew has been ordered by the court, in an approved residence, for a substantial portion of each day with the balance of the day spent in the community. Partial confinement includes work release, home detention, work crew, and a combination of work crew and home detention as defined in this section.

(27) "Persistent offender" is an offender who:

(a)(i) Has been convicted in this state of any felony considered a most serious offense; and

(ii) Has, before the commission of the offense under (a) of this subsection, been convicted as an offender on at least two separate occasions, whether in this state or elsewhere, of felonies that under the laws of this state would be considered most serious offenses and would be included in the offender score under RCW 9.94A.360; provided that of the two or more previous convictions, at least one conviction must have occurred before the commission of any of the other most serious offenses for which the offender was previously convicted; or

(b)(i) Has been convicted of: (A) Rape in the first degree, rape of a child in the first degree, child molestation in the first degree, rape in the second degree, or indecent liberties by forcible compulsion; (B) murder in the first degree, murder in the second degree, homicide by abuse, kidnapping in the first degree, kidnapping in the second degree, assault in the first degree, assault in the second degree, assault of a child in the first degree, or burglary in the first degree, with a finding of sexual motivation; or (C) an attempt to commit any crime listed in this subsection (27)(b)(i); and

(ii) Has, before the commission of the offense under (b)(i) of this subsection, been convicted as an offender on at least one occasion, whether in this state or elsewhere, of an offense listed in (b)(i) of this subsection.

(28) "Postrelease supervision" is that portion of an offender's community placement that is not community custody.

(29) "Restitution" means the requirement that the offender pay a specific sum of money over a specific period of time to the court as payment of damages. The sum may include both public and private costs. The imposition of a restitution order does not preclude civil redress.

(30) "Serious traffic offense" means:

(a) Driving while under the influence of intoxicating liquor or any drug (RCW 46.61.502), actual physical control while under the influence of intoxicating liquor or any drug (RCW 46.61.504), reckless driving (RCW 46.61.500), or hit-and-run an attended vehicle (RCW 46.52.020(5)); or

(b) Any federal, out-of-state, county, or municipal conviction for an offense that under the laws of this state would be classified as a serious traffic offense under (a) of this subsection.

(31) "Serious violent offense" is a subcategory of violent offense and means:

(a) Murder in the first degree, homicide by abuse, murder in the second degree, assault in the first degree, kidnapping in the first degree, or rape in the first degree, assault of a child in the first degree, or an attempt, criminal solicitation, or criminal conspiracy to commit one of these felonies; or

(b) Any federal or out-of-state conviction for an offense that under the laws of this state would be a felony classified as a serious violent offense under (a) of this subsection.

(32) "Sentence range" means the sentencing court's discretionary range in imposing a nonappealable sentence.

(33) "Sex offense" means:

(a) A felony that is a violation of chapter 9A.44 RCW or RCW 9A.64.020 or 9.68A.090 or a felony that is, under chapter 9A.28 RCW, a criminal attempt, criminal solicitation, or criminal conspiracy to commit such crimes;

(b) A felony with a finding of sexual motivation under RCW 9.94A.127 or 13.40.135; or

(c) Any federal or out-of-state conviction for an offense that under the laws of this state would be a felony classified as a sex offense under (a) of this subsection.

(34) "Sexual motivation" means that one of the purposes for which the defendant committed the crime was for the purpose of his or her sexual gratification.

(35) "Total confinement" means confinement inside the physical boundaries of a facility or institution operated or utilized under contract by the state or any other unit of government for twenty-four hours a day, or pursuant to RCW 72.64.050 and 72.64.060.

(36) "Transition training" means written and verbal instructions and assistance provided by the department to the offender during the two weeks prior to the offender's successful completion of the work ethic camp program. The transition training shall include instructions in the offender's requirements and obligations during the offender's period of community custody.

(37) "Victim" means any person who has sustained emotional, psychological, physical, or financial injury to person or property as a direct result of the crime charged.

(38) "Violent offense" means:

(a) Any of the following felonies, as now existing or hereafter amended: Any felony defined under any law as a class A felony or an attempt to commit a class A felony, criminal solicitation of or criminal conspiracy to commit a class A felony, manslaughter in the first degree, manslaughter in the second degree, indecent liberties if committed by forcible compulsion, kidnapping in the second degree, arson in the second degree, assault in the second degree, assault of a child in the second degree, extortion in the first degree, robbery in the second degree, vehicular assault, and vehicular homicide, when proximately caused by the driving of any vehicle by any person while under the influence of intoxicating liquor or any drug as defined by RCW 46.61.502, or by the operation of any vehicle in a reckless manner;

(b) Any conviction for a felony offense in effect at any time prior to July 1, 1976, that is comparable to a felony classified as a violent offense in (a) of this subsection; and

(c) Any federal or out-of-state conviction for an offense that under the laws of this state would be a felony classified as a violent offense under (a) or (b) of this subsection.

(39) "Work crew" means a program of partial confinement consisting of civic improvement tasks for the benefit of the community of not less than thirty-five hours per week that complies with RCW 9.94A.135. The civic improvement tasks shall have minimal negative impact on existing private industries or the labor force in the county where the service or labor is performed. The civic improvement tasks shall not affect employment opportunities for people with developmental disabilities contracted through sheltered workshops as defined in RCW 82.04.385. Only those offenders sentenced to a facility operated or utilized under contract by a county or the state are eligible to participate on a work crew. Offenders sentenced for a sex offense as defined in subsection (33) of this section are not eligible for the work crew program.

(40) "Work ethic camp" means an alternative incarceration program designed to reduce recidivism and lower the cost of corrections by requiring offenders to complete a comprehensive array of real-world job and vocational experiences, character-building work ethics training, life management skills development, substance abuse rehabilitation, counseling, literacy training, and basic adult education.

(41) "Work release" means a program of partial confinement available to offenders who are employed or engaged as a student in a regular course of study at school. Participation in work release shall be conditioned upon the offender attending work or school at regularly defined hours and abiding by the rules of the work release facility.

(42) "Home detention" means a program of partial confinement available to offenders wherein the offender is confined in a private residence subject to electronic surveillance.

Passed the Senate March 15, 1997.

Passed the House April 14, 1997.

Approved by the Governor April 19, 1997.

Filed in Office of Secretary of State April 19, 1997.

CHAPTER 71

[Substitute Senate Bill 5191]

CRIMES INVOLVING METHAMPHETAMINE—INCREASING PENALTIES

AN ACT Relating to crimes involving methamphetamine; amending RCW 69.50.401 and 69.50.440; reenacting and amending RCW 9.94A.030; and prescribing penalties.

Be it enacted by the Legislature of the State of Washington:

***Sec. 1. RCW 9.94A.030 and 1996 c 289 s 1 and 1996 c 275 s 5 are each reenacted and amended to read as follows:**

Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter.

(1) "Collect," or any derivative thereof, "collect and remit," or "collect and deliver," when used with reference to the department of corrections, means that the department is responsible for monitoring and enforcing the offender's sentence with regard to the legal financial obligation, receiving payment thereof from the offender, and, consistent with current law, delivering daily the entire payment to the superior court clerk without depositing it in a departmental account.

(2) "Commission" means the sentencing guidelines commission.

(3) "Community corrections officer" means an employee of the department who is responsible for carrying out specific duties in supervision of sentenced offenders and monitoring of sentence conditions.

(4) "Community custody" means that portion of an inmate's sentence of confinement in lieu of earned early release time or imposed pursuant to RCW 9.94A.120 (6), (8), or (10) served in the community subject to controls placed on the inmate's movement and activities by the department of corrections.

(5) "Community placement" means that period during which the offender is subject to the conditions of community custody and/or postrelease supervision, which begins either upon completion of the term of confinement (postrelease supervision) or at such time as the offender is transferred to community custody

in lieu of earned early release. Community placement may consist of entirely community custody, entirely postrelease supervision, or a combination of the two.

(6) "Community service" means compulsory service, without compensation, performed for the benefit of the community by the offender.

(7) "Community supervision" means a period of time during which a convicted offender is subject to crime-related prohibitions and other sentence conditions imposed by a court pursuant to this chapter or RCW 16.52.200(6) or 46.61.524. For first-time offenders, the supervision may include crime-related prohibitions and other conditions imposed pursuant to RCW 9.94A.120(5). For purposes of the interstate compact for out-of-state supervision of parolees and probationers, RCW 9.95.270, community supervision is the functional equivalent of probation and should be considered the same as probation by other states.

(8) "Confinement" means total or partial confinement as defined in this section.

(9) "Conviction" means an adjudication of guilt pursuant to Titles 10 or 13 RCW and includes a verdict of guilty, a finding of guilty, and acceptance of a plea of guilty.

(10) "Court-ordered legal financial obligation" means a sum of money that is ordered by a superior court of the state of Washington for legal financial obligations which may include restitution to the victim, statutorily imposed crime victims' compensation fees as assessed pursuant to RCW 7.68.035, court costs, county or interlocal drug funds, court-appointed attorneys' fees, and costs of defense, fines, and any other financial obligation that is assessed to the offender as a result of a felony conviction. Upon conviction for vehicular assault while under the influence of intoxicating liquor or any drug, RCW 46.61.522(1)(b), or vehicular homicide while under the influence of intoxicating liquor or any drug, RCW 46.61.520(1)(a), legal financial obligations may also include payment to a public agency of the expense of an emergency response to the incident resulting in the conviction, subject to the provisions in RCW 38.52.430.

(11) "Crime-related prohibition" means an order of a court prohibiting conduct that directly relates to the circumstances of the crime for which the offender has been convicted, and shall not be construed to mean orders directing an offender affirmatively to participate in rehabilitative programs or to otherwise perform affirmative conduct.

(12)(a) "Criminal history" means the list of a defendant's prior convictions, whether in this state, in federal court, or elsewhere. The history shall include, where known, for each conviction (i) whether the defendant has been placed on probation and the length and terms thereof; and (ii) whether the defendant has been incarcerated and the length of incarceration.

(b) "Criminal history" shall always include juvenile convictions for sex offenses and serious violent offenses and shall also include a defendant's other prior convictions in juvenile court if: (i) The conviction was for an offense

which is a felony or a serious traffic offense and is criminal history as defined in RCW 13.40.020(9); (ii) the defendant was fifteen years of age or older at the time the offense was committed; and (iii) with respect to prior juvenile class B and C felonies or serious traffic offenses, the defendant was less than twenty-three years of age at the time the offense for which he or she is being sentenced was committed.

(13) "Day fine" means a fine imposed by the sentencing judge that equals the difference between the offender's net daily income and the reasonable obligations that the offender has for the support of the offender and any dependents.

(14) "Day reporting" means a program of enhanced supervision designed to monitor the defendant's daily activities and compliance with sentence conditions, and in which the defendant is required to report daily to a specific location designated by the department or the sentencing judge.

(15) "Department" means the department of corrections.

(16) "Determinate sentence" means a sentence that states with exactitude the number of actual years, months, or days of total confinement, of partial confinement, of community supervision, the number of actual hours or days of community service work, or dollars or terms of a legal financial obligation. The fact that an offender through "earned early release" can reduce the actual period of confinement shall not affect the classification of the sentence as a determinate sentence.

(17) "Disposable earnings" means that part of the earnings of an individual remaining after the deduction from those earnings of any amount required by law to be withheld. For the purposes of this definition, "earnings" means compensation paid or payable for personal services, whether denominated as wages, salary, commission, bonuses, or otherwise, and, notwithstanding any other provision of law making the payments exempt from garnishment, attachment, or other process to satisfy a court-ordered legal financial obligation, specifically includes periodic payments pursuant to pension or retirement programs, or insurance policies of any type, but does not include payments made under Title 50 RCW, except as provided in RCW 50.40.020 and 50.40.050, or Title 74 RCW.

(18) "Drug offense" means:

(a) Any felony violation of chapter 69.50 RCW except possession of a controlled substance (RCW 69.50.401(d)) or forged prescription for a controlled substance (RCW 69.50.403);

(b) Any offense defined as a felony under federal law that relates to the possession, manufacture, distribution, or transportation of a controlled substance; or

(c) Any out-of-state conviction for an offense that under the laws of this state would be a felony classified as a drug offense under (a) of this subsection.

(19) "Escape" means:

(a) Escape in the first degree (RCW 9A.76.110), escape in the second degree (RCW 9A.76.120), willful failure to return from furlough (RCW 72.66.060), willful failure to return from work release (RCW 72.65.070), or willful failure to be available for supervision by the department while in community custody (RCW 72.09.310); or

(b) Any federal or out-of-state conviction for an offense that under the laws of this state would be a felony classified as an escape under (a) of this subsection.

(20) "Felony traffic offense" means:

(a) Vehicular homicide (RCW 46.61.520), vehicular assault (RCW 46.61.522), eluding a police officer (RCW 46.61.024), or felony hit-and-run injury-accident (RCW 46.52.020(4)); or

(b) Any federal or out-of-state conviction for an offense that under the laws of this state would be a felony classified as a felony traffic offense under (a) of this subsection.

(21) "Fines" means the requirement that the offender pay a specific sum of money over a specific period of time to the court.

(22)(a) "First-time offender" means any person who is convicted of a felony (i) not classified as a violent offense or a sex offense under this chapter, or (ii) that is not the manufacture, delivery, or possession with intent to manufacture or deliver a controlled substance classified in schedule I or II that is a narcotic drug, nor the manufacture, delivery, or possession with intent to deliver methamphetamine, its salts, isomers, and salts of its isomers as defined in RCW 69.50.206(d)(2), nor the selling for profit of any controlled substance or counterfeit substance classified in schedule I, RCW 69.50.204, except leaves and flowering tops of marijuana, and except as provided in (b) of this subsection, who previously has never been convicted of a felony in this state, federal court, or another state, and who has never participated in a program of deferred prosecution for a felony offense.

(b) For purposes of (a) of this subsection, a juvenile adjudication for an offense committed before the age of fifteen years is not a previous felony conviction except for adjudications of sex offenses and serious violent offenses.

(23) "Most serious offense" means any of the following felonies or a felony attempt to commit any of the following felonies, as now existing or hereafter amended:

(a) Any felony defined under any law as a class A felony or criminal solicitation of or criminal conspiracy to commit a class A felony;

(b) Assault in the second degree;

(c) Assault of a child in the second degree;

(d) Child molestation in the second degree;

(e) Controlled substance homicide;

(f) Extortion in the first degree;

(g) Incest when committed against a child under age fourteen;

(h) *Indecent liberties;*
 (i) *Kidnapping in the second degree;*
 (j) *Leading organized crime;*
 (k) *Manslaughter in the first degree;*
 (l) *Manslaughter in the second degree;*
 (m) *Manufacture, deliver, or possess with intent to manufacture or deliver methamphetamine or possession of ephedrine or pseudoephedrine with intent to manufacture methamphetamine;*

(n) *Promoting prostitution in the first degree;*
 ((~~n~~)) (o) *Rape in the third degree;*
 ((~~o~~)) (p) *Robbery in the second degree;*
 ((~~p~~)) (q) *Sexual exploitation;*
 ((~~q~~)) (r) *Vehicular assault;*
 ((~~r~~)) (s) *Vehicular homicide, when proximately caused by the driving of any vehicle by any person while under the influence of intoxicating liquor or any drug as defined by RCW 46.61.502, or by the operation of any vehicle in a reckless manner;*

((~~s~~)) (t) *Any other class B felony offense with a finding of sexual motivation, as "sexual motivation" is defined under this section;*

((~~t~~)) (u) *Any other felony with a deadly weapon verdict under RCW 9.94A.125;*

((~~u~~)) (v) *Any felony offense in effect at any time prior to December 2, 1993, that is comparable to a most serious offense under this subsection, or any federal or out-of-state conviction for an offense that under the laws of this state would be a felony classified as a most serious offense under this subsection.*

(24) *"Nonviolent offense" means an offense which is not a violent offense.*

(25) *"Offender" means a person who has committed a felony established by state law and is eighteen years of age or older or is less than eighteen years of age but whose case has been transferred by the appropriate juvenile court to a criminal court pursuant to RCW 13.40.110. Throughout this chapter, the terms "offender" and "defendant" are used interchangeably.*

(26) *"Partial confinement" means confinement for no more than one year in a facility or institution operated or utilized under contract by the state or any other unit of government, or, if home detention or work crew has been ordered by the court, in an approved residence, for a substantial portion of each day with the balance of the day spent in the community. Partial confinement includes work release, home detention, work crew, and a combination of work crew and home detention as defined in this section.*

(27) *"Persistent offender" is an offender who:*

(a)(i) *Has been convicted in this state of any felony considered a most serious offense; and*

(ii) *Has, before the commission of the offense under (a) of this subsection, been convicted as an offender on at least two separate occasions, whether in this*

state or elsewhere, of felonies that under the laws of this state would be considered most serious offenses and would be included in the offender score under RCW 9.94A.360; provided that of the two or more previous convictions, at least one conviction must have occurred before the commission of any of the other most serious offenses for which the offender was previously convicted; or

(b)(i) Has been convicted of (A) rape in the first degree, rape in the second degree, or indecent liberties by forcible compulsion; (B) murder in the first degree, murder in the second degree, kidnapping in the first degree, kidnapping in the second degree, assault in the first degree, assault in the second degree, or burglary in the first degree, with a finding of sexual motivation; or (C) an attempt to commit any crime listed in this subsection (27)(b)(i); and

(ii) Has, before the commission of the offense under (b)(i) of this subsection, been convicted as an offender on at least one occasion, whether in this state or elsewhere, of an offense listed in (b)(i) of this subsection.

(28) "Postrelease supervision" is that portion of an offender's community placement that is not community custody.

(29) "Restitution" means the requirement that the offender pay a specific sum of money over a specific period of time to the court as payment of damages. The sum may include both public and private costs. The imposition of a restitution order does not preclude civil redress.

(30) "Serious traffic offense" means:

(a) Driving while under the influence of intoxicating liquor or any drug (RCW 46.61.502), actual physical control while under the influence of intoxicating liquor or any drug (RCW 46.61.504), reckless driving (RCW 46.61.500), or hit-and-run an attended vehicle (RCW 46.52.020(5)); or

(b) Any federal, out-of-state, county, or municipal conviction for an offense that under the laws of this state would be classified as a serious traffic offense under (a) of this subsection.

(31) "Serious violent offense" is a subcategory of violent offense and means:

(a) Murder in the first degree, homicide by abuse, murder in the second degree, assault in the first degree, kidnapping in the first degree, or rape in the first degree, assault of a child in the first degree, or an attempt, criminal solicitation, or criminal conspiracy to commit one of these felonies; or

(b) Any federal or out-of-state conviction for an offense that under the laws of this state would be a felony classified as a serious violent offense under (a) of this subsection.

(32) "Sentence range" means the sentencing court's discretionary range in imposing a nonappealable sentence.

(33) "Sex offense" means:

(a) A felony that is a violation of chapter 9A.44 RCW or RCW 9A.64.020 or 9.68A.090 or a felony that is, under chapter 9A.28 RCW, a criminal attempt, criminal solicitation, or criminal conspiracy to commit such crimes;

(b) A felony with a finding of sexual motivation under RCW 9.94A.127 or 13.40.135; or

(c) Any federal or out-of-state conviction for an offense that under the laws of this state would be a felony classified as a sex offense under (a) of this subsection.

(34) "Sexual motivation" means that one of the purposes for which the defendant committed the crime was for the purpose of his or her sexual gratification.

(35) "Total confinement" means confinement inside the physical boundaries of a facility or institution operated or utilized under contract by the state or any other unit of government for twenty-four hours a day, or pursuant to RCW 72.64.050 and 72.64.060.

(36) "Transition training" means written and verbal instructions and assistance provided by the department to the offender during the two weeks prior to the offender's successful completion of the work ethic camp program. The transition training shall include instructions in the offender's requirements and obligations during the offender's period of community custody.

(37) "Victim" means any person who has sustained emotional, psychological, physical, or financial injury to person or property as a direct result of the crime charged.

(38) "Violent offense" means:

(a) Any of the following felonies, as now existing or hereafter amended: Any felony defined under any law as a class A felony or an attempt to commit a class A felony, criminal solicitation of or criminal conspiracy to commit a class A felony, manslaughter in the first degree, manslaughter in the second degree, indecent liberties if committed by forcible compulsion, kidnapping in the second degree, arson in the second degree, assault in the second degree, assault of a child in the second degree, extortion in the first degree, robbery in the second degree, vehicular assault, and vehicular homicide, when proximately caused by the driving of any vehicle by any person while under the influence of intoxicating liquor or any drug as defined by RCW 46.61.502, or by the operation of any vehicle in a reckless manner;

(b) Any conviction for a felony offense in effect at any time prior to July 1, 1976, that is comparable to a felony classified as a violent offense in (a) of this subsection; and

(c) Any federal or out-of-state conviction for an offense that under the laws of this state would be a felony classified as a violent offense under (a) or (b) of this subsection.

(39) "Work crew" means a program of partial confinement consisting of civic improvement tasks for the benefit of the community of not less than thirty-five hours per week that complies with RCW 9.94A.135. The civic improvement tasks shall have minimal negative impact on existing private industries or the labor force in the county where the service or labor is performed. The civic

improvement tasks shall not affect employment opportunities for people with developmental disabilities contracted through sheltered workshops as defined in RCW 82.04.385. Only those offenders sentenced to a facility operated or utilized under contract by a county or the state are eligible to participate on a work crew. Offenders sentenced for a sex offense as defined in subsection (33) of this section are not eligible for the work crew program.

(40) "Work ethic camp" means an alternative incarceration program designed to reduce recidivism and lower the cost of corrections by requiring offenders to complete a comprehensive array of real-world job and vocational experiences, character-building work ethics training, life management skills development, substance abuse rehabilitation, counseling, literacy training, and basic adult education.

(41) "Work release" means a program of partial confinement available to offenders who are employed or engaged as a student in a regular course of study at school. Participation in work release shall be conditioned upon the offender attending work or school at regularly defined hours and abiding by the rules of the work release facility.

(42) "Home detention" means a program of partial confinement available to offenders wherein the offender is confined in a private residence subject to electronic surveillance.

*Sec. 1 was vetoed. See message at end of chapter.

Sec. 2. RCW 69.50.401 and 1996 c 205 s 2 are each amended to read as follows:

(a) Except as authorized by this chapter, it is unlawful for any person to manufacture, deliver, or possess with intent to manufacture or deliver, a controlled substance.

(1) Any person who violates this subsection with respect to:

(i) a controlled substance classified in Schedule I or II which is a narcotic drug, is guilty of a crime and upon conviction may be imprisoned for not more than ten years, or (A) fined not more than twenty-five thousand dollars if the crime involved less than two kilograms of the drug, or both such imprisonment and fine; or (B) if the crime involved two or more kilograms of the drug, then fined not more than one hundred thousand dollars for the first two kilograms and not more than fifty dollars for each gram in excess of two kilograms, or both such imprisonment and fine;

(ii) methamphetamine, is guilty of a crime and upon conviction may be imprisoned for not more than ten years, or (A) fined not more than twenty-five thousand dollars if the crime involved less than two kilograms of the drug, or both such imprisonment and fine; or (B) if the crime involved two or more kilograms of the drug, then fined not more than one hundred thousand dollars for the first two kilograms and not more than fifty dollars for each gram in excess of two kilograms, or both such imprisonment and fine. Three thousand dollars of the fine may not be suspended. As collected, the first three thousand dollars of the fine must be

deposited with the law enforcement agency having responsibility for cleanup of laboratories, sites, or substances used in the manufacture of the methamphetamine. The fine moneys deposited with that law enforcement agency must be used for such clean-up cost;

(iii) any other controlled substance classified in Schedule I, II, or III, is guilty of a crime and upon conviction may be imprisoned for not more than five years, fined not more than ten thousand dollars, or both;

(iv) a substance classified in Schedule IV, is guilty of a crime and upon conviction may be imprisoned for not more than five years, fined not more than ten thousand dollars, or both;

(v) a substance classified in Schedule V, is guilty of a crime and upon conviction may be imprisoned for not more than five years, fined not more than ten thousand dollars, or both.

(b) Except as authorized by this chapter, it is unlawful for any person to create, deliver, or possess a counterfeit substance.

(1) Any person who violates this subsection with respect to:

(i) a counterfeit substance classified in Schedule I or II which is a narcotic drug, is guilty of a crime and upon conviction may be imprisoned for not more than ten years, fined not more than twenty-five thousand dollars, or both;

(ii) a counterfeit substance which is methamphetamine, is guilty of a crime and upon conviction may be imprisoned for not more than ten years, fined not more than twenty-five thousand dollars, or both;

(iii) any other counterfeit substance classified in Schedule I, II, or III, is guilty of a crime and upon conviction may be imprisoned for not more than five years, fined not more than ten thousand dollars, or both;

(iv) a counterfeit substance classified in Schedule IV, is guilty of a crime and upon conviction may be imprisoned for not more than five years, fined not more than ten thousand dollars, or both;

(v) a counterfeit substance classified in Schedule V, is guilty of a crime and upon conviction may be imprisoned for not more than five years, fined not more than ten thousand dollars, or both.

(c) It is unlawful, except as authorized in this chapter and chapter 69.41 RCW, for any person to offer, arrange, or negotiate for the sale, gift, delivery, dispensing, distribution, or administration of a controlled substance to any person and then sell, give, deliver, dispense, distribute, or administer to that person any other liquid, substance, or material in lieu of such controlled substance. Any person who violates this subsection is guilty of a crime and upon conviction may be imprisoned for not more than five years, fined not more than ten thousand dollars, or both.

(d) It is unlawful for any person to possess a controlled substance unless the substance was obtained directly from, or pursuant to, a valid prescription or order of a practitioner while acting in the course of his or her professional practice, or except as otherwise authorized by this chapter. Any person who violates this subsection is guilty of a crime, and upon conviction may be imprisoned for not

more than five years, fined not more than ten thousand dollars, or both, except as provided for in subsection (e) of this section.

(e) Except as provided for in subsection (a)(1)(iii) of this section any person found guilty of possession of forty grams or less of marihuana shall be guilty of a misdemeanor.

(f) It is unlawful to compensate, threaten, solicit, or in any other manner involve a person under the age of eighteen years in a transaction unlawfully to manufacture, sell, or deliver a controlled substance. A violation of this subsection shall be punished as a class C felony punishable in accordance with RCW 9A.20.021.

This section shall not apply to offenses defined and punishable under the provisions of RCW 69.50.410.

Sec. 3. RCW 69.50.440 and 1996 c 205 s 1 are each amended to read as follows:

It is unlawful for any person to possess ephedrine or pseudoephedrine with intent to manufacture methamphetamine. Any person who violates this section is guilty of a crime and may be imprisoned for not more than ten years, fined not more than twenty-five thousand dollars, or both. Three thousand dollars of the fine may not be suspended. As collected, the first three thousand dollars of the fine must be deposited with the law enforcement agency having responsibility for cleanup of laboratories, sites, or substances used in the manufacture of the methamphetamine. The fine moneys deposited with that law enforcement agency must be used for such clean-up cost.

Passed the Senate March 12, 1997.

Passed the House April 9, 1997.

Approved by the Governor April 19, 1997, with the exception of certain items that were vetoed.

Filed in Office of Secretary of State April 19, 1997.

Note: Governor's explanation of partial veto is as follows:

"I am returning herewith, without my approval as to section 1, Substitute Senate Bill No. 5191 entitled:

"AN ACT Relating to crimes involving methamphetamine;"

This legislation increases the penalties for delivering, manufacturing, and possession with intent to deliver or manufacture methamphetamine, and the possession of ephedrine or pseudoephedrine with the intent to manufacture methamphetamine.

I wholeheartedly agree with sections 2 and 3 of this legislation which require that the first \$3,000 of fine money collected be given to the law enforcement agency responsible for cleaning up methamphetamine manufacturing laboratories or sites. Because the manufacture of methamphetamine involves toxic and explosive chemicals, the cleanup costs for these sites are substantial. The affected law enforcement agencies should be reimbursed through fines collected from the responsible offenders, as SSB 5191 provides.

Section 1 of SSB 5191 would extend the "Three Strikes" law - which mandates life imprisonment on the third offense - to simple addicts as well as methamphetamine manufacturers and distributors. I do not believe that the "Three Strikes" law is likely to deter simple drug addicts. Rather, we need to address the problems that lead our youth into drugs in the first place.

I share the Legislature's concern with the very serious problem of increased methamphetamine abuse in Washington. This legislation brings to our attention the dangers of the growing use of methamphetamine. We must take immediate steps to address the problem in an effective manner, especially to prevent our youth from becoming addicted to this and other drugs. The problem must be attacked from every direction, all at once. This will take political will, strong law enforcement and an educated public.

However, this legislation would represent a fundamental shift in our criminal jurisprudence. It would have, for the first time, extended the "Three Strikes" law to non-violent offenders. That is a step that cannot be taken lightly. If one category of non-violent drug offenses is added, what would be next? How would we draw the line between non-violent crimes that should or should not be "strike" crimes?

Many simple drug addicts sell small amounts of drugs to feed their habit. Sending methamphetamine addicts to prison for life on the third "strike" - consisting of the crime of possession with the intent to sell even small amounts of methamphetamine - would divert more and more of the state's scarce resources from prevention efforts that provide a more immediate and effective response to the problem.

For these reasons I have vetoed section 1 of Substitute Senate Bill No. 5191. With the exception of section 1, Substitute Senate Bill No. 5191 is approved."

CHAPTER 72

[Engrossed Senate Bill 5220]

WASHINGTON STATE PATROL RETIREMENT SYSTEM—MINIMUM BENEFITS

AN ACT Relating to minimum benefits in the Washington state patrol retirement system; adding a new section to chapter 43.43 RCW; and decodifying RCW 43.43.275 and 43.43.277.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. Sec. 1. A new section is added to chapter 43.43 RCW to read as follows:

Effective July 1, 1997, the retirement allowance under RCW 43.43.260 and 43.43.270(2) shall not be less than twenty dollars per month for each year of service. If the member has elected to receive a reduced retirement allowance under RCW 43.43.280(2), the minimum retirement allowance under this section shall be reduced accordingly.

NEW SECTION. Sec. 2. RCW 43.43.275 and 43.43.277 are decodified.

Passed the Senate March 5, 1997.

Passed the House April 9, 1997.

Approved by the Governor April 19, 1997.

Filed in Office of Secretary of State April 19, 1997.

CHAPTER 73

[Senate Bill 5221]

PUBLIC EMPLOYEE RETIREMENT SURVIVOR BENEFITS—ELIGIBILITY

AN ACT Relating to eligibility for survivor benefits; amending RCW 41.32.520 and 41.40.270; decodifying RCW 41.32.5305; and declaring an emergency.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 41.32.520 and 1995 c 144 s 9 are each amended to read as follows:

(1) Except as specified in subsection (3) of this section, upon receipt of proper proofs of death of any member before retirement or before the first installment of his or her retirement allowance shall become due his or her accumulated contributions, less any amount identified as owing to an obligee upon withdrawal of accumulated contributions pursuant to a court order filed under RCW 41.50.670, and/or other benefits payable upon his or her death shall be paid to his or her estate or to such persons, trust, or organization as he or she shall have nominated by written designation duly executed and filed with the department. If a member fails to file a new beneficiary designation subsequent to marriage, divorce, or reestablishment of membership following termination by withdrawal, lapsation, or retirement, payment of his or her accumulated contributions, less any amount identified as owing to an obligee upon withdrawal of accumulated contributions pursuant to a court order filed under RCW 41.50.670, and/or other benefits upon death before retirement shall be made to the surviving spouse, if any; otherwise, to his or her estate. If a member had established ten or more years of Washington membership service credit or was eligible for retirement, the beneficiary or the surviving spouse if otherwise eligible may elect, in lieu of a cash refund of the member's accumulated contributions, the following survivor benefit plan actuarially reduced by the amount of any lump sum benefit identified as owing to an obligee upon withdrawal of accumulated contributions pursuant to a court order filed under RCW 41.50.670:

(a) A widow or widower, without a child or children under eighteen years of age, may elect a monthly payment of fifty dollars to become effective at age fifty, provided the member had fifteen or more years of Washington membership service credit. A benefit paid under this subsection (1)(a) shall terminate at the marriage of the beneficiary.

(b) The beneficiary, if a surviving spouse or a dependent (as that term is used in computing the dependent exemption for federal internal revenue purposes) may elect to receive a joint and one hundred percent retirement allowance under RCW 41.32.530.

(i) In the case of a dependent child the allowance shall continue until attainment of majority or so long as the department judges that the circumstances which created his or her dependent status continue to exist. In any case, if at the time dependent status ceases, an amount equal to the amount of accumulated contributions of the deceased member has not been paid to the beneficiary, the remainder shall then be paid in a lump sum to the beneficiary.

(ii) If at the time of death, the member was not then qualified for a service retirement allowance, the benefit shall be based upon the actuarial equivalent of the sum necessary to pay the accrued regular retirement allowance commencing when the deceased member would have first qualified for a service retirement allowance.

(2) If no qualified beneficiary survives a member, at his or her death his or her accumulated contributions, less any amount identified as owing to an obligee upon withdrawal of accumulated contributions pursuant to a court order filed under RCW 41.50.670, shall be paid to his or her estate, or his or her dependents may qualify for survivor benefits under benefit plan (1)(b) in lieu of a cash refund of the members accumulated contributions in the following order: Widow or widower, guardian of a dependent child or children under age eighteen, or dependent parent or parents.

(3) ~~If a member ((who has received a determination of disability as specified in RCW 41.32.550 and selected a retirement option under RCW 41.32.530(1)(b) dies before the first retirement allowance installment becomes due, he or she shall receive the benefit provided under the selected retirement option)) dies within sixty days following application for disability retirement under RCW 41.32.550, the beneficiary named in the application may elect to receive the benefit provided by:~~

~~(a) This section; or~~

~~(b) RCW 41.32.550, according to the option chosen under RCW 41.32.530 in the disability application.~~

Sec. 2. RCW 41.40.270 and 1996 c 227 s 2 are each amended to read as follows:

(1) Except as specified in subsection (4) of this section, should a member die before the date of retirement the amount of the accumulated contributions standing to the member's credit in the employees' savings fund, less any amount identified as owing to an obligee upon withdrawal of accumulated contributions pursuant to a court order filed under RCW 41.50.670, at the time of death:

(a) Shall be paid to the member's estate, or such person or persons, trust, or organization as the member shall have nominated by written designation duly executed and filed with the department; or

(b) If there be no such designated person or persons still living at the time of the member's death, or if a member fails to file a new beneficiary designation subsequent to marriage, remarriage, dissolution of marriage, divorce, or reestablishment of membership following termination by withdrawal or retirement, such accumulated contributions, less any amount identified as owing to an obligee upon withdrawal of accumulated contributions pursuant to a court order filed under RCW 41.50.670, shall be paid to the surviving spouse as if in fact such spouse had been nominated by written designation as aforesaid, or if there be no such surviving spouse, then to the member's legal representatives.

(2) Upon the death in service, or while on authorized leave of absence for a period not to exceed one hundred and twenty days from the date of payroll separation, of any member who is qualified but has not applied for a service retirement allowance or has completed ten years of service at the time of death, the designated beneficiary, or the surviving spouse as provided in subsection (1) of this section, may elect to waive the payment provided by subsection (1) of this section. Upon such an election, a joint and one hundred percent survivor option under

RCW 41.40.188, calculated under the retirement allowance described in RCW 41.40.185 or 41.40.190, whichever is greater, actuarially reduced by the amount of any lump sum benefit identified as owing to an obligee upon withdrawal of accumulated contributions pursuant to a court order filed under RCW 41.50.670 shall automatically be given effect as if selected for the benefit of the designated beneficiary. If the member is not then qualified for a service retirement allowance, such benefit shall be based upon the actuarial equivalent of the sum necessary to pay the accrued regular retirement allowance commencing when the deceased member would have first qualified for a service retirement allowance.

(3) Subsection (1) of this section, unless elected, shall not apply to any member who has applied for service retirement in RCW 41.40.180, as now or hereafter amended, and thereafter dies between the date of separation from service and the member's effective retirement date, where the member has selected a survivorship option under RCW 41.40.188. In those cases the beneficiary named in the member's final application for service retirement may elect to receive either a cash refund, less any amount identified as owing to an obligee upon withdrawal of accumulated contributions pursuant to a court order filed under RCW 41.50.670, or monthly payments according to the option selected by the member.

~~(4) ((For deaths occurring between July 1, 1995, and June 30, 1997, if a member who: (a) Has applied for nonduty disability under RCW 41.40.230; (b) has submitted adequate evidence to support a disability determination; and (c) has selected a retirement under RCW 41.40.188, dies before receiving the first retirement payment, the beneficiary named in the member's final application for disability retirement may elect to receive either a cash refund, less any amount identified as owing to an obligee upon withdrawal of accumulated contributions pursuant to a court order filed under RCW 41.50.670, or monthly payments according to the option selected by the member))~~ If a member dies within sixty days following application for disability retirement under RCW 41.40.230, the beneficiary named in the application may elect to receive the benefit provided by:

(a) This section; or

(b) RCW 41.40.235, according to the option chosen under RCW 41.40.188 in the disability application.

NEW SECTION. Sec. 3. RCW 41.32.5305 is decodified.

NEW SECTION. Sec. 4. This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately.

Passed the Senate March 5, 1997.

Passed the House April 9, 1997.

Approved by the Governor April 19, 1997.

Filed in Office of Secretary of State April 19, 1997.

CHAPTER 74

[Senate Bill 5243]

STATE PARK RESERVATION FEES—EXEMPTIONS FOR DISABLED VETERANS

AN ACT Relating to exempting disabled veterans from reservation fees for state parks; and amending RCW 43.51.055.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 43.51.055 and 1989 c 135 s 1 are each amended to read as follows:

(1) The commission shall grant to any person who meets the eligibility requirements specified in this section a senior citizen's pass which shall (a) entitle such person, and members of his camping unit, to a fifty percent reduction in the campsite rental fee prescribed by the commission, and (b) entitle such person to free admission to any state park.

(2) The commission shall grant a senior citizen's pass to any person who applies for the same and who meets the following requirements:

(a) The person is at least sixty-two years of age; and

(b) The person is a domiciliary of the state of Washington and meets reasonable residency requirements prescribed by the commission; and

(c) The person and his or her spouse have a combined income which would qualify the person for a property tax exemption pursuant to RCW 84.36.381, as now law or hereafter amended. The financial eligibility requirements of this subparagraph (c) shall apply regardless of whether the applicant for a senior citizen's pass owns taxable property or has obtained or applied for such property tax exemption.

(3) Each senior citizen's pass granted pursuant to this section is valid so long as the senior citizen meets the requirements of subsection (2)(b) of this section. Notwithstanding, any senior citizen meeting the eligibility requirements of this section may make a voluntary donation for the upkeep and maintenance of state parks.

(4) A holder of a senior citizen's pass shall surrender the pass upon request of a commission employee when the employee has reason to believe the holder fails to meet the criteria in subsection (2)(a), (b), or (c) of this section. The holder shall have the pass returned upon providing proof to the satisfaction of the director of the parks and recreation commission that the holder does meet the eligibility criteria for obtaining the senior citizen's pass.

(5) Any resident of Washington who is disabled as defined by the social security administration and who receives social security benefits for that disability, or any other benefits for that disability from any other governmental or nongovernmental source, or who is entitled to benefits for permanent disability under RCW 71A.10.020(2) due to unemployability full time at the minimum wage, or who is legally blind or profoundly deaf, or who has been issued a card, decal, or special license plate for a permanent disability under RCW 46.16.381 shall be

entitled to receive, regardless of age and upon making application therefor, a disability pass at no cost to the holder. The pass shall (a) entitle such person, and members of his camping unit, to a fifty percent reduction in the campsite rental fee prescribed by the commission, and (b) entitle such person to free admission to any state park.

(6) A card, decal, or special license plate issued for a permanent disability under RCW 46.16.381 may serve as a pass for the holder to entitle that person and members of the person's camping unit to a fifty percent reduction in the campsite rental fee prescribed by the commission, and to allow the holder free admission to state parks.

(7) Any resident of Washington who is a veteran and has a service-connected disability of at least thirty percent shall be entitled to receive a lifetime veteran's disability pass at no cost to the holder. The pass shall (a) entitle such person, and members of his camping unit, to free use of any campsite within any state park(~~;~~ and); (b) entitle such person to free admission to any state park; and (c) entitle such person to an exemption from any reservation fees.

(8) All passes issued pursuant to this section shall be valid at all parks any time during the year: PROVIDED, That the pass shall not be valid for admission to concessionaire operated facilities.

(9) This section shall not affect or otherwise impair the power of the commission to continue or discontinue any other programs it has adopted for senior citizens.

(10) The commission shall adopt such rules and regulations as it finds appropriate for the administration of this section. Among other things, such rules and regulations shall prescribe a definition of "camping unit" which will authorize a reasonable number of persons traveling with the person having a pass to stay at the campsite rented by such person, a minimum Washington residency requirement for applicants for a senior citizen's pass and an application form to be completed by applicants for a senior citizen's pass.

Passed the Senate March 6, 1997.

Passed the House April 9, 1997.

Approved by the Governor April 19, 1997.

Filed in Office of Secretary of State April 19, 1997.

CHAPTER 75

[Substitute Senate Bill 5290]

LIQUOR CONTROL BOARD CONSTRUCTION AND MAINTENANCE ACCOUNT

AN ACT Relating to the liquor control board construction and maintenance account; adding a new section to chapter 43.79 RCW; creating a new section; and declaring an emergency.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. Sec. 1. A new section is added to chapter 43.79 RCW to read as follows:

The liquor control board construction and maintenance account is created within the state treasury. The liquor control board shall deposit into this account a portion of the board's markup, as authorized by chapter 66.16 RCW, placed upon liquor as determined by the board. Moneys in the account may be spent only after appropriation. The liquor control board shall use deposits to this account to fund construction and maintenance of a centralized distribution center for liquor products intended for sale through the board's liquor store and vendor system.

NEW SECTION. Sec. 2. By June 30, 1997, the state treasurer shall transfer from the liquor revolving account to the liquor control board construction and maintenance account, the revenue generated from the additional markup imposed on July 1, 1996, for the financing of a new distribution center.

NEW SECTION. Sec. 3. This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately.

Passed the Senate February 17, 1997.

Passed the House April 10, 1997.

Approved by the Governor April 19, 1997.

Filed in Office of Secretary of State April 19, 1997.

CHAPTER 76

[Substitute Senate Bill 5360]

COMMERCIAL FISHERY AND SALMON CHARTER LICENSES—DEFERRED RENEWALS

AN ACT Relating to the renewal of commercial fishery and salmon charter licenses; amending RCW 75.28.110 and 75.28.095; and declaring an emergency.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 75.28.110 and 1996 c 267 s 28 are each amended to read as follows:

(1) The following commercial salmon fishery licenses are required for the license holder to use the specified gear to fish for salmon in state waters. Only a person who meets the qualifications of RCW 75.30.120 may hold a license listed in this subsection. The licenses and their annual fees and surcharges under RCW 75.50.100 are:

Fishery License	Resident Fee	Nonresident Fee	Surcharge
(a) Salmon Gill Net—Grays Harbor-Columbia river	\$380	\$685	plus \$100
(b) Salmon Gill Net—Puget Sound	\$380	\$685	plus \$100
(c) Salmon Gill Net—Willapa Bay-Columbia river	\$380	\$685	plus \$100
(d) Salmon purse seine	\$530	\$985	plus \$100
(e) Salmon reef net	\$380	\$685	plus \$100
(f) Salmon troll	\$380	\$685	plus \$100

(2) A license issued under this section authorizes no taking or delivery of salmon or other food fish unless a vessel is designated under RCW 75.28.045.

(3) Holders of commercial salmon fishery licenses may retain incidentally caught food fish other than salmon, subject to rules of the department.

(4) A salmon troll license includes a salmon delivery license.

(5) A salmon gill net license authorizes the taking of salmon only in the geographical area for which the license is issued. The geographical designations in subsection (1) of this section have the following meanings:

(a) "Puget Sound" includes waters of the Strait of Juan de Fuca, Georgia Strait, Puget Sound and all bays, inlets, canals, coves, sounds, and estuaries lying easterly and southerly of the international boundary line and a line at the entrance to the Strait of Juan de Fuca projected northerly from Cape Flattery to the lighthouse on Tatoosh Island and then to Bonilla Point on Vancouver Island.

(b) "Grays Harbor-Columbia river" includes waters of Grays Harbor and tributary estuaries lying easterly of a line projected northerly from Point Chehalis Light to Point Brown and those waters of the Columbia river and tributary sloughs and estuaries easterly of a line at the entrance to the Columbia river projected southerly from the most westerly point of the North jetty to the most westerly point of the South jetty.

(c) "Willapa Bay-Columbia river" includes waters of Willapa Bay and tributary estuaries and easterly of a line projected northerly from Leadbetter Point to the Cape Shoalwater tower and those waters of the Columbia river and tributary sloughs described in (b) of this subsection.

(6) A commercial salmon troll fishery license may be renewed under this section if the license holder notifies the department by May 1st of that year that he or she will not participate in the fishery during that calendar year. A commercial salmon gill net, reef net, or seine fishery license may be renewed under this section if the license holder notifies the department by August 1st of that year that he or she will not participate in the fishery during that calendar year. The license holder must pay the one hundred-dollar enhancement surcharge, plus a fifteen-dollar handling charge, in order to be considered a valid renewal and eligible to renew the license the following year.

Sec. 2. RCW 75.28.095 and 1995 c 104 s 1 are each amended to read as follows:

(1) The director shall issue the charter licenses and angler permits listed in this section according to the requirements of this title. The licenses and permits and their annual fees and surcharges are:

License or Permit	Annual Fee (RCW 75.50.100 Surcharge)		Governing Section
	Resident	Nonresident	
(a) Nonsalmon charter	\$225	\$375	RCW 75.30.065
(b) Salmon charter	\$380 (plus \$100)	\$685 (plus \$100)	

(c) Salmon angler	\$ 0	\$ 0	RCW 75.30.070
(d) Salmon roe	\$ 95	\$ 95	RCW 75.28.690

(2) Except as provided in subsection (5) of this section, it is unlawful to operate a vessel as a charter boat from which salmon or salmon and other food fish or shellfish are taken without a salmon charter license designating the vessel. The director may issue a salmon charter license only to a person who meets the qualifications of RCW 75.30.065.

(3) Except as provided in subsections (2) and (5) of this section, it is unlawful to operate a vessel as a charter boat from which food fish or shellfish are taken without a nonsalmon charter license. As used in this subsection, "food fish" does not include salmon.

(4) "Charter boat" means a vessel from which persons may, for a fee, fish for food fish or shellfish for personal use, and that brings food fish or shellfish into state ports or brings food fish or shellfish taken from state waters into United States ports. The director may specify by rule when a vessel is a "charter boat" within this definition. "Charter boat" does not mean a vessel used by a guide for clients fishing for food fish for personal use in freshwater rivers, streams, and lakes, other than Lake Washington or that part of the Columbia River below the bridge at Longview.

(5) A charter boat licensed in Oregon may fish without a Washington charter license under the same rules as Washington charter boat operators in ocean waters within the jurisdiction of Washington state from the southern border of the state of Washington to Leadbetter Point, as long as the Oregon vessel does not land at any Washington port with the purpose of taking on or discharging passengers. The provisions of this subsection shall be in effect as long as the state of Oregon has reciprocal laws and regulations.

(6) A salmon charter license under subsection (1)(b) of this section may be renewed if the license holder notifies the department by May 1st of that year that he or she will not participate in the fishery during that calendar year. The license holder must pay the one hundred-dollar enhancement surcharge, plus a fifteen-dollar handling charge, in order to be considered a valid renewal and eligible to renew the license the following year.

NEW SECTION. Sec. 3. This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately.

Passed the Senate March 14, 1997.

Passed the House April 9, 1997.

Approved by the Governor April 19, 1997.

Filed in Office of Secretary of State April 19, 1997.

CHAPTER 77

[Senate Bill 5380]

INCREASING PER DIEM FOR BOUNDARY REVIEW BOARD MEMBERS

AN ACT Relating to boundary review board members' per diem; and amending RCW 36.93.070.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 36.93.070 and 1987 c 477 s 1 are each amended to read as follows:

The members of each boundary review board shall elect from its members a chairman, vice chairman, and shall employ a nonmember as chief clerk, who shall be the secretary of the board. The board shall determine its own rules and order of business and shall provide by resolution for the time and manner of holding all regular or special meetings: PROVIDED, That all meetings shall be subject to chapter 42.30 RCW. The board shall keep a journal of its proceedings which shall be a public record. A majority of all the members shall constitute a quorum for the transaction of business.

The chief clerk of the board shall have the power to administer oaths and affirmations, certify to all official acts, issue subpoenas to any public officer or employee ordering him to testify before the board and produce public records, papers, books or documents. The chief clerk may invoke the aid of any court of competent jurisdiction to carry out such powers.

The board by rule may provide for hearings by panels of members consisting of not less than five board members, the number of hearing panels and members thereof, and for the impartial selection of panel members: A majority of a panel shall constitute a quorum thereof.

At the request of the board, the state attorney general, or at the board's option, the county prosecuting attorney, shall provide counsel for the board.

The planning departments of the county, other counties, and any city, and any state or regional planning agency shall furnish such information to the board at its request as may be reasonably necessary for the performance of its duties.

Each member of the board shall be compensated from the county current expense fund at the rate of (~~twenty-five~~) fifty dollars per day, or a major portion thereof, for time actually devoted to the work of the boundary review board. Each board of county commissioners shall provide such funds as shall be necessary to pay the salaries of the members and staff, and such other expenses as shall be reasonably necessary.

Passed the Senate February 14, 1997.

Passed the House April 9, 1997.

Approved by the Governor April 19, 1997.

Filed in Office of Secretary of State April 19, 1997.

CHAPTER 78

[Senate Bill 5422]

PROFESSIONAL GAMBLING—DEFINITIONS

AN ACT Relating to professional gambling definitions; amending RCW 9.46.0269, 9.46.220, and 9.46.221; and prescribing penalties.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 9.46.0269 and 1996 c 252 s 2 are each amended to read as follows:

(1) A person is engaged in "professional gambling" for the purposes of this chapter when:

(a) Acting other than as a player or in the manner authorized by this chapter, the person knowingly engages in conduct which materially aids any ~~((other))~~ form of gambling activity; or

~~(b) Acting other than in a manner authorized by this chapter, the person pays a fee to participate in a card game, contest of chance, lottery, or other gambling activity; or~~

~~(c) Acting other than as a player or in the manner authorized by this chapter, the person knowingly accepts or receives money or other property pursuant to an agreement or understanding with any other person whereby he or she participates or is to participate in the proceeds of gambling activity; or~~

~~((e)) (d) The person engages in hookmaking; or~~

~~((d)) (e) The person conducts a lottery; or~~

~~((e)) (f) The person violates RCW 9.46.039.~~

(2) Conduct under subsection (1)(a) of this section, except as exempted under this chapter, includes but is not limited to conduct directed toward the creation or establishment of the particular game, contest, scheme, device or activity involved, toward the acquisition or maintenance of premises, paraphernalia, equipment or apparatus therefor, toward the solicitation or inducement of persons to participate therein, toward the actual conduct of the playing phases thereof, toward the arrangement of any of its financial or recording phases, or toward any other phase of its operation. If a person having substantial proprietary or other authoritative control over any premises shall permit the premises to be used with the person's knowledge for the purpose of conducting gambling activity other than gambling activities authorized by this chapter, and acting other than as a player, and the person permits such to occur or continue or makes no effort to prevent its occurrence or continuation, the person shall be considered as being engaged in professional gambling: **PROVIDED**, That the proprietor of a bowling establishment who awards prizes obtained from player contributions, to players successfully knocking down pins upon the contingency of identifiable pins being placed in a specified position or combination of positions, as designated by the posted rules of the bowling establishment, where the proprietor does not participate in the proceeds of the "prize fund" shall not be construed to be engaging in

"professional gambling" within the meaning of this chapter: PROVIDED FURTHER, That the books and records of the games shall be open to public inspection.

Sec. 2. RCW 9.46.220 and 1994 c 218 s 11 are each amended to read as follows:

(1) A person is guilty of professional gambling in the first degree if he or she engages in, or knowingly causes, aids, abets, or conspires with another to engage in professional gambling as defined in this chapter, and:

(a) (~~While engaging in professional gambling~~) Acts in concert with or conspires with five or more people; or

(b) Personally accepts wagers exceeding five thousand dollars during any thirty-day period on future contingent events; or

(c) The operation for whom the person works, or with which the person is involved, accepts wagers exceeding five thousand dollars during any thirty-day period on future contingent events; or

(d) Operates, manages, or profits from the operation of a premises or location where persons are charged a fee to participate in card games, lotteries, or other gambling activities that are not authorized by this chapter or licensed by the commission.

(2) However, this section shall not apply to those activities enumerated in RCW 9.46.0305 through 9.46.0361 or to any act or acts in furtherance of such activities when conducted in compliance with the provisions of this chapter and in accordance with the rules adopted pursuant to this chapter.

(3) Professional gambling in the first degree is a class B felony subject to the penalty set forth in RCW 9A.20.021.

Sec. 3. RCW 9.46.221 and 1994 c 218 s 12 are each amended to read as follows:

(1) A person is guilty of professional gambling in the second degree if he or she engages in or knowingly causes, aids, abets, or conspires with another to engage in professional gambling as defined in this chapter, and:

(a) (~~While engaging in professional gambling~~) Acts in concert with or conspires with less than five people; or

(b) Accepts wagers exceeding two thousand dollars during any thirty-day period on future contingent events; or

(c) The operation for whom the person works, or with which the person is involved, accepts wagers exceeding two thousand dollars during any thirty-day period on future contingent events; or

(d) Maintains a "gambling premises" as defined in this chapter; or

~~((d))~~ (e) Maintains gambling records as defined in RCW 9.46.0253.

(2) However, this section shall not apply to those activities enumerated in RCW 9.46.0305 through 9.46.0361 or to any act or acts in furtherance of such activities when conducted in compliance with the provisions of this chapter and in accordance with the rules adopted pursuant to this chapter.

(3) Professional gambling in the second degree is a class C felony subject to the penalty set forth in RCW 9A.20.021.

Passed the Senate March 12, 1997.

Passed the House April 9, 1997.

Approved by the Governor April 19, 1997.

Filed in Office of Secretary of State April 19, 1997.

CHAPTER 79

[Senate Bill 5448]

MERGING THE HEALTH PROFESSIONS ACCOUNT AND THE MEDICAL DISCIPLINARY ACCOUNT

AN ACT Relating to the merger of the health professions account and the medical disciplinary account; amending RCW 18.71.310; adding a new section to chapter 18.71 RCW; creating new sections; repealing RCW 18.71.400 and 18.71.410; providing an effective date; and declaring an emergency.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. Sec. 1. A new section is added to chapter 18.71 RCW to read as follows:

All assessments, fines, and other funds collected or received under this chapter must be deposited in the health professions account and used solely to administer and implement this chapter.

Sec. 2. RCW 18.71.310 and 1994 sp.s. c 9 s 330 are each amended to read as follows:

(1) The commission shall enter into a contract with the committee to implement an impaired physician program. The impaired physician program may include any or all of the following:

- (a) Contracting with providers of treatment programs;
- (b) Receiving and evaluating reports of suspected impairment from any source;
- (c) Intervening in cases of verified impairment;
- (d) Referring impaired physicians to treatment programs;
- (e) Monitoring the treatment and rehabilitation of impaired physicians including those ordered by the commission;
- (f) Providing post-treatment monitoring and support of rehabilitative impaired physicians;
- (g) Performing such other activities as agreed upon by the commission and the committee; and
- (h) Providing prevention and education services.

(2) A contract entered into under subsection (1) of this section shall be financed by a surcharge of up to twenty-five dollars per year on each license renewal or issuance of a new license to be collected by the department of health from every physician and surgeon licensed under this chapter in addition to other license fees (~~and the medical discipline assessment fee established under RCW~~

18.72.380)). These moneys shall be placed in the health professions account to be used solely for the implementation of the impaired physician program.

NEW SECTION. Sec. 3. The department of health shall merge the medical license renewal fee and the medical disciplinary assessment fee into a single medical renewal fee, which shall be deposited into the health professions account. The initial amount of the merged fee shall be the sum of the medical license renewal fee and the medical disciplinary assessment fee as of January 1, 1997. The department may make future adjustments to the amount of the merged fee pursuant to RCW 43.70.250.

NEW SECTION. Sec. 4. The department of health shall transfer the entire balance of the medical disciplinary account to the health professions account to be used solely to administer and implement the provisions of chapter 18.71 RCW. Until changes to fees are adopted by rule under section 3 of this act, the department shall deposit any fees intended for the medical disciplinary account into the health professions account and utilize them solely to administer and implement the provisions of chapter 18.71 RCW.

NEW SECTION. Sec. 5. The following acts or parts of acts are each repealed:

- (1) RCW 18.71.400 and 1996 c 191 s 56, 1993 c 367 s 18, 1991 c 3 s 170, 1985 c 7 s 62, & 1983 c 71 s 1; and
- (2) RCW 18.71.410 and 1991 sp.s. c 13 s 17, 1985 c 57 s 6, & 1983 c 71 s 2.

NEW SECTION. Sec. 6. This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect July 1, 1997.

Passed the Senate March 7, 1997.

Passed the House April 9, 1997.

Approved by the Governor April 19, 1997.

Filed in Office of Secretary of State April 19, 1997.

CHAPTER 80

[Substitute Senate Bill 5470]

PASSING STOPPED SCHOOL BUSES—INCREASING PENALTIES

AN ACT Relating to passing school buses; amending RCW 46.61.370, 46.61.440, and 46.37.193; and prescribing penalties.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 46.61.370 and 1990 c 241 s 8 are each amended to read as follows:

- (1) The driver of a vehicle upon overtaking or meeting from either direction any school bus which has stopped on the roadway for the purpose of receiving or discharging any school children shall stop the vehicle before reaching such school bus when there is in operation on said school bus a visual signal as specified in

RCW 46.37.190 and said driver shall not proceed until such school bus resumes motion or the visual signals are no longer activated.

(2) The driver of a vehicle upon a highway divided into separate roadways as provided in RCW 46.61.150 need not stop upon meeting a school bus which is proceeding in the opposite direction and is stopped for the purpose of receiving or discharging school children.

(3) The driver of a vehicle upon a highway with three or more marked traffic lanes need not stop upon meeting a school bus which is proceeding in the opposite direction and is stopped for the purpose of receiving or discharging school children.

(4) The driver of a school bus shall actuate the visual signals required by RCW 46.37.190 only when such bus is stopped on the roadway for the purpose of receiving or discharging school children.

(5) The driver of a school bus may stop completely off the roadway for the purpose of receiving or discharging school children only when the school children do not have to cross the roadway. The school bus driver shall actuate the hazard warning lamps as defined in RCW 46.37.215 before loading or unloading school children at such stops.

(6) A person found to have committed an infraction of subsection (1) of this section shall be assessed a monetary penalty equal to twice the total penalty assessed under RCW 46.63.110. This penalty may not be waived, reduced, or suspended. Fifty percent of the money so collected shall be deposited into the school zone safety account in the custody of the state treasurer and disbursed in accordance with RCW 46.61.440(3).

Sec. 2. RCW 46.61.440 and 1996 c 114 s 1 are each amended to read as follows:

(1) Subject to RCW 46.61.400(1), and except in those instances where a lower maximum lawful speed is provided by this chapter or otherwise, it shall be unlawful for the operator of any vehicle to operate the same at a speed in excess of twenty miles per hour when operating any vehicle upon a highway either inside or outside an incorporated city or town when passing any marked school or playground crosswalk when such marked crosswalk is fully posted with standard school speed limit signs or standard playground speed limit signs. The speed zone at the crosswalk shall extend three hundred feet in either direction from the marked crosswalk.

(2) A person found to have committed any infraction relating to speed restrictions within a school or playground speed zone shall be assessed a monetary penalty equal to twice the penalty assessed under RCW 46.63.110. This penalty may not be waived, reduced, or suspended.

(3) The school zone safety account is created in the custody of the state treasurer. Fifty percent of the moneys collected under subsection (2) of this section shall be deposited into the account. Expenditures from the account may be used only by the Washington traffic safety commission solely to fund projects in local

communities to improve school zone safety, pupil transportation safety, and student safety in school bus loading and unloading areas. Only the director of the traffic safety commission or the director's designee may authorize expenditures from the account. The account is subject to allotment procedures under chapter 43.88 RCW, but no appropriation is required for expenditures until July 1, 1999, after which date moneys in the account may be spent only after appropriation.

Sec. 3. RCW 46.37.193 and 1995 c 141 s 2 are each amended to read as follows:

Every school bus and private carrier bus, in addition to any other equipment or distinctive markings required by this chapter, shall bear upon the front and rear thereof, above the windows thereof, plainly visible signs containing only the words "school bus" on a school bus and only the words "private carrier bus" on a private carrier bus in letters not less than eight inches in height, and in addition shall be equipped with visual signals meeting the requirements of RCW 46.37.190. School districts may affix signs designed according to RCW 46.61.380 informing motorists of the monetary penalty for failure to stop for a school bus when the visual signals are activated.

However, a private carrier bus that regularly transports children to and from a private school or in connection with school activities may display the words "school bus" in a manner provided in this section and need not comply with the requirements set forth in the most recent edition of "Specifications for School Buses" published by the superintendent of public instruction.

Passed the Senate March 13, 1997.

Passed the House April 9, 1997.

Approved by the Governor April 19, 1997.

Filed in Office of Secretary of State April 19, 1997.

CHAPTER 81

[Senate Bill 5486]

RURAL ARTERIAL PROGRAMS—ELIGIBILITY

AN ACT Relating to eligibility for the rural arterial program; and amending RCW 36.79.010, 36.79.020, 36.79.040, 36.79.050, 36.79.060, and 36.79.140.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 36.79.010 and 1988 c 26 s 1 are each amended to read as follows:

The definitions set forth in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Rural arterial program" means improvement projects on those ~~((two systems of))~~ county roads in rural areas classified as ~~((major collectors and minor))~~ rural arterials and collectors in accordance with the federal functional classification system and the construction of replacement bridges funded by the federal bridge replacement program on access roads in rural areas.

(2) "Rural area" means every area of the state outside of areas designated as urban areas by the state transportation commission with the approval of the secretary of the United States department of transportation in accordance with federal law.

(3) "Board" means the county road administration board created by RCW 36.78.030.

Sec. 2. RCW 36.79.020 and 1988 c 26 s 2 are each amended to read as follows:

There is created in the motor vehicle fund the rural arterial trust account. All moneys deposited in the motor vehicle fund to be credited to the rural arterial trust account shall be expended for (1) the construction and improvement of county ~~((major and minor collectors in rural areas))~~ rural arterials and collectors, (2) the construction of replacement bridges funded by the federal bridge replacement program on access roads in rural areas, and (3) ~~((for))~~ those expenses of the board associated with the administration of the rural arterial program.

Sec. 3. RCW 36.79.040 and 1983 1st ex.s. c 49 s 4 are each amended to read as follows:

Funds available for expenditure by the board pursuant to RCW 36.79.020 shall be apportioned to the five regions for expenditure upon county arterials in rural areas in the following manner:

(1) One-third in the ratio which the land area of the rural areas of each region bears to the total land area of all rural areas of the state;

(2) Two-thirds in the ratio which the mileage of county ~~((major and minor))~~ arterials and collectors in rural areas of each region bears to the total mileage of county ~~((major and minor))~~ arterials and collectors in all rural areas of the state.

The board shall adjust the schedule for apportionment of such funds to the five regions in the manner provided in this section before the commencement of each fiscal biennium.

Sec. 4. RCW 36.79.050 and 1988 c 26 s 3 are each amended to read as follows:

At the beginning of each fiscal biennium, the board shall establish apportionment percentages for the five regions defined in RCW 36.79.030 in the manner prescribed in RCW 36.79.040 for that biennium. The apportionment percentages shall be used once each calendar quarter by the board to apportion funds credited to the rural arterial trust account that are available for expenditure for rural ~~((major and minor))~~ arterial and collector projects and for construction of replacement bridges funded by the federal bridge replacement program on access roads in rural areas. The funds so apportioned shall remain apportioned until expended on construction projects in accordance with rules of the board. Within each region, funds shall be allocated by the board to counties for the construction of specific rural arterial and collector projects ~~((on major and minor collectors))~~ and construction of replacement bridges funded by the federal bridge replacement

program on access roads in rural areas in accordance with the procedures set forth in this chapter.

Sec. 5. RCW 36.79.060 and 1988 c 26 s 4 are each amended to read as follows:

The board shall:

(1) Adopt rules necessary to implement the provisions of this chapter relating to the allocation of funds in the rural arterial trust account to counties;

(2) Adopt reasonably uniform design standards for county ~~((major and minor))~~ rural arterials and collectors that meet the requirements for trucks transporting commodities;

(3) Report biennially on the first day of November of the even-numbered years to the legislative transportation committee and the house and senate transportation committees regarding the progress of counties in developing plans for their rural ~~((major and minor))~~ arterial and collector construction programs and the construction of replacement bridges funded by the federal bridge replacement program on access roads in rural areas and the allocation of rural arterial trust funds to the counties.

Sec. 6. RCW 36.79.140 and 1991 c 363 s 84 are each amended to read as follows:

At the time the board reviews the six-year program of each county each even-numbered year, it shall consider and shall approve for inclusion in its recommended budget, as required by RCW 36.79.130, the portion of the rural arterial construction program scheduled to be performed during the biennial period beginning the following July 1st. Subject to the appropriations actually approved by the legislature, the board shall as soon as feasible approve rural arterial trust account funds to be spent during the ensuing biennium for preliminary proposals in priority sequence as established pursuant to RCW 36.79.090. Only those counties that during the preceding twelve months have spent all revenues collected for road purposes only for such purposes, including traffic law enforcement, as are allowed to the state by Article II, section 40 of the state Constitution are eligible to receive funds from the rural arterial trust account: **PROVIDED HOWEVER,** That counties with a population of ~~((from five thousand to))~~ less than eight thousand are exempt from this eligibility restriction: **AND PROVIDED FURTHER,** That counties expending revenues collected for road purposes only on other governmental services after authorization from the voters of that county under RCW 84.55.050 are also exempt from this eligibility restriction. The board shall authorize rural arterial trust account funds for the construction project portion of a project previously authorized for a preliminary proposal in the sequence in which the preliminary proposal has been completed and the construction project is to be placed under contract. At such time the board may reserve rural arterial trust account funds for expenditure in future years as may be necessary for completion of preliminary proposals and construction projects to be commenced in the ensuing biennium.

The board may, within the constraints of available rural arterial trust funds, consider additional projects for authorization upon a clear and conclusive showing by the submitting county that the proposed project is of an emergent nature and that its need was unable to be anticipated at the time the six-year program of the county was developed. The proposed projects shall be evaluated on the basis of the priority rating factors specified in RCW 36.79.080.

Passed the Senate March 12, 1997.

Passed the House April 9, 1997.

Approved by the Governor April 19, 1997.

Filed in Office of Secretary of State April 19, 1997.

CHAPTER 82

[Senate Bill 5507]

**TRAFFIC SAFETY EDUCATION FOR JUVENILE AGRICULTURAL DRIVERS—
AUTHORIZATION**

AN ACT Relating to traffic safety education for juvenile agricultural drivers; and amending RCW 46.20.070.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 46.20.070 and 1985 ex.s. c 1 s 1 are each amended to read as follows:

Upon receiving a written application on a form provided by the director for permission for a person under the age of eighteen years to operate a motor vehicle over and upon the public highways of this state in connection with farm work, the director may issue a limited driving permit containing a photograph to be known as a juvenile agricultural driving permit, such issuance to be governed by the following procedure:

(1) The application must be signed by the applicant and by the applicant's father, mother, or legal guardian.

(2) Upon receipt of the application, the director shall cause an examination of the applicant to be made as by law provided for the issuance of a motor vehicle driver's license.

(3) The director shall cause an investigation to be made of the need for the issuance of such operation by the applicant. The permit also authorizes the holder to participate in the classroom portion of any traffic safety education course authorized under RCW 28A.220.030 that is offered in the community in which the holder is a resident.

Such permit authorizes the holder to operate a motor vehicle over and upon the public highways of this state within a restricted farming locality which shall be described upon the face thereof.

A permit issued under this section shall expire one year from date of issue, except that upon reaching the age of eighteen years such person holding a juvenile agricultural driving permit shall be required to make application for a motor vehicle driver's license.

The director shall charge a fee of three dollars for each such permit and renewal thereof to be paid as by law provided for the payment of motor vehicle driver's licenses and deposited to the credit of the highway safety fund.

The director may transfer this permit from one farming locality to another, but this does not constitute a renewal of the permit.

The director may deny the issuance of a juvenile agricultural driving permit to any person whom the director determines to be incapable of operating a motor vehicle with safety to himself or herself and to persons and property.

The director may suspend, revoke, or cancel the juvenile agricultural driving permit of any person when in the director's sound discretion the director has cause to believe such person has committed any offense for which mandatory suspension or revocation of a motor vehicle driver's license is provided by law.

The director may suspend, cancel, or revoke a juvenile agricultural driving permit when in the director's sound discretion the director is satisfied the restricted character of the permit has been violated.

Passed the Senate March 12, 1997.

Passed the House April 9, 1997.

Approved by the Governor April 19, 1997.

Filed in Office of Secretary of State April 19, 1997.

CHAPTER 83

[Substitute Senate Bill 5513]

VESSEL REGISTRATION—EXEMPTIONS FOR VESSELS TEMPORARILY IN THE STATE

AN ACT Relating to exceptions from vessel registration; and amending RCW 88.02.030.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 88.02.030 and 1991 c 339 s 30 are each amended to read as follows:

Vessel registration is required under this chapter except for the following:

(1) Military or public vessels of the United States, except recreational-type public vessels;

(2) Vessels owned by a state or subdivision thereof, used principally for governmental purposes and clearly identifiable as such;

(3) Vessels either (a) registered or numbered under the laws of a country other than the United States; or (b) having a valid United States customs service cruising license issued pursuant to 19 C.F.R. Sec. 4.94;

(4) Vessels that have been issued a valid number under federal law or by an approved issuing authority of the state of principal operation. However, a vessel that is validly registered in another state but that is removed to this state for principal use is subject to registration under this chapter. The issuing authority for this state shall recognize the validity of the numbers previously issued for a period of sixty days after arrival in this state;

(5) Vessels owned by a ~~((resident of another state))~~ nonresident if the vessel is located upon the waters of this state exclusively for repairs, alteration, or reconstruction, or any testing related to the repair, alteration, or reconstruction conducted in this state if an employee of the repair, alteration, or construction facility is on board the vessel during any testing: PROVIDED, That any vessel owned by a ~~((resident of another state))~~ nonresident is located upon the waters of this state exclusively for repairs, alteration, reconstruction, or testing for a period longer than sixty days, that the nonresident shall file an affidavit with the department of revenue verifying the vessel is located upon the waters of this state for repair, alteration, reconstruction, or testing and shall continue to file such affidavit every sixty days thereafter, while the vessel is located upon the waters of this state exclusively for repairs, alteration, reconstruction, or testing;

(6) Vessels equipped with propulsion machinery of less than ten horsepower that:

(a) Are owned by the owner of a vessel for which a valid vessel number has been issued;

(b) Display the number of that numbered vessel followed by the suffix "1" in the manner prescribed by the department; and

(c) Are used as a tender for direct transportation between that vessel and the shore and for no other purpose;

(7) Vessels under sixteen feet in overall length which have no propulsion machinery of any type or which are not used on waters subject to the jurisdiction of the United States or on the high seas beyond the territorial seas for vessels owned in the United States and are powered by propulsion machinery of ten or less horsepower;

(8) Vessels with no propulsion machinery of any type for which the primary mode of propulsion is human power;

(9) ~~((Vessels which are temporarily in this state undergoing repair or alteration;~~

~~—(10)))~~ Vessels primarily engaged in commerce which have or are required to have a valid marine document as a vessel of the United States. Commercial vessels which the department of revenue determines have the external appearance of vessels which would otherwise be required to register under this chapter, must display decals issued annually by the department of revenue that indicate the vessel's exempt status; ~~((and~~

~~—(11)))~~ (10) Vessels primarily engaged in commerce which are owned by a resident of a country other than the United States; and

(11) On and after January 1, 1998, vessels owned by a nonresident individual brought into the state for his or her use or enjoyment while temporarily within the state for not more than six months in any continuous twelve-month period, unless the vessel is used in conducting a nontransitory business activity within the state. However, the vessel must (a) be registered or numbered under the laws of a country other than the United States, (b) have a valid United States customs service

cruising license issued under 19 C.F.R. Sec. 4.94, or (c) have been issued a valid number under federal law or by an approved issuing authority of the state of principal operation. On or before the sixty-first day of use in the state, any vessel temporarily in the state under this subsection shall obtain an identification document from the department of licensing, its agents, or subagents indicating when the vessel first came into the state. An identification document shall be valid for a period of two months. At the time of any issuance of an identification document, a twenty-five dollar identification document fee shall be paid by the vessel owner to the department of licensing for the cost of providing the identification document by the department of licensing. Any moneys remaining from the fee after payment of costs shall be allocated to counties by the state treasurer for approved boating safety programs under RCW 88.02.045. The department of licensing shall adopt rules to implement its duties under this subsection, including issuing and displaying the identification document and collecting the twenty-five dollar fee.

Passed the Senate March 11, 1997.
 Passed the House April 9, 1997.
 Approved by the Governor April 19, 1997.
 Filed in Office of Secretary of State April 19, 1997.

CHAPTER 84

[Substitute Senate Bill 5529]

REQUIRING WRITTEN RECEIPTS FROM LANDLORDS ON REQUEST

AN ACT Relating to requiring a landlord to provide a written receipt if requested; and adding a new section to chapter 59.18 RCW.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. Sec. 1. A new section is added to chapter 59.18 RCW to read as follows:

A landlord shall provide, upon the request of a tenant, a written receipt for any payments made by the tenant.

Passed the Senate March 19, 1997.
 Passed the House April 9, 1997.
 Approved by the Governor April 19, 1997.
 Filed in Office of Secretary of State April 19, 1997.

CHAPTER 85

[Senate Bill 5732]

CANCELLATION NOTICES FOR INSURANCE POLICIES—AUTHORIZED DELIVERY METHODS

AN ACT Relating to delivery of the cancellation notice for an insurance policy; and amending RCW 48.18.290.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 48.18.290 and 1988 c 249 s 2 are each amended to read as follows:

(1) Cancellation by the insurer of any policy which by its terms is cancellable at the option of the insurer, or of any binder based on such policy which does not contain a clearly stated expiration date, may be effected as to any interest only upon compliance with the following:

(a) Written notice of such cancellation, accompanied by the actual reason therefor, must be actually delivered or mailed to the named insured not less than forty-five days prior to the effective date of the cancellation except for cancellation of insurance policies for nonpayment of premiums, which notice shall be not less than ten days prior to such date and except for cancellation of fire insurance policies under chapter 48.53 RCW, which notice shall not be less than five days prior to such date;

(b) Like notice must also be so delivered or mailed to each mortgagee, pledgee, or other person shown by the policy to have an interest in any loss which may occur thereunder. For purposes of this subsection (1)(b), "delivered" includes electronic transmittal, facsimile, or personal delivery.

(2) The mailing of any such notice shall be effected by depositing it in a sealed envelope, directed to the addressee at his or her last address as known to the insurer or as shown by the insurer's records, with proper prepaid postage affixed, in a letter depository of the United States post office. The insurer shall retain in its records any such item so mailed, together with its envelope, which was returned by the post office upon failure to find, or deliver the mailing to, the addressee.

(3) The affidavit of the individual making or supervising such a mailing, shall constitute prima facie evidence of such facts of the mailing as are therein affirmed.

(4) The portion of any premium paid to the insurer on account of the policy, unearned because of the cancellation and in amount as computed on the pro rata basis, must be actually paid to the insured or other person entitled thereto as shown by the policy or by any endorsement thereon, or be mailed to the insured or such person as soon as possible, and no later than forty-five days after the date of notice of cancellation to the insured for homeowners', dwelling fire, and private passenger auto. Any such payment may be made by cash, or by check, bank draft, or money order.

(5) This section shall not apply to contracts of life or disability insurance without provision for cancellation prior to the date to which premiums have been paid, or to contracts of insurance procured under the provisions of chapter 48.15 RCW.

Passed the Senate March 11, 1997.

Passed the House April 8, 1997.

Approved by the Governor April 19, 1997.

Filed in Office of Secretary of State April 19, 1997.

CHAPTER 86

[Substitute Senate Bill 5755]

SERVICE OF PROCESS UNDER THE MOBILE HOME LANDLORD-TENANT ACT—
APPLICATION OF RESIDENTIAL LANDLORD-TENANT ACT

AN ACT Relating to service of process in landlord-tenant disputes; and amending RCW 59.18.055 and 59.20.040.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 59.18.055 and 1989 c 342 s 14 are each amended to read as follows:

(1) When the plaintiff, after the exercise of due diligence, is unable to personally serve the summons on the defendant, the court may authorize the alternative means of service described herein. Upon filing of an affidavit from the person or persons attempting service describing those attempts, and the filing of an affidavit from the plaintiff, plaintiff's agent, or plaintiff's attorney stating the belief that the defendant cannot be found, the court may enter an order authorizing service of the summons as follows:

((+)) (a) The summons and complaint shall be posted in a conspicuous place on the premises unlawfully held, not less than nine days from the return date stated in the summons; and

((2)) (b) Copies of the summons and ~~((complaint {complaint}))~~ complaint shall be deposited in the mail, postage prepaid, by both regular mail and certified mail directed to the defendant's or defendants' last known address not less than nine days from the return date stated in the summons.

When service on the defendant or defendants is accomplished by this alternative procedure, the court's jurisdiction is limited to restoring possession of the premises to the plaintiff and no money judgment may be entered against the defendant or defendants until such time as jurisdiction over the defendant or defendants is obtained.

(2) This section shall apply to this chapter and chapter 59.20 RCW.

Sec. 2. RCW 59.20.040 and 1981 c 304 s 5 are each amended to read as follows:

This chapter shall regulate and determine legal rights, remedies, and obligations arising from any rental agreement between a landlord and a tenant regarding a mobile home lot and including specified amenities within the mobile home park, mobile home park cooperative, or mobile home park subdivision, where the tenant has no ownership interest in the property or in the association which owns the property, whose uses are referred to as a part of the rent structure paid by the tenant. All such rental agreements shall be unenforceable to the extent of any conflict with any provision of this chapter. Chapter 59.12 RCW shall be applicable only in implementation of the provisions of this chapter and not as an alternative remedy to this chapter which shall be exclusive where applicable: PROVIDED, That the provision of RCW 59.12.090, 59.12.100, and 59.12.170 shall not apply to any rental agreement included under the provisions of this

chapter. RCW 59.18.055 and 59.18.370 through 59.18.410 shall be applicable to any action of forcible entry or detainer or unlawful detainer arising from a tenancy under the provisions of this chapter, except when a mobile home or a tenancy in a mobile home lot is abandoned. Rentals of mobile homes themselves are governed by the Residential Landlord-Tenant Act, chapter 59.18 RCW.

Passed the Senate March 17, 1997.

Passed the House April 8, 1997.

Approved by the Governor April 19, 1997.

Filed in Office of Secretary of State April 19, 1997.

CHAPTER 87

[Engrossed Substitute Senate Bill 5762]

EQUINE INDUSTRY—SIMULCAST OF RACES—ELIMINATING LIMITS ON NONPROFIT RACE MEETS

AN ACT Relating to benefiting the equine industry by parimutuel satellite and simulcast wagering restricted to live racing facilities and providing lottery games; amending RCW 67.16.050, 67.16.105, and 67.16.200; creating a new section; repealing RCW 67.16.190 and 67.16.250; and declaring an emergency.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. Sec. 1. The legislature finds that Washington's equine racing industry creates economic, environmental, and recreational impacts across the state affecting agriculture, horse breeding, the horse training industry, agricultural fairs and youth programs, and tourism and employment opportunities. The Washington equine industry has incurred a financial decline coinciding with increased competition from the gaming industry in the state and from the lack of a class 1 racing facility in western Washington from 1993 through 1995. This act is necessary to preserve, restore, and revitalize the equine breeding and racing industries and to preserve in Washington the economic and social impacts associated with these industries. Preserving Washington's equine breeding and racing industries, and in particular those sectors of the industries that are dependent upon live horse racing, is in the public interest of the state. The purpose of this act is to preserve Washington's equine breeding and racing industries and to protect these industries from adverse economic impacts. This act does not establish a new form of gaming in Washington or allow expanded gaming within the state beyond what has been previously authorized. Simulcast wagering has been allowed in Washington before the effective date of this act. Therefore, this act does not allow gaming of any nature or scope that was prohibited before the effective date of this act.

Sec. 2. RCW 67.16.050 and 1985 c 146 s 3 are each amended to read as follows:

Every person making application for license to hold a race meet, under the provisions of this chapter shall file an application with the commission which shall set forth the time, the place, the number of days such meet will continue, and such

other information as the commission may require. The commission shall be the sole judge of whether or not the race meet shall be licensed and the number of days the meet shall continue. No person who has been convicted of any crime involving moral turpitude shall be issued a license, nor shall any license be issued to any person who has violated the terms or provisions of this chapter, or any of the rules and regulations of the commission made pursuant thereto, or who has failed to pay to the commission any or all sums required under the provisions of this chapter. The license shall specify the number of days the race meet shall continue and the number of races per day, which shall ~~((be))~~ include not less than six nor more than eleven live races per day, and for which a fee shall be paid daily in advance of five hundred dollars for each live race day for those ~~((meets))~~ licensees which had gross receipts from parimutuel machines in excess of fifty million dollars in the previous year and two hundred dollars for each day for meets which had gross receipts from parimutuel machines at or below fifty million dollars in the previous year; in addition any newly authorized live race meets shall pay two hundred dollars per day for the first year: PROVIDED, That if unforeseen obstacles arise, which prevent the holding, or completion of any race meet, the license fee for the meet, or for a portion which cannot be held may be refunded the licensee, if the commission deems the reasons for failure to hold or complete the race meet sufficient. Any unexpired license held by any person who violates any of the provisions of this chapter, or any of the rules or regulations of the commission made pursuant thereto, or who fails to pay to the commission any and all sums required under the provisions of this chapter, shall be subject to cancellation and revocation by the commission. Such cancellation shall be made only after a summary hearing before the commission, of which three days' notice, in writing, shall be given the licensee, specifying the grounds for the proposed cancellation, and at which hearing the licensee shall be given an opportunity to be heard in opposition to the proposed cancellation.

Sec. 3. RCW 67.16.105 and 1995 c 173 s 2 are each amended to read as follows:

(1) Licensees of race meets that are nonprofit in nature, are of ten days or less, and have an average daily handle of one hundred twenty thousand dollars or less shall withhold and pay to the commission daily for each authorized day of racing one-half percent of the daily gross receipts from all parimutuel machines at each race meet.

(2) Licensees ~~((of race meets))~~ that do not fall under subsection (1) of this section shall withhold and pay to the commission ~~((daily for each authorized day of racing))~~ the following applicable percentage of all daily gross receipts from ~~((all))~~ its in-state parimutuel machines ~~((at each race meet))~~:

(a) If the daily gross receipts of all its in-state parimutuel machines are more than two hundred fifty thousand dollars, the licensee shall withhold and pay to the commission daily two and one-half percent of the daily gross receipts; and

(b) If the daily gross receipts of all its in-state parimutuel machines are two hundred fifty thousand dollars or less, the licensee shall withhold and pay to the commission daily one percent of the daily gross receipts.

(3) In addition to those amounts in subsections (1) and (2) of this section, ~~((a))~~ a licensee(s) shall forward one-tenth of one percent of the daily gross receipts of all its in-state parimutuel machines to the commission ~~((daily))~~ for payment to those nonprofit race meets as set forth in RCW 67.16.130 and subsection (1) of this section, but said percentage shall not be charged against the licensee~~((s. The total of such payments shall not exceed one hundred fifty thousand dollars in any one year and any amount in excess of one hundred fifty thousand dollars shall be remitted to the general fund))~~. Payments to nonprofit race meets under this subsection shall be distributed on a pro rata per-race-day basis and used only for purses at race tracks that have been operating under RCW 67.16.130 and subsection (1) of this section for the five consecutive years immediately preceding the year of payment.

~~((4) In addition to those sums paid to the commission in subsection (2) of this section, licensees who are nonprofit corporations and have race meets of thirty days or more shall retain and dedicate: (a) An amount equal to one and one-quarter percent of the daily gross receipts of all parimutuel machines at each race meet to be used solely for the purpose of increasing purses; and (b) an amount equal to one and one-quarter percent of the daily gross receipts of all parimutuel machines at each race meet to be deposited in an escrow or trust account and used solely for construction of a new thoroughbred race track facility in western Washington. Said percentages shall come from that amount the licensee is authorized to retain under RCW 67.16.170(2). The commission shall adopt such rules as may be necessary to enforce this subsection.~~

~~—(5) In the event the new race track is not constructed before January 1, 2001, all funds including interest, remaining in the escrow or trust account established in subsection (4) of this section, shall revert to the state general fund.)~~

Sec. 4. RCW 67.16.200 and 1991 c 270 s 10 are each amended to read as follows:

(1) A racing association licensed by the commission to conduct a race meet may seek approval from the commission to conduct parimutuel wagering on its program at a satellite location or locations within the state of Washington. The sale of parimutuel pools at satellite locations shall be conducted only during the licensee's race meet and simultaneous to all parimutuel wagering activity conducted at the licensee's live racing facility in the state of Washington. The commission's authority to approve satellite wagering at a particular location is subject to the following limitations:

(a) The commission may approve only one satellite location in each county in the state; however, the commission may grant approval for more than one licensee to conduct wagering at each satellite location(:

~~—(b) The commission shall not allow a licensee to conduct satellite wagering at a satellite location within twenty ground miles of the licensee's racing facility. For purposes of this section, "ground miles" means miles measured from point to point in a straight line.~~

~~—(c)(i) The commission may allow a licensee to conduct satellite wagering at a satellite location within fifty ground miles of the racing facility of another licensee who conducts race meets of thirty days or more, but only if the satellite location is the racing facility of another licensee who conducts race meets of thirty days or more and only if the licensee seeking to conduct satellite wagering suspends its program during the conduct of the meets of all licensees within fifty ground miles; except that the commission may allow a licensee that conducts satellite wagering at another track, pursuant to this subsection, to use other satellite locations, used by that track with the approval of the owner of that track, even though those satellite locations are within a fifty ground mile radius:~~

~~—(ii) Subject to subsection (1)(c)(i) of this section, the commission may allow a licensee to conduct satellite wagering at a satellite location within fifty ground miles of the racing facility of another licensee who conducts race meets of under thirty days, but only if the licensee seeking to conduct satellite wagering suspends its satellite program during the conduct of the meets of all licensees within fifty ground miles)). A satellite location shall not be operated within twenty driving miles of any class I racing facility. For the purposes of this section, "driving miles" means miles measured by the most direct route as determined by the commission; and~~

(b) A licensee shall not conduct satellite wagering at any satellite location within sixty driving miles of any other racing facility conducting a live race meet.

(2) Subject to local zoning and other land use ordinances, the commission shall be the sole judge of whether approval to conduct wagering at a satellite location shall be granted.

(3) The licensee shall combine the parimutuel pools of the satellite location with those of the racing facility for the purpose of determining odds and computing payoffs. The amount wagered at the satellite location shall be combined with the amount wagered at the racing facility for the application of take out formulas and distribution as provided in RCW 67.16.102, 67.16.105, 67.16.170, and 67.16.175. A satellite extension of the licensee's racing facility shall be subject to the same application of the rules of racing as the licensee's racing facility.

(4) Upon written application to the commission, a class I racing association may be authorized to transmit simulcasts of live horse races conducted at its racetrack to locations outside of the state of Washington approved by the commission and in accordance with the interstate horse racing act of 1978 (15 U.S.C. Sec. 3001 to 3007) or any other applicable laws. The commission may permit parimutuel pools on the simulcast races to be combined in a common pool. A racing association that transmits simulcasts of its races to locations outside this state shall pay at least fifty percent of the fee that it receives for sale of the

simulcast signal to the horsemen's purse account for its live races after first deducting the actual cost of sending the signal out of state.

(5) Upon written application to the commission, a class 1 racing association may be authorized to transmit simulcasts of live horse races conducted at its racetrack to licensed racing associations located within the state of Washington and approved by the commission for the receipt of the simulcasts. The commission shall permit parimutuel pools on the simulcast races to be combined in a common pool. The fee for in-state, track-to-track simulcasts shall be five and one-half percent of the gross parimutuel receipts generated at the receiving location and payable to the sending racing association. A racing association that transmits simulcasts of its races to other licensed racing associations shall pay at least fifty percent of the fee that it receives for the simulcast signal to the horsemen's purse account for its live race meet after first deducting the actual cost of sending the simulcast signal. A racing association that receives races simulcast from class 1 racing associations within the state shall pay at least fifty percent of its share of the parimutuel receipts to the horsemen's purse account for its live race meet after first deducting the purchase price and the actual direct costs of importing the race.

(6) A class 1 racing association may be allowed to import simulcasts of horse races from out-of-state racing facilities. With the prior approval of the commission, the class 1 racing association may participate in an interstate common pool and may change its commission and breakage rates to achieve a common rate with other participants in the common pool.

(a) The class 1 racing association shall make written application with the commission for permission to import simulcast horse races for the purpose of parimutuel wagering. Subject to the terms of this section, the commission is the sole authority in determining whether to grant approval for an imported simulcast race.

(b) During the conduct of its race meeting, a class 1 racing association may be allowed to import no more than one simulcast race card program during each live race day. A licensed racing association may also be approved to import one simulcast race of regional or national interest on each live race day. A class 1 racing association may be permitted to import two simulcast programs on two nonlive race days per each week during its live meet. A licensee shall not operate parimutuel wagering on more than five days per week. Parimutuel wagering on imported simulcast programs shall only be conducted at the live racing facility of a class 1 racing association.

(c) The commission may allow simulcast races of regional or national interest to be sent to satellite locations. The simulcasts shall be limited to one per day except for Breeder's Cup special events day.

(d) When open for parimutuel wagering, a class 1 racing association which imports simulcast races shall also conduct simulcast parimutuel wagering within its licensed racing enclosure on all races simulcast from other class 1 racing associations within the state of Washington.

(e) When not conducting a live race meeting, a class 1 racing association may be approved to conduct simulcast parimutuel wagering on imported simulcast races. The conduct of simulcast parimutuel wagering on the simulcast races shall be for not more than twelve hours during any twenty-four hour period, for not more than five days per week and only at its live racing facility.

(f) On any imported simulcast race, the class 1 racing association shall pay fifty percent of its share of the parimutuel receipts to the horsemen's purse account for its live race meet after first deducting the purchase price of the imported race and the actual costs of importing the race.

(7) For purposes of this section, a class 1 racing association is defined as a licensee approved by the commission which conducts during each twelve-month period at least forty days of live racing within four successive calendar months. The commission may by rule increase the number of live racing days required to maintain class 1 racing association status.

(8) This section does not establish a new form of gaming in Washington or allow expanded gaming within the state beyond what has been previously authorized. Simulcast wagering has been allowed in Washington before the effective date of this act. Therefore, this section does not allow gaming of any nature or scope that was prohibited before the effective date of this act. This section is necessary to protect the Washington equine breeding and racing industries, and in particular those sectors of these industries that are dependent upon live horse racing. The purpose of this section is to protect these industries from adverse economic impacts and to promote fan attendance at class 1 racing facilities. Therefore, imported simulcast race card programs shall not be disseminated to any location outside the live racing facility of the class 1 racing association and a class 1 racing association is strictly prohibited from simulcasting imported race card programs to any location outside its live racing facility.

NEW SECTION. Sec. 5. (1) The joint legislative audit and review committee shall conduct an evaluation to determine the extent to which this act has achieved the following outcomes:

(a) The extent to which purses at Emerald Downs, Playfair, and Yakima Meadows have increased as a result of the provisions of this act;

(b) The extent to which attendance at Emerald Downs, Playfair, and Yakima Meadows has increased specifically as a result of the provisions of this act;

(c) The extent to which the breeding of horses in this state has increased specifically related to the provisions of this act;

(d) The extent to which the number of horses running at Emerald Downs, Playfair, and Yakima Meadows has increased specifically as a result of the provisions of this act;

(e) The extent to which nonprofit racetracks in this state have benefitted from this act including the removal of the cap on the nonprofit race meet purse fund; and

(f) The extent to which Emerald Downs, Playfair, and Yakima Meadows are capable of remaining economically viable given the provisions of this act and the increase in competition for gambling or entertainment dollars.

(2) The joint legislative audit and review committee may provide recommendations to the legislature concerning modifications that could be made to existing state laws to improve the ability of this act to meet the above intended goals.

(3) The joint legislative audit and review committee shall complete a report on its finding by June 30, 2000. The report shall be provided to the appropriate committees of the legislature by December 1, 2000.

NEW SECTION. Sec. 6. The following acts or parts of acts are each repealed:

(1) RCW 67.16.190 and 1985 c 146 s 12 & 1981 c 70 s 3; and

(2) RCW 67.16.250 and 1994 c 159 s 3 & 1991 c 270 s 12.

NEW SECTION. Sec. 7. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

NEW SECTION. Sec. 8. This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately.

Passed the Senate April 16, 1997.

Passed the House April 9, 1997.

Approved by the Governor April 19, 1997.

Filed in Office of Secretary of State April 19, 1997.

CHAPTER 88

[Engrossed Senate Bill 5774]

PRO TEMPORE JUDGES—SUPREME COURT AND COURT OF APPEALS

AN ACT Relating to pro tempore judges; amending RCW 2.04.240, 2.04.250, 2.06.150, 2.06.160, and 2.10.030; and reenacting and amending RCW 41.40.010.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 2.04.240 and 1982 c 72 s 1 are each amended to read as follows:

(1) **DECLARATION OF POLICY.** Whenever necessary for the prompt and orderly administration of justice, as authorized and empowered by Article IV, section 2(a), Amendment 38, of the state Constitution, a majority of the supreme court may appoint any regularly elected and qualified judge of the court of appeals or the superior court or any retired judge of a court of record in this state to serve as judge pro tempore of the supreme court.

(2) If the term of a justice of the supreme court expires with cases or other judicial business pending, the chief justice of the supreme court may appoint the justice to serve as judge pro tempore of the supreme court, whenever necessary for the prompt and orderly administration of justice. No justice may be appointed

under this subsection more than one time and no appointment may exceed sixty days.

(3) Before entering upon his or her duties as judge pro tempore of the supreme court, the appointee shall take and subscribe an oath of office as provided for in Article IV, section 28 of the state Constitution.

Sec. 2. RCW 2.04.250 and 1982 c 72 s 2 are each amended to read as follows:

(1) A judge of the court of appeals or of the superior court serving as a judge pro tempore of the supreme court as provided in RCW 2.04.240(~~(, as now or hereafter amended;)~~) shall receive, in addition to his or her regular salary, reimbursement for subsistence, lodging, and travel expenses in accordance with the rates applicable to state officers under RCW 43.03.050 and 43.03.060 (~~(as now or hereafter amended)~~).

(2) A retired judge of a court of record in this state serving as a judge pro tempore of the supreme court as provided in RCW 2.04.240 shall receive, in addition to any retirement pay he or she may be receiving, the following compensation and expenses:

(a) Reimbursement for subsistence, lodging, and travel expenses in accordance with the rates applicable to state officers under RCW 43.03.050 and 43.03.060 (~~(as now or hereafter amended)~~).

(b) During the period of his or her service as a judge pro tempore, an amount equal to the salary of a regularly elected judge of the court in which he or she last served for such period diminished by the amount of retirement pay accrued to him or her for such period.

(3) Whenever a superior court judge is appointed to serve as judge pro tempore of the supreme court and a visiting judge is assigned to replace him or her, subsistence, lodging, and travel expenses incurred by such visiting judge as a result of such assignment shall be paid in accordance with the rates applicable to state officers under RCW 43.03.050 and 43.03.060 (~~(as now or hereafter amended)~~), upon application of such judge from the appropriation of the supreme court.

(4) A justice appointed as judge pro tempore of the supreme court under RCW 2.04.240(2) shall continue to receive compensation in accordance with the rates applicable to the justice immediately before the expiration of the term.

(5) The provisions of RCW 2.04.240(1) and 2.04.250 (1) through (3) shall not be construed as impairing or enlarging any right or privilege acquired in any retirement or pension system by any judge or his or her dependents.

Sec. 3. RCW 2.06.150 and 1977 ex.s. c 49 s 2 are each amended to read as follows:

(1) Whenever necessary for the prompt and orderly administration of justice, the chief justice of the supreme court of the state of Washington may appoint any regularly elected and qualified judge of the superior court or any retired judge of a court of record in this state to serve as judge pro tempore of the court of appeals: PROVIDED, HOWEVER, That no judge pro tempore appointed to serve on the court of appeals may serve more than ninety days in any one year.

(2) If the term of a judge of the court of appeals expires with cases or other judicial business pending, the chief justice of the supreme court of the state of Washington, upon the recommendation of the chief presiding judge of the court of appeals, may appoint the judge to serve as judge pro tempore of the court of appeals, whenever necessary for the prompt and orderly administration of justice. No judge may be appointed under this subsection more than one time and no appointment may exceed sixty days.

(3) Before entering upon his or her duties as judge pro tempore of the court of appeals, the appointee shall take and subscribe an oath of office as provided for in Article IV, section 28 of the state Constitution.

Sec. 4. RCW 2.06.160 and 1981 c 186 s 2 are each amended to read as follows:

(1) A judge of a court of record serving as a judge pro tempore of the court of appeals, as provided in RCW 2.06.150, shall receive, in addition to his or her regular salary, reimbursement for subsistence, lodging, and travel expenses in accordance with the rates applicable to state officers under RCW 43.03.050 and 43.03.060 (~~as now or hereafter amended~~).

(2) A retired judge of a court of record in this state serving as a judge pro tempore of the court of appeals, as provided in RCW 2.06.150, shall receive, in addition to any retirement pay he or she may be receiving, the following compensation and expenses:

(a) Reimbursement for subsistence, lodging, and travel expenses in accordance with the rates applicable to state officers under RCW 43.03.050 and 43.03.060 (~~as now or hereafter amended~~); and

(b) During the period of his or her service as judge pro tempore, he or she shall receive as compensation sixty percent of one-two hundred and fiftieth of the annual salary of a court of appeals judge for each day of service: PROVIDED, HOWEVER, That the total amount of combined compensation received as salary and retirement by any judge in any calendar year shall not exceed the yearly salary of a full time judge.

(3) Whenever a judge of a court of record is appointed to serve as judge pro tempore of the court of appeals and a visiting judge is assigned to replace him or her, subsistence, lodging, and travel expenses incurred by such visiting judge as a result of such assignment shall be paid in accordance with the rates applicable to state officers under RCW 43.03.050 and 43.03.060 (~~as now or hereafter amended~~), upon application of such judge from the appropriation of the court of appeals.

(4) A judge appointed as judge pro tempore of the court of appeals under RCW 2.06.150(2) shall continue to receive compensation in accordance with the rates applicable to the judge immediately before the expiration of the term.

(5) The provisions of RCW 2.06.150(1) and 2.06.160 (1) through (3) shall not be construed as impairing or enlarging any right or privilege acquired in any retirement or pension system by any judge or his or her dependents.

Sec. 5. RCW 2.10.030 and 1988 c 109 s 1 are each amended to read as follows:

(1) "Retirement system" means the "Washington judicial retirement system" provided herein.

(2) "Judge" means a person elected or appointed to serve as judge of a court of record as provided in chapters 2.04, 2.06, and 2.08 RCW. ~~((Said word shall))~~ "Judge" does not include a person serving as a judge pro tempore except for a judge pro tempore appointed under RCW 2.04.240(2) or 2.06.150(2).

(3) "Retirement board" means the "Washington judicial retirement board" established herein.

(4) "Surviving spouse" means the surviving widow or widower of a judge. ~~((The word shall))~~ "Surviving spouse" does not include the divorced spouse of a judge.

(5) "Retirement fund" means the "Washington judicial retirement fund" established herein.

(6) "Beneficiary" means any person in receipt of a retirement allowance, disability allowance or any other benefit described herein.

(7) "Monthly salary" means the monthly salary of the position held by the judge.

(8) "Service" means all periods of time served as a judge, as herein defined. Any calendar month at the beginning or end of a term in which ten or more days are served shall be counted as a full month of service: PROVIDED, That no more than one month's service may be granted for any one calendar month. Only months of service will be counted in the computation of any retirement allowance or other benefit provided for in this chapter. Years of service shall be determined by dividing the total months of service by twelve. Any fraction of a year of service as so determined shall be taken into account in the computation of such retirement allowance or benefit.

(9) "Final average salary" means (a) for a judge in service in the same court for a minimum of twelve consecutive months preceding the date of retirement, the salary attached to the position held by the judge immediately prior to retirement; (b) for any other judge, the average monthly salary paid over the highest twenty-four month period in the last ten years of service.

(10) "Retirement allowance" for the purpose of applying cost of living increases or decreases ~~((shall))~~ includes retirement allowances, disability allowances and survivorship benefit.

(11) "Index" ~~((shall))~~ means for any calendar year, that year's annual average consumer price index for urban wage earners and clerical workers, all items (1957-1959 equal one hundred) — compiled by the bureau of labor statistics, United States department of labor.

(12) "Accumulated contributions" means the total amount deducted from the judge's monthly salary pursuant to RCW 2.10.090, together with the regular

interest thereon from July 1, 1988, as determined by the director of the department of retirement systems.

Sec. 6. RCW 41.40.010 and 1995 c 345 s 10, 1995 c 286 s 1, and 1995 c 244 s 3 are each reenacted and amended to read as follows:

As used in this chapter, unless a different meaning is plainly required by the context:

(1) "Retirement system" means the public employees' retirement system provided for in this chapter.

(2) "Department" means the department of retirement systems created in chapter 41.50 RCW.

(3) "State treasurer" means the treasurer of the state of Washington.

(4)(a) "Employer" for plan I members, means every branch, department, agency, commission, board, and office of the state, any political subdivision or association of political subdivisions of the state admitted into the retirement system, and legal entities authorized by RCW 35.63.070 and 36.70.060 or chapter 39.34 RCW; and the term shall also include any labor guild, association, or organization the membership of a local lodge or division of which is comprised of at least forty percent employees of an employer (other than such labor guild, association, or organization) within this chapter. The term may also include any city of the first class that has its own retirement system.

(b) "Employer" for plan II members, means every branch, department, agency, commission, board, and office of the state, and any political subdivision and municipal corporation of the state admitted into the retirement system, including public agencies created pursuant to RCW 35.63.070, 36.70.060, and 39.34.030.

(5) "Member" means any employee included in the membership of the retirement system, as provided for in RCW 41.40.023. RCW 41.26.045 does not prohibit a person otherwise eligible for membership in the retirement system from establishing such membership effective when he or she first entered an eligible position.

(6) "Original member" of this retirement system means:

(a) Any person who became a member of the system prior to April 1, 1949;

(b) Any person who becomes a member through the admission of an employer into the retirement system on and after April 1, 1949, and prior to April 1, 1951;

(c) Any person who first becomes a member by securing employment with an employer prior to April 1, 1951, provided the member has rendered at least one or more years of service to any employer prior to October 1, 1947;

(d) Any person who first becomes a member through the admission of an employer into the retirement system on or after April 1, 1951, provided, such person has been in the regular employ of the employer for at least six months of the twelve-month period preceding the said admission date;

(e) Any member who has restored all contributions that may have been withdrawn as provided by RCW 41.40.150 and who on the effective date of the individual's retirement becomes entitled to be credited with ten years or more of

membership service except that the provisions relating to the minimum amount of retirement allowance for the member upon retirement at age seventy as found in RCW 41.40.190(4) shall not apply to the member;

(f) Any member who has been a contributor under the system for two or more years and who has restored all contributions that may have been withdrawn as provided by RCW 41.40.150 and who on the effective date of the individual's retirement has rendered five or more years of service for the state or any political subdivision prior to the time of the admission of the employer into the system; except that the provisions relating to the minimum amount of retirement allowance for the member upon retirement at age seventy as found in RCW 41.40.190(4) shall not apply to the member.

(7) "New member" means a person who becomes a member on or after April 1, 1949, except as otherwise provided in this section.

(8)(a) "Compensation earnable" for plan I members, means salaries or wages earned during a payroll period for personal services and where the compensation is not all paid in money, maintenance compensation shall be included upon the basis of the schedules established by the member's employer.

(i) "Compensation earnable" for plan I members also includes the following actual or imputed payments, which are not paid for personal services:

(A) Retroactive payments to an individual by an employer on reinstatement of the employee in a position, or payments by an employer to an individual in lieu of reinstatement in a position which are awarded or granted as the equivalent of the salary or wage which the individual would have earned during a payroll period shall be considered compensation earnable and the individual shall receive the equivalent service credit;

(B) If a leave of absence is taken by an individual for the purpose of serving in the state legislature, the salary which would have been received for the position from which the leave of absence was taken, shall be considered as compensation earnable if the employee's contribution is paid by the employee and the employer's contribution is paid by the employer or employee;

(C) Assault pay only as authorized by RCW 27.04.100, 72.01.045, and 72.09.240;

(D) Compensation that a member would have received but for a disability occurring in the line of duty only as authorized by RCW 41.40.038;

(E) Compensation that a member receives due to participation in the leave sharing program only as authorized by RCW 41.04.650 through 41.04.670; and

(F) Compensation that a member receives for being in standby status. For the purposes of this section, a member is in standby status when not being paid for time actually worked and the employer requires the member to be prepared to report immediately for work, if the need arises, although the need may not arise. Standby compensation is regular salary for the purposes of RCW 41.50.150(2).

(ii) "Compensation earnable" does not include:

(A) Remuneration for unused sick leave authorized under RCW 41.04.340, 28A.400.210, or 28A.310.490;

(B) Remuneration for unused annual leave in excess of thirty days as authorized by RCW 43.01.044 and 43.01.041.

(b) "Compensation earnable" for plan II members, means salaries or wages earned by a member during a payroll period for personal services, including overtime payments, and shall include wages and salaries deferred under provisions established pursuant to sections 403(b), 414(h), and 457 of the United States Internal Revenue Code, but shall exclude nonmoney maintenance compensation and lump sum or other payments for deferred annual sick leave, unused accumulated vacation, unused accumulated annual leave, or any form of severance pay.

"Compensation earnable" for plan II members also includes the following actual or imputed payments, which are not paid for personal services:

(i) Retroactive payments to an individual by an employer on reinstatement of the employee in a position, or payments by an employer to an individual in lieu of reinstatement in a position which are awarded or granted as the equivalent of the salary or wage which the individual would have earned during a payroll period shall be considered compensation earnable to the extent provided above, and the individual shall receive the equivalent service credit;

(ii) In any year in which a member serves in the legislature, the member shall have the option of having such member's compensation earnable be the greater of:

(A) The compensation earnable the member would have received had such member not served in the legislature; or

(B) Such member's actual compensation earnable received for nonlegislative public employment and legislative service combined. Any additional contributions to the retirement system required because compensation earnable under ~~((b)(ii)(B))~~ (b)(ii)(A) of this subsection is greater than compensation earnable under ~~((b)(ii)(A))~~ (b)(ii)(B) of this subsection shall be paid by the member for both member and employer contributions;

(iii) Assault pay only as authorized by RCW 27.04.100, 72.01.045, and 72.09.240;

(iv) Compensation that a member would have received but for a disability occurring in the line of duty only as authorized by RCW 41.40.038;

(v) Compensation that a member receives due to participation in the leave sharing program only as authorized by RCW 41.04.650 through 41.04.670; and

(vi) Compensation that a member receives for being in standby status. For the purposes of this section, a member is in standby status when not being paid for time actually worked and the employer requires the member to be prepared to report immediately for work, if the need arises, although the need may not arise. Standby compensation is regular salary for the purposes of RCW 41.50.150(2).

(9)(a) "Service" for plan I members, except as provided in RCW 41.40.088, means periods of employment in an eligible position or positions for one or more

employers rendered to any employer for which compensation is paid, and includes time spent in office as an elected or appointed official of an employer. Compensation earnable earned in full time work for seventy hours or more in any given calendar month shall constitute one service credit month except as provided in RCW 41.40.088. Compensation earnable earned for less than seventy hours in any calendar month shall constitute one-quarter service credit month of service except as provided in RCW 41.40.088. Only service credit months and one-quarter service credit months shall be counted in the computation of any retirement allowance or other benefit provided for in this chapter. Any fraction of a year of service shall be taken into account in the computation of such retirement allowance or benefits. Time spent in standby status, whether compensated or not, is not service.

(i) Service by a state employee officially assigned by the state on a temporary basis to assist another public agency, shall be considered as service as a state employee: PROVIDED, That service to any other public agency shall not be considered service as a state employee if such service has been used to establish benefits in any other public retirement system.

(ii) An individual shall receive no more than a total of twelve service credit months of service during any calendar year. If an individual is employed in an eligible position by one or more employers the individual shall receive no more than one service credit month during any calendar month in which multiple service for seventy or more hours is rendered.

(iii) A school district employee may count up to forty-five days of sick leave as creditable service solely for the purpose of determining eligibility to retire under RCW 41.40.180 as authorized by RCW 28A.400.300. For purposes of plan I "forty-five days" as used in RCW 28A.400.300 is equal to two service credit months. Use of less than forty-five days of sick leave is creditable as allowed under this subsection as follows:

(A) Less than twenty-two days equals one-quarter service credit month;

(B) Twenty-two days equals one service credit month;

(C) More than twenty-two days but less than forty-five days equals one and one-quarter service credit month.

(b) "Service" for plan II members, means periods of employment by a member in an eligible position or positions for one or more employers for which compensation earnable is paid. Compensation earnable earned for ninety or more hours in any calendar month shall constitute one service credit month except as provided in RCW 41.40.088. Compensation earnable earned for at least seventy hours but less than ninety hours in any calendar month shall constitute one-half service credit month of service. Compensation earnable earned for less than seventy hours in any calendar month shall constitute one-quarter service credit month of service. Time spent in standby status, whether compensated or not, is not service.

Any fraction of a year of service shall be taken into account in the computation of such retirement allowance or benefits.

(i) Service in any state elective position shall be deemed to be full time service, except that persons serving in state elective positions who are members of the teachers' retirement system or law enforcement officers' and fire fighters' retirement system at the time of election or appointment to such position may elect to continue membership in the teachers' retirement system or law enforcement officers' and fire fighters' retirement system.

(ii) A member shall receive a total of not more than twelve service credit months of service for such calendar year. If an individual is employed in an eligible position by one or more employers the individual shall receive no more than one service credit month during any calendar month in which multiple service for ninety or more hours is rendered.

(iii) Up to forty-five days of sick leave may be creditable as service solely for the purpose of determining eligibility to retire under RCW 41.40.180 as authorized by RCW 28A.400.300. For purposes of plan II "forty-five days" as used in RCW 28A.400.300 is equal to two service credit months. Use of less than forty-five days of sick leave is creditable as allowed under this subsection as follows:

(A) Less than eleven days equals one-quarter service credit month;

(B) Eleven or more days but less than twenty-two days equals one-half service credit month;

(C) Twenty-two days equals one service credit month;

(D) More than twenty-two days but less than thirty-three days equals one and one-quarter service credit month;

(E) Thirty-three or more days but less than forty-five days equals one and one-half service credit month.

(10) "Service credit year" means an accumulation of months of service credit which is equal to one when divided by twelve.

(11) "Service credit month" means a month or an accumulation of months of service credit which is equal to one.

(12) "Prior service" means all service of an original member rendered to any employer prior to October 1, 1947.

(13) "Membership service" means:

(a) All service rendered, as a member, after October 1, 1947;

(b) All service after October 1, 1947, to any employer prior to the time of its admission into the retirement system for which member and employer contributions, plus interest as required by RCW 41.50.125, have been paid under RCW 41.40.056 or 41.40.057;

(c) Service not to exceed six consecutive months of probationary service rendered after April 1, 1949, and prior to becoming a member, in the case of any member, upon payment in full by such member of the total amount of the employer's contribution to the retirement fund which would have been required under the law in effect when such probationary service was rendered if the member

had been a member during such period, except that the amount of the employer's contribution shall be calculated by the director based on the first month's compensation earnable as a member;

(d) Service not to exceed six consecutive months of probationary service, rendered after October 1, 1947, and before April 1, 1949, and prior to becoming a member, in the case of any member, upon payment in full by such member of five percent of such member's salary during said period of probationary service, except that the amount of the employer's contribution shall be calculated by the director based on the first month's compensation earnable as a member.

(14)(a) "Beneficiary" for plan I members, means any person in receipt of a retirement allowance, pension or other benefit provided by this chapter.

(b) "Beneficiary" for plan II members, means any person in receipt of a retirement allowance or other benefit provided by this chapter resulting from service rendered to an employer by another person.

(15) "Regular interest" means such rate as the director may determine.

(16) "Accumulated contributions" means the sum of all contributions standing to the credit of a member in the member's individual account, including any amount paid under RCW 41.50.165(2), together with the regular interest thereon.

(17)(a) "Average final compensation" for plan I members, means the annual average of the greatest compensation earnable by a member during any consecutive two year period of service credit months for which service credit is allowed; or if the member has less than two years of service credit months then the annual average compensation earnable during the total years of service for which service credit is allowed.

(b) "Average final compensation" for plan II members, means the member's average compensation earnable of the highest consecutive sixty months of service credit months prior to such member's retirement, termination, or death. Periods constituting authorized leaves of absence may not be used in the calculation of average final compensation except under RCW 41.40.710(2).

(18) "Final compensation" means the annual rate of compensation earnable by a member at the time of termination of employment.

(19) "Annuity" means payments for life derived from accumulated contributions of a member. All annuities shall be paid in monthly installments.

(20) "Pension" means payments for life derived from contributions made by the employer. All pensions shall be paid in monthly installments.

(21) "Retirement allowance" means the sum of the annuity and the pension.

(22) "Employee" means any person who may become eligible for membership under this chapter, as set forth in RCW 41.40.023.

(23) "Actuarial equivalent" means a benefit of equal value when computed upon the basis of such mortality and other tables as may be adopted by the director.

(24) "Retirement" means withdrawal from active service with a retirement allowance as provided by this chapter.

(25) "Eligible position" means:

(a) Any position that, as defined by the employer, normally requires five or more months of service a year for which regular compensation for at least seventy hours is earned by the occupant thereof. For purposes of this chapter an employer shall not define "position" in such a manner that an employee's monthly work for that employer is divided into more than one position;

(b) Any position occupied by an elected official or person appointed directly by the governor, or appointed by the chief justice of the supreme court under RCW 2.04.240(2) or 2.06.150(2), for which compensation is paid.

(26) "Ineligible position" means any position which does not conform with the requirements set forth in subsection (25) of this section.

(27) "Leave of absence" means the period of time a member is authorized by the employer to be absent from service without being separated from membership.

(28) "Totally incapacitated for duty" means total inability to perform the duties of a member's employment or office or any other work for which the member is qualified by training or experience.

(29) "Retiree" means any person in receipt of a retirement allowance or other benefit provided by this chapter resulting from service rendered to an employer while a member. A person is in receipt of a retirement allowance as defined in subsection (21) of this section or other benefit as provided by this chapter when the department mails, causes to be mailed, or otherwise transmits the retirement allowance warrant.

(30) "Director" means the director of the department.

(31) "State elective position" means any position held by any person elected or appointed to state-wide office or elected or appointed as a member of the legislature.

(32) "State actuary" or "actuary" means the person appointed pursuant to RCW 44.44.010(2).

(33) "Plan I" means the public employees' retirement system, plan I providing the benefits and funding provisions covering persons who first became members of the system prior to October 1, 1977.

(34) "Plan II" means the public employees' retirement system, plan II providing the benefits and funding provisions covering persons who first became members of the system on and after October 1, 1977.

(35) "Index" means, for any calendar year, that year's annual average consumer price index, Seattle, Washington area, for urban wage earners and clerical workers, all items, compiled by the bureau of labor statistics, United States department of labor.

(36) "Index A" means the index for the year prior to the determination of a postretirement adjustment.

(37) "Index B" means the index for the year prior to index A.

(38) "Index year" means the earliest calendar year in which the index is more than sixty percent of index A.

(39) "Adjustment ratio" means the value of index A divided by index B.

(40) "Annual increase" means, initially, fifty-nine cents per month per year of service which amount shall be increased each July 1st by three percent, rounded to the nearest cent.

Passed the Senate March 15, 1997.

Passed the House April 8, 1997.

Approved by the Governor April 19, 1997.

Filed in Office of Secretary of State April 19, 1997.

CHAPTER 89

[Senate Bill 5809]

ALIEN INSURERS' TRUST FUNDS—INCREASING REQUIRED AMOUNTS

AN ACT Relating to the financial condition of unauthorized insurers; amending RCW 48.15.090; and providing an effective date.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 48.15.090 and 1994 c 86 s 2 are each amended to read as follows:

(1) A surplus line broker shall not knowingly place surplus line insurance with insurers unsound financially. The surplus line broker shall ascertain the financial condition of the unauthorized insurer, and maintain written evidence thereof, before placing insurance therewith. The surplus line broker shall not so insure with:

(a) Any foreign insurer having less than six million dollars of capital and surplus or substantially equivalent capital funds, of which not less than one million five hundred thousand dollars is capital; or

(b) Any alien insurer having less than six million dollars of capital and surplus or substantially equivalent capital funds. By January 1, 1992, this requirement shall be increased to twelve million five hundred thousand dollars. By January 1, 1993, this requirement shall be further increased to fifteen million dollars.

Such alien insurers must have in force in the United States an irrevocable trust ((~~account~~)) fund, in a qualified United States financial institution, on behalf of United States policyholders of not less than ((~~two~~)) five million ((~~five~~)) four hundred thousand dollars and consisting of cash, securities, letters of credit, or of investments of substantially the same character and quality as those which are eligible investments for the capital and statutory reserves of admitted insurers authorized to write like kinds of insurance in this state.

There must be on file with the commissioner a copy of the trust, certified by the trustee, evidencing a subsisting trust fund deposit having an expiration date which at no time shall be less than five years after the date of creation of the trust. Such trust fund shall be included in the calculation of the insurer's capital and surplus or its equivalents; or

(c) Any group including incorporated and individual insurers maintaining a trust fund of less than fifty million dollars as security to the full amount thereof for

all policyholders in the United States of each member of the group, and such trust shall likewise comply with the terms and conditions established in (b) of this subsection for an alien insurer; or

(d) Any insurance exchange created by the laws of an individual state, maintaining capital and surplus, or substantially equivalent capital funds of less than fifty million dollars in the aggregate. For insurance exchanges which maintain funds for the protection of all insurance exchange policyholders, each individual syndicate shall maintain minimum capital and surplus, or the substantial equivalent thereof, of not less than six million dollars. In the event the insurance exchange does not maintain funds for the protection of all insurance exchange policyholders, each individual syndicate shall meet the minimum capital and surplus requirements of (a) of this subsection.

(2) The commissioner may, by rule:

(a) Increase the financial requirements under subsection (1) of this section by not more than one million dollars in any twelve-month period, but in no case may the requirements exceed fifteen million dollars; or

(b) Prescribe the terms under which the foregoing financial requirements may be waived in circumstances where insurance cannot be otherwise procured on risks located in this state.

(3) For any violation of this section the surplus line broker may be fined not less than one hundred dollars or more than five thousand dollars, and in addition to or in lieu thereof the surplus line broker's license may be revoked, suspended, or nonrenewed.

NEW SECTION. Sec. 2. This act takes effect June 1, 1998.

Passed the Senate March 13, 1997.

Passed the House April 8, 1997.

Approved by the Governor April 19, 1997.

Filed in Office of Secretary of State April 19, 1997.

CHAPTER 90

[Senate Bill 5925]

CERTIFICATED INSTRUCTIONAL STAFF SALARIES—APPLICATION OF EDUCATIONAL CREDITS

AN ACT Relating to certificated instructional staff salaries; adding a new section to chapter 28A.415 RCW; providing an effective date; and declaring an emergency.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. Sec. 1. A new section is added to chapter 28A.415 RCW to read as follows:

(1) Credits earned by certificated instructional staff after September 1, 1995, shall be eligible for application to the salary schedule developed by the legislative evaluation and accountability program committee only if the course content:

(a) Is consistent with a school-based plan for mastery of student learning goals as referenced in RCW 28A.320.205, the annual school performance report, for the school in which the individual is assigned;

(b) Pertains to the individual's current assignment or expected assignment for the subsequent school year;

(c) Is necessary to obtain an endorsement as prescribed by the state board of education;

(d) Is specifically required to obtain advanced levels of certification; or

(e) Is included in a college or university degree program that pertains to the individual's current assignment, or potential future assignment, as a certified instructional staff.

(2) For the purpose of this section, "credits" mean college quarter hour credits and equivalent credits for approved in-service, approved continuing education, or approved internship hours computed in accordance with RCW 28A.415.020.

(3) The superintendent of public instruction shall adopt rules and standards consistent with the limits established by this section for certificated instructional staff.

****NEW SECTION. Sec. 2. This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect June 30, 1997.***

**Sec. 2 was vetoed. See message at end of chapter.*

Passed the Senate March 19, 1997.

Passed the House April 8, 1997.

Approved by the Governor April 19, 1997, with the exception of certain items that were vetoed.

Filed in Office of Secretary of State April 19, 1997.

Note: Governor's explanation of partial veto is as follows:

"I am returning herewith, without my approval as to section 2, Senate Bill No. 5925 entitled:

"AN ACT Relating to certified instructional staff salaries;"

The emergency clause in section 2 is not needed. SB 5925 codifies the current state policy on credits recognized for state funding. The bill will not affect state funding or school district reporting for the 1996-97 school year. Without the emergency clause, the bill will take effect before September 1, 1997, the beginning of the 1997-98 school year.

For these reasons, I have vetoed section 2 of Senate Bill No. 5925. With the exception of section 2, I am approving Senate Bill No. 5925."

CHAPTER 91

[Senate Bill 6007]

ELIMINATING LIMITS ON OPERATIONAL AND MANAGEMENT EXPENSES OF MUTUAL SAVINGS BANKS

AN ACT Relating to the limitation on the operating expenses of mutual savings banks; and repealing RCW 32.04.060.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. Sec. 1. RCW 32.04.060 and 1994 c 256 s 94, 1981 c 86 s 1, 1977 ex.s. c 171 s 1, & 1955 c 13 s 32.04.060 are each repealed.

Passed the Senate March 13, 1997.

Passed the House April 8, 1997.

Approved by the Governor April 19, 1997.

Filed in Office of Secretary of State April 19, 1997.

CHAPTER 92

[House Bill 1002]

INSURANCE ANTIFRAUD PLANS—EXEMPTIONS

AN ACT Relating to insurance antifraud plans; and amending RCW 48.30A.045.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 48.30A.045 and 1995 c 285 s 9 are each amended to read as follows:

(1) Each insurer licensed to write direct insurance in this state, except those exempted in subsection (2) of this section, shall institute and maintain an insurance antifraud plan. An insurer licensed on July 1, 1995, shall file its antifraud plan with the insurance commissioner no later than December 31, 1995. An insurer licensed after July 1, 1995, shall file its antifraud plan within six months of licensure. An insurer shall file any change to the antifraud plan with the insurance commissioner within thirty days after the plan has been modified.

(2) This section does not apply to health carriers, as defined in RCW 48.43.005, life insurers, or title insurers; or property or casualty insurers with annual gross written medical malpractice insurance premiums in this state that exceed fifty percent of their total annual gross written premiums in this state; or all credit-related insurance written in connection with a credit transaction in which the creditor is named as a beneficiary or loss payee under the policy except vendor single-interest or collateral protection coverage as defined in RCW 48.22.110(4).

Passed the House February 3, 1997.

Passed the Senate April 9, 1997.

Approved by the Governor April 21, 1997.

Filed in Office of Secretary of State April 21, 1997.

CHAPTER 93

[Substitute House Bill 1003]

DEFERRAL OF PROPERTY TAXES BY SENIOR CITIZENS AND DISABLED PERSONS

AN ACT Relating to deferral of property taxes by senior citizens and disabled persons; amending RCW 84.38.020; and declaring an emergency.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 84.38.020 and 1996 c 230 s 1614 are each amended to read as follows:

Unless a different meaning is plainly required by the context, the following words and phrases as hereinafter used in this chapter shall have the following meanings:

(1) "Claimant" means a person who either elects or is required under RCW 84.64.050 to defer payment of the special assessments and/or real property taxes accrued on the claimant's residence by filing a declaration to defer as provided by this chapter.

When two or more individuals of a household file or seek to file a declaration to defer, they may determine between them as to who the claimant shall be.

(2) "Department" means the state department of revenue.

(3) "Equity value" means the amount by which the fair market value of a residence as determined from the records of the county assessor exceeds the total amount of any liens or other obligations against the property.

(4) "Local government" means any city, town, county, water-sewer district, public utility district, port district, irrigation district, flood control district, or any other municipal corporation, quasi municipal corporation, or other political subdivision authorized to levy special assessments.

(5) "Real property taxes" means ad valorem property taxes levied on a residence in this state in the preceding calendar year.

~~((5))~~ (6) "Residence" has the meaning given in RCW 84.36.383, except that a residence includes any additional property up to a total of five acres that comprises the residential parcel if this larger parcel size is required under land use regulations.

~~((6))~~ (7) "Special assessment" means the charge or obligation imposed by a ~~((city, town, county, or other municipal corporation))~~ local government upon property specially benefited ~~((by a local improvement, including assessments under chapters 35.44, 36.88, 36.94, 53.08, 54.16, 57.16, 86.09, and 87.03 RCW and any other relevant chapter))~~.

NEW SECTION. Sec. 2. This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately.

Passed the House February 3, 1997.

Passed the Senate April 9, 1997.

Approved by the Governor April 21, 1997.

Filed in Office of Secretary of State April 21, 1997.

CHAPTER 94

[Substitute House Bill 1010]

REIMBURSABLE TRANSPORTATION EXPENDITURES—PROCESSING AND ACCOUNTING

AN ACT Relating to reimbursable transportation expenditures; amending RCW 43.79A.040; adding a new section to chapter 47.04 RCW; creating a new section; providing an effective date; and declaring an emergency.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. Sec. 1. Federal funds that are administered by the department of transportation and are passed through to municipal corporations or political subdivisions of the state and moneys that are received as total reimbursement for goods, services, or projects constructed by the department of transportation are removed from the transportation budget. To process and account for these expenditures a new treasury trust account is created to be used for all department of transportation one hundred percent federal and local reimbursable transportation expenditures. This new account is nonbudgeted and nonappropriated. At the same time, federal and private local appropriations and full-time equivalents in subprograms R2, R3, T6, Y6, and Z2 processed through this new account are removed from the department of transportation's 1997-99 budget.

The department of transportation may make expenditures from the account before receiving federal and local reimbursements. However, at the end of each biennium, the account must maintain a zero or positive cash balance. In the twenty-fourth month of each biennium the department of transportation shall calculate and transfer sufficient cash from either the motor vehicle fund or the transportation fund to cover any negative cash balances. The amount transferred is calculated based on expenditures from each fund. In addition, any interest charges accruing to the new account must be distributed to the motor vehicle fund and the transportation fund.

The department of transportation shall provide an annual report to the legislative transportation committee and the office of financial management on expenditures and full-time equivalents processed through the new account. The report must also include recommendations for process changes, if needed.

NEW SECTION. Sec. 2. A new section is added to chapter 47.04 RCW to read as follows:

(1) The miscellaneous transportation programs account is created in the custody of the state treasurer.

(2) Moneys from the account may be used only for the costs of:

(a) Miscellaneous transportation services provided by the department that are reimbursed by other public and private entities;

(b) Local transportation projects for which the department is a conduit for federal reimbursement to a municipal corporation or political subdivision; or

(c) Other reimbursable activities as recommended by the legislative transportation committee and approved by the office of financial management.

(3) Moneys received as reimbursement for expenditures under subsection (2) of this section must be deposited into the account.

(4) No appropriation is required for expenditures from this account. This fund is not subject to allotment procedures provided under chapter 43.88 RCW.

(5) Only the secretary of transportation or the secretary's designee may authorize expenditures from the account.

(6) It is the intent of the legislature that this account maintain a zero or positive cash balance at the end of each biennium. Toward this purpose the department may make expenditures from the account before receiving reimbursements under subsection (2) of this section. Before the end of the biennium, the department shall transfer sufficient cash to cover any negative cash balances from the motor vehicle and transportation funds to the miscellaneous transportation programs account for unrecovered reimbursements. The department shall calculate the distribution of this transfer based on expenditures. In the ensuing biennium the department shall transfer the reimbursements received in the miscellaneous transportation programs account back to the motor vehicle and transportation funds to the extent of the cash transferred at biennium end. The department shall also distribute any interest charges accruing to the miscellaneous transportation programs account to the motor vehicle and transportation funds. Adjustments for any indirect cost recoveries may also be made at this time.

(7) The department shall provide an annual report to the legislative transportation committee and the office of financial management on the expenditures and full-time equivalents processed through the miscellaneous transportation programs account. The report must also include recommendations for changes to the process, if needed.

Sec. 3. RCW 43.79A.040 and 1996 c 253 s 409 are each amended to read as follows:

(1) Money in the treasurer's trust fund may be deposited, invested and reinvested by the state treasurer in accordance with RCW 43.84.080 in the same manner and to the same extent as if the money were in the state treasury.

(2) All income received from investment of the treasurer's trust fund shall be set aside in an account in the treasury trust fund to be known as the investment income account.

(3) The investment income account may be utilized for the payment of purchased banking services on behalf of treasurer's trust funds including, but not limited to, depository, safekeeping, and disbursement functions for the state treasurer or affected state agencies. The investment income account is subject in all respects to chapter 43.88 RCW, but no appropriation is required for payments to financial institutions. Payments shall occur prior to distribution of earnings set forth in subsection (4) of this section.

(4)(a) Monthly, the state treasurer shall distribute the earnings credited to the investment income account to the state general fund except under (b) and (c) of this subsection.

(b) The following accounts and funds shall receive their proportionate share of earnings based upon each account's or fund's average daily balance for the period: The agricultural local fund, the American Indian scholarship endowment fund, the Washington international exchange scholarship endowment fund, the energy account, the fair fund, the game farm alternative account, the grain inspection revolving fund, the rural rehabilitation account, and the self-insurance

revolving fund. However, the earnings to be distributed shall first be reduced by the allocation to the state treasurer's service fund pursuant to RCW 43.08.190.

(c) The following accounts and funds shall receive eighty percent of their proportionate share of earnings based upon each account's or fund's average daily balance for the period: The advanced right of way revolving fund, the federal narcotics asset forfeitures account, the high occupancy vehicle account, ~~((and))~~ the local rail service assistance account, and the miscellaneous transportation programs account.

(5) In conformance with Article II, section 37 of the state Constitution, no trust accounts or funds shall be allocated earnings without the specific affirmative directive of this section.

NEW SECTION. Sec. 4. This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect July 1, 1997.

Passed the House March 7, 1997.

Passed the Senate April 9, 1997.

Approved by the Governor April 21, 1997.

Filed in Office of Secretary of State April 21, 1997.

CHAPTER 95

[House Bill 1023]

COMMUTER RIDE SHARING—QUALIFICATIONS OF CAR POOLS AND VAN POOLS

AN ACT Relating to commuter ride-sharing qualifications; and amending RCW 46.74.010.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 46.74.010 and 1996 c 244 s 2 are each amended to read as follows:

The definitions set forth in this section shall apply throughout this chapter, unless the context clearly indicates otherwise.

(1) "Commuter ride sharing" means a car pool or van pool arrangement whereby ~~((a))~~ one or more fixed groups not exceeding fifteen persons each including the drivers, and (a) not fewer than five persons including the drivers, or (b) not fewer than four persons including the drivers where at least two of those persons are confined to wheelchairs when riding, ~~((is))~~ are transported in a passenger motor vehicle with a gross vehicle weight not exceeding ten thousand pounds, excluding special rider equipment, between their places of abode or termini near such places, and their places of employment or educational or other institutions, each group in a single daily round trip where the drivers ~~((is))~~ are also on the way to or from ~~((his or her))~~ their places of employment or educational or other institution.

(2) "Ride sharing for persons with special transportation needs" means an arrangement whereby a group of persons with special transportation needs, and their attendants, is transported by a public social service agency or a private,

nonprofit transportation provider as defined in RCW 81.66.010(3) in a passenger motor vehicle as defined by the department to include small buses, cutaways, and modified vans not more than twenty-eight feet long; PROVIDED, That the driver need not be a person with special transportation needs.

(3) "Ride-sharing operator" means the person, entity, or concern, not necessarily the driver, responsible for the existence and continuance of commuter ride sharing or ride sharing for persons with special transportation needs.

(4) "Persons with special transportation needs" means those persons defined in RCW 81.66.010(4).

Passed the House February 12, 1997.

Passed the Senate April 9, 1997.

Approved by the Governor April 21, 1997.

Filed in Office of Secretary of State April 21, 1997.

CHAPTER 96

[House Bill 1066]

STATE FACILITY MAINTENANCE—REFORMS

AN ACT Relating to the maintenance of state facilities; amending RCW 43.82.150, 43.88.032, and 43.88.110; reenacting and amending RCW 43.88.030; adding a new section to chapter 43.82 RCW; and creating a new section.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. Sec. 1. The legislature finds that the capital stock of facilities owned by state agencies represents a significant financial investment by the citizens of the state of Washington, and that providing agencies with the tools and incentives needed to adequately maintain state facilities is critically important to realizing the full value of this investment. The legislature also finds that ongoing reporting of facility inventory, condition, and maintenance information by agencies will improve accountability and assist in the evaluation of budget requests and facility management by the legislature and governor. The purpose of this act is to ensure that recent enhancements to facility and maintenance reporting systems implemented by the office of financial management, and a new program created by the department of general administration to provide maintenance information and technical assistance to state and local agencies, are sustained into the future.

Sec. 2. RCW 43.82.150 and 1993 c 325 s 1 are each amended to read as follows:

(1) The office of financial management shall develop and maintain an inventory system to account for all owned or leased facilities utilized by state government. At a minimum, the inventory system must include the location, type, condition, and size of each facility. In addition, for owned facilities, the inventory system must include the date and cost of original construction and the cost of any major remodeling or renovation. ~~((The system must be developed by January 1, 1994, and the initial inventory must be completed by June 30, 1994.))~~ The

inventory must be updated by June 30 of each ((subsequent)) year. The office of financial management shall publish a report summarizing information contained in the inventory system for each agency by October 1 of each year, beginning in 1997.

(2) All agencies, departments, boards, commissions, and institutions of the state of Washington shall provide to the office of financial management a complete inventory of owned and leased facilities by May 30, 1994. The inventory must be updated and submitted to the office of financial management by May 30 of each subsequent year. The inventories required under this subsection must be submitted in a standard format prescribed by the office of financial management.

(3) For the purposes of this section, "facilities" means buildings and other structures with walls and a roof. "Facilities" does not mean roads, bridges, parking areas, utility systems, and other similar improvements to real property.

NEW SECTION. **Sec. 3.** A new section is added to chapter 43.82 RCW to read as follows:

The department of general administration shall provide information, technical assistance, and consultation on physical plant operation and maintenance issues to state and local governments through the operation of a plant operation and support program. The program shall be funded by voluntary subscription charges and service fees.

Sec. 4. RCW 43.88.030 and 1994 c 247 s 7 and 1994 c 219 s 2 are each reenacted and amended to read as follows:

(1) The director of financial management shall provide all agencies with a complete set of instructions for submitting biennial budget requests to the director at least three months before agency budget documents are due into the office of financial management. The director shall provide agencies that are required under RCW 44.40.070 to develop comprehensive six-year program and financial plans with a complete set of instructions for submitting these program and financial plans at the same time that instructions for submitting other budget requests are provided. The budget document or documents shall consist of the governor's budget message which shall be explanatory of the budget and shall contain an outline of the proposed financial policies of the state for the ensuing fiscal period, as well as an outline of the proposed six-year financial policies where applicable, and shall describe in connection therewith the important features of the budget. The message shall set forth the reasons for salient changes from the previous fiscal period in expenditure and revenue items and shall explain any major changes in financial policy. Attached to the budget message shall be such supporting schedules, exhibits and other explanatory material in respect to both current operations and capital improvements as the governor shall deem to be useful to the legislature. The budget document or documents shall set forth a proposal for expenditures in the ensuing fiscal period, or six-year period where applicable, based upon the estimated revenues as approved by the economic and revenue forecast council or upon the estimated revenues of the office of financial

management for those funds, accounts, and sources for which the office of the economic and revenue forecast council does not prepare an official forecast, including those revenues anticipated to support the six-year programs and financial plans under RCW 44.40.070. In estimating revenues to support financial plans under RCW 44.40.070, the office of financial management shall rely on information and advice from the interagency revenue task force. Revenues shall be estimated for such fiscal period from the source and at the rates existing by law at the time of submission of the budget document, including the supplemental budgets submitted in the even-numbered years of a biennium. However, the estimated revenues for use in the governor's budget document may be adjusted to reflect budgetary revenue transfers and revenue estimates dependent upon budgetary assumptions of enrollments, workloads, and caseloads. All adjustments to the approved estimated revenues must be set forth in the budget document. The governor may additionally submit, as an appendix to each supplemental, biennial, or six-year agency budget or to the budget document or documents, a proposal for expenditures in the ensuing fiscal period from revenue sources derived from proposed changes in existing statutes.

Supplemental and biennial documents shall reflect a six-year expenditure plan consistent with estimated revenues from existing sources and at existing rates for those agencies required to submit six-year program and financial plans under RCW 44.40.070. Any additional revenue resulting from proposed changes to existing statutes shall be separately identified within the document as well as related expenditures for the six-year period.

The budget document or documents shall also contain:

(a) Revenues classified by fund and source for the immediately past fiscal period, those received or anticipated for the current fiscal period, those anticipated for the ensuing biennium, and those anticipated for the ensuing six-year period to support the six-year programs and financial plans required under RCW 44.40.070;

(b) The undesignated fund balance or deficit, by fund;

(c) Such additional information dealing with expenditures, revenues, workload, performance, and personnel as the legislature may direct by law or concurrent resolution;

(d) Such additional information dealing with revenues and expenditures as the governor shall deem pertinent and useful to the legislature;

(e) Tabulations showing expenditures classified by fund, function, activity and object;

(f) A delineation of each agency's activities, including those activities funded from nonbudgeted, nonappropriated sources, including funds maintained outside the state treasury;

(g) Identification of all proposed direct expenditures to implement the Puget Sound water quality plan under chapter 90.70 RCW, shown by agency and in total; and

(h) Tabulations showing each postretirement adjustment by retirement system established after fiscal year 1991, to include, but not be limited to, estimated total payments made to the end of the previous biennial period, estimated payments for the present biennium, and estimated payments for the ensuing biennium.

(2) The budget document or documents shall include detailed estimates of all anticipated revenues applicable to proposed operating or capital expenditures and shall also include all proposed operating or capital expenditures. The total of beginning undesignated fund balance and estimated revenues less working capital and other reserves shall equal or exceed the total of proposed applicable expenditures. The budget document or documents shall further include:

(a) Interest, amortization and redemption charges on the state debt;

(b) Payments of all reliefs, judgments and claims;

(c) Other statutory expenditures;

(d) Expenditures incident to the operation for each agency;

(e) Revenues derived from agency operations;

(f) Expenditures and revenues shall be given in comparative form showing those incurred or received for the immediately past fiscal period and those anticipated for the current biennium and next ensuing biennium, as well as those required to support the six-year programs and financial plans required under RCW 44.40.070;

(g) A showing and explanation of amounts of general fund and other funds obligations for debt service and any transfers of moneys that otherwise would have been available for appropriation;

(h) Common school expenditures on a fiscal-year basis;

(i) A showing, by agency, of the value and purpose of financing contracts for the lease/purchase or acquisition of personal or real property for the current and ensuing fiscal periods; and

(j) A showing and explanation of anticipated amounts of general fund and other funds required to amortize the unfunded actuarial accrued liability of the retirement system specified under chapter 41.45 RCW, and the contributions to meet such amortization, stated in total dollars and as a level percentage of total compensation.

(3) A separate capital budget document or schedule shall be submitted that will contain the following:

(a) A statement setting forth a long-range facilities plan for the state that identifies and includes the highest priority needs within affordable spending levels;

(b) A capital program consisting of proposed capital projects for the next biennium and the two biennia succeeding the next biennium consistent with the long-range facilities plan. Inasmuch as is practical, and recognizing emergent needs, the capital program shall reflect the priorities, projects, and spending levels proposed in previously submitted capital budget documents in order to provide a reliable long-range planning tool for the legislature and state agencies;

(c) A capital plan consisting of proposed capital spending for at least four biennia succeeding the next biennium;

(d) A strategic plan for reducing backlogs of maintenance and repair projects. The plan shall include a prioritized list of specific facility deficiencies and capital projects to address the deficiencies for each agency, cost estimates for each project, a schedule for completing projects over a reasonable period of time, and identification of normal maintenance activities to reduce future backlogs;

~~(e)~~ (e) A statement of the reason or purpose for a project;

~~((e))~~ (f) Verification that a project is consistent with the provisions set forth in chapter 36.70A RCW;

~~((f))~~ (g) A statement about the proposed site, size, and estimated life of the project, if applicable;

~~((g))~~ (h) Estimated total project cost;

~~((h))~~ (i) For major projects valued over five million dollars, estimated costs for the following project components: Acquisition, consultant services, construction, equipment, project management, and other costs included as part of the project. Project component costs shall be displayed in a standard format defined by the office of financial management to allow comparisons between projects;

~~((i))~~ (j) Estimated total project cost for each phase of the project as defined by the office of financial management;

~~((j))~~ (k) Estimated ensuing biennium costs;

~~((k))~~ (l) Estimated costs beyond the ensuing biennium;

~~((l))~~ (m) Estimated construction start and completion dates;

~~((m))~~ (n) Source and type of funds proposed;

~~((n))~~ (o) Estimated ongoing operating budget costs or savings resulting from the project, including staffing and maintenance costs;

~~((o))~~ (p) For any capital appropriation requested for a state agency for the acquisition of land or the capital improvement of land in which the primary purpose of the acquisition or improvement is recreation or wildlife habitat conservation, the capital budget document, or an omnibus list of recreation and habitat acquisitions provided with the governor's budget document, shall identify the projected costs of operation and maintenance for at least the two biennia succeeding the next biennium. Omnibus lists of habitat and recreation land acquisitions shall include individual project cost estimates for operation and maintenance as well as a total for all state projects included in the list. The document shall identify the source of funds from which the operation and maintenance costs are proposed to be funded;

~~((p))~~ (q) Such other information bearing upon capital projects as the governor deems to be useful;

~~((q))~~ (r) Standard terms, including a standard and uniform definition of normal maintenance, for all capital projects;

~~((+))~~ (s) Such other information as the legislature may direct by law or concurrent resolution.

For purposes of this subsection (3), the term "capital project" shall be defined subsequent to the analysis, findings, and recommendations of a joint committee comprised of representatives from the house capital appropriations committee, senate ways and means committee, legislative transportation committee, legislative evaluation and accountability program committee, and office of financial management.

(4) No change affecting the comparability of agency or program information relating to expenditures, revenues, workload, performance and personnel shall be made in the format of any budget document or report presented to the legislature under this section or RCW 43.88.160(1) relative to the format of the budget document or report which was presented to the previous regular session of the legislature during an odd-numbered year without prior legislative concurrence. Prior legislative concurrence shall consist of (a) a favorable majority vote on the proposal by the standing committees on ways and means of both houses if the legislature is in session or (b) a favorable majority vote on the proposal by members of the legislative evaluation and accountability program committee if the legislature is not in session.

Sec. 5. RCW 43.88.032 and 1994 c 219 s 4 are each amended to read as follows:

(1) ~~((Annual ongoing or routine))~~ Normal maintenance costs shall be programmed in the operating budget rather than in the capital budget.

(2) All debt-financed pass-through money to local governments shall be programmed and separately identified in the budget document.

Sec. 6. RCW 43.88.110 and 1994 c 219 s 5 are each amended to read as follows:

This section sets forth the expenditure programs and the allotment and reserve procedures to be followed by the executive branch for public funds.

(1) Allotments of an appropriation for any fiscal period shall conform to the terms, limits, or conditions of the appropriation.

(2) The director of financial management shall provide all agencies with a complete set of operating and capital instructions for preparing a statement of proposed expenditures at least thirty days before the beginning of a fiscal period. The set of instructions need not include specific appropriation amounts for the agency.

(3) Within forty-five days after the beginning of the fiscal period or within forty-five days after the governor signs the omnibus biennial appropriations act, whichever is later, all agencies shall submit to the governor a statement of proposed expenditures at such times and in such form as may be required by the governor.

(4) The office of financial management shall develop a method for monitoring capital appropriations and expenditures that will capture at least the following elements:

- (a) Appropriations made for capital projects including transportation projects;
- (b) Estimates of total project costs including past, current, ensuing, and future biennial costs;
- (c) Comparisons of actual costs to estimated costs;
- (d) Comparisons of estimated construction start and completion dates with actual dates;
- (e) Documentation of fund shifts between projects.

This data may be incorporated into the existing accounting system or into a separate project management system, as deemed appropriate by the office of financial management.

(5) The office of financial management shall publish agency annual maintenance summary reports beginning in October 1997. State agencies shall submit a separate report for each major campus or site, as defined by the office of financial management. Reports shall be prepared in a format prescribed by the office of financial management and shall include, but not be limited to: Information describing the number, size, and condition of state-owned facilities; facility maintenance, repair, and operating expenses paid from the state operating and capital budgets, including maintenance staffing levels; the condition of major infrastructure systems; and maintenance management initiatives undertaken by the agency over the prior year. Agencies shall submit their annual maintenance summary reports to the office of financial management by September 1 each year.

(6) The office of financial management, prior to approving allotments for major capital construction projects valued over five million dollars, shall institute procedures for reviewing such projects at the predesign stage that will reduce long-term costs and increase facility efficiency. The procedures shall include, but not be limited to, the following elements:

- (a) Evaluation of facility program requirements and consistency with long-range plans;
- (b) Utilization of a system of cost, quality, and performance standards to compare major capital construction projects; and
- (c) A requirement to incorporate value-engineering analysis and constructability review into the project schedule.

~~((6))~~ (7) No expenditure may be incurred or obligation entered into for such major capital construction projects including, without exception, land acquisition, site development, predesign, design, construction, and equipment acquisition and installation, until the allotment of the funds to be expended has been approved by the office of financial management. This limitation does not prohibit the continuation of expenditures and obligations into the succeeding biennium for projects for which allotments have been approved in the immediate prior biennium.

~~((7))~~ (8) If at any time during the fiscal period the governor projects a cash deficit in a particular fund or account as defined by RCW 43.88.050, the governor shall make across-the-board reductions in allotments for that particular fund or account so as to prevent a cash deficit, unless the legislature has directed the liquidation of the cash deficit over one or more fiscal periods. Except for the legislative and judicial branches and other agencies headed by elective officials, the governor shall review the statement of proposed operating expenditures for reasonableness and conformance with legislative intent. Once the governor approves the statements of proposed operating expenditures, further revisions shall be made only at the beginning of the second fiscal year and must be initiated by the governor. However, changes in appropriation level authorized by the legislature, changes required by across-the-board reductions mandated by the governor, changes caused by executive increases to spending authority, and changes caused by executive decreases to spending authority for failure to comply with the provisions of chapter 36.70A RCW may require additional revisions. Revisions shall not be made retroactively. Revisions caused by executive increases to spending authority shall not be made after June 30, 1987. However, the governor may assign to a reserve status any portion of an agency appropriation withheld as part of across-the-board reductions made by the governor and any portion of an agency appropriation conditioned on a contingent event by the appropriations act. The governor may remove these amounts from reserve status if the across-the-board reductions are subsequently modified or if the contingent event occurs. The director of financial management shall enter approved statements of proposed expenditures into the state budgeting, accounting, and reporting system within forty-five days after receipt of the proposed statements from the agencies. If an agency or the director of financial management is unable to meet these requirements, the director of financial management shall provide a timely explanation in writing to the legislative fiscal committees.

~~((8))~~ (9) It is expressly provided that all agencies shall be required to maintain accounting records and to report thereon in the manner prescribed in this chapter and under the regulations issued pursuant to this chapter. Within ninety days of the end of the fiscal year, all agencies shall submit to the director of financial management their final adjustments to close their books for the fiscal year. Prior to submitting fiscal data, written or oral, to committees of the legislature, it is the responsibility of the agency submitting the data to reconcile it with the budget and accounting data reported by the agency to the director of financial management.

~~((9))~~ (10) The director of financial management shall monitor agency operating expenditures against the approved statement of proposed expenditures and shall provide the legislature with quarterly explanations of major variances.

~~((10))~~ (11) The director of financial management may exempt certain public funds from the allotment controls established under this chapter if it is not practical or necessary to allot the funds. Allotment control exemptions expire at the end of

the fiscal biennium for which they are granted. The director of financial management shall report any exemptions granted under this subsection to the legislative fiscal committees.

Passed the House February 28, 1997.

Passed the Senate April 9, 1997.

Approved by the Governor April 21, 1997.

Filed in Office of Secretary of State April 21, 1997.

CHAPTER 97

[House Bill 1067]

MOTOR VEHICLE OFFENSES INVOLVING DEATHS—REMOVAL OF LIMITS ON COMMENCEMENT OF PROSECUTIONS

AN ACT Relating to motor vehicle offenses involving deaths; and reenacting and amending RCW 9A.04.080.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 9A.04.080 and 1995 c 287 s 5 and 1995 c 17 s 1 are each reenacted and amended to read as follows:

(1) Prosecutions for criminal offenses shall not be commenced after the periods prescribed in this section.

(a) The following offenses may be prosecuted at any time after their commission:

(i) Murder;

(ii) Homicide by abuse;

(iii) Arson if a death results;

(iv) Vehicular homicide;

(v) Vehicular assault if a death results;

(vi) Hit-and-run injury-accident if a death results (RCW 46.52.020(4)).

(b) The following offenses shall not be prosecuted more than ten years after their commission:

(i) Any felony committed by a public officer if the commission is in connection with the duties of his or her office or constitutes a breach of his or her public duty or a violation of the oath of office;

(ii) Arson if no death results; or

(iii) Violations of RCW 9A.44.040 or 9A.44.050 if the rape is reported to a law enforcement agency within one year of its commission; except that if the victim is under fourteen years of age when the rape is committed and the rape is reported to a law enforcement agency within one year of its commission, the violation may be prosecuted up to three years after the victim's eighteenth birthday or up to ten years after the rape's commission, whichever is later. If a violation of RCW 9A.44.040 or 9A.44.050 is not reported within one year, the rape may not be prosecuted: (A) More than three years after its commission if the violation was committed against a victim fourteen years of age or older; or (B) more than three years after the victim's eighteenth birthday or more than seven years after the rape's

commission, whichever is later, if the violation was committed against a victim under fourteen years of age.

(c) Violations of the following statutes shall not be prosecuted more than three years after the victim's eighteenth birthday or more than seven years after their commission, whichever is later: RCW 9A.44.073, 9A.44.076, 9A.44.083, 9A.44.086, 9A.44.070, 9A.44.080, 9A.44.100(1)(b), or 9A.64.020.

(d) The following offenses shall not be prosecuted more than six years after their commission: Violations of RCW 9A.82.060 or 9A.82.080.

(e) The following offenses shall not be prosecuted more than five years after their commission: Any class C felony under chapter 74.09, 82.36, or 82.38 RCW.

(f) Bigamy shall not be prosecuted more than three years after the time specified in RCW 9A.64.010.

(g) No other felony may be prosecuted more than three years after its commission.

(h) No gross misdemeanor may be prosecuted more than two years after its commission.

(i) No misdemeanor may be prosecuted more than one year after its commission.

(2) The periods of limitation prescribed in subsection (1) of this section do not run during any time when the person charged is not usually and publicly resident within this state.

(3) If, before the end of a period of limitation prescribed in subsection (1) of this section, an indictment has been found or a complaint or an information has been filed, and the indictment, complaint, or information is set aside, then the period of limitation is extended by a period equal to the length of time from the finding or filing to the setting aside.

Passed the House February 3, 1997.

Passed the Senate April 9, 1997.

Approved by the Governor April 21, 1997.

Filed in Office of Secretary of State April 21, 1997.

CHAPTER 98

[Substitute House Bill 1200]

**AUTHORIZING EMPLOYMENT OF SPOUSES OF PUBLIC HOSPITAL DISTRICT
COMMISSIONERS BY THE DISTRICTS**

AN ACT Relating to the code of ethics for municipal officers; and amending RCW 42.23.030.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 42.23.030 and 1996 c 246 s 1 are each amended to read as follows:

No municipal officer shall be beneficially interested, directly or indirectly, in any contract which may be made by, through or under the supervision of such officer, in whole or in part, or which may be made for the benefit of his or her

office, or accept, directly or indirectly, any compensation, gratuity or reward in connection with such contract from any other person beneficially interested therein. This section shall not apply in the following cases:

(1) The furnishing of electrical, water or other utility services by a municipality engaged in the business of furnishing such services, at the same rates and on the same terms as are available to the public generally;

(2) The designation of public depositories for municipal funds;

(3) The publication of legal notices required by law to be published by any municipality, upon competitive bidding or at rates not higher than prescribed by law for members of the general public;

(4) The designation of a school director as clerk or as both clerk and purchasing agent of a school district;

(5) The employment of any person by a municipality, other than a county with a population of one hundred twenty-five thousand or more, a city of the first or second class, an irrigation district encompassing in excess of fifty thousand acres, or a first class school district, for unskilled day labor at wages not exceeding one hundred dollars in any calendar month;

(6) The letting of any other contract (except a sale or lease as seller or lessor) by a municipality, other than a county with a population of one hundred twenty-five thousand or more, a city with a population of ten thousand or more, or an irrigation district encompassing in excess of fifty thousand acres: **PROVIDED**, That the total volume of business represented by such contract or contracts in which a particular officer is interested, singly or in the aggregate, as measured by the dollar amount of the municipality's liability thereunder, shall not exceed seven hundred fifty dollars in any calendar month: **PROVIDED FURTHER**, That in the case of a particular officer of a second class city or town, or a noncharter optional code city, or a member of any county fair board in a county which has not established a county purchasing department pursuant to RCW 36.32.240, the total volume of such contract or contracts authorized in this subsection may exceed seven hundred fifty dollars in any calendar month but shall not exceed nine thousand dollars in any calendar year: **PROVIDED FURTHER**, That there shall be public disclosure by having an available list of such purchases or contracts, and if the supplier or contractor is an official of the municipality, he or she shall not vote on the authorization: **PROVIDED FURTHER**, That in the case of a first class school district, there shall be notice of the proposed contract by publication given in one or more newspapers of general circulation within the district;

(7) The leasing by a port district as lessor of port district property to a municipal officer or to a contracting party in which a municipal officer may be beneficially interested, if in addition to all other legal requirements, a board of three disinterested appraisers, who shall be appointed from members of the American institute of real estate appraisers by the presiding judge of the superior court in the county where the property is situated, shall find and the court finds that

all terms and conditions of such lease are fair to the port district and are in the public interest;

(8) The letting of any employment contract for the driving of a school bus in a second class school district: **PROVIDED**, That the terms of such contract shall be commensurate with the pay plan or collective bargaining agreement operating in the district;

(9) The letting of any employment contract to the spouse of an officer of a second class school district in which less than two hundred full time equivalent students are enrolled at the start of the school year as defined in RCW 28A.150.040, when such contract is solely for employment as a certificated or classified employee of the school district, or the letting of any contract to the spouse of an officer of a school district, when such contract is solely for employment as a substitute teacher for the school district: **PROVIDED**, That the terms of such contract shall be commensurate with the pay plan or collective bargaining agreement applicable to all district employees and the board of directors has found, consistent with the written policy under RCW 28A.330.240, that there is a shortage of substitute teachers in the school district;

(10) The letting of any employment contract to the spouse of an officer of a school district if the spouse was under contract as a certificated or classified employee with the school district before the date in which the officer assumes office: **PROVIDED**, That the terms of such contract shall be commensurate with the pay plan or collective bargaining agreement operating in the district;

(11) The authorization, approval, or ratification of any employment contract with the spouse of a public hospital district commissioner if: (a) The spouse was employed by the public hospital district before the date the commissioner was initially elected; (b) the terms of the contract are commensurate with the pay plan or collective bargaining agreement operating in the district for similar employees; (c) the interest of the commissioner is disclosed to the board of commissioners and noted in the official minutes or similar records of the public hospital district prior to the letting or continuation of the contract; (d) and the commissioner does not vote on the authorization, approval, or ratification of the contract or any conditions in the contract.

Passed the House March 5, 1997.

Passed the Senate April 9, 1997.

Approved by the Governor April 21, 1997.

Filed in Office of Secretary of State April 21, 1997.

CHAPTER 99

[Substitute House Bill 1271]

PUBLIC HOSPITAL DISTRICTS—ELECTIONS, FORMATION, AND RESTRUCTURING

AN ACT Relating to public hospital district elections; amending RCW 70.44.040, 70.44.042, and 70.44.053; adding new sections to chapter 70.44 RCW; and declaring an emergency.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 70.44.040 and 1994 c 223 s 78 are each amended to read as follows:

(1) The provisions of Title 29 RCW relating to elections shall govern public hospital districts, except as provided in this chapter.

A public hospital district shall be created when the ballot proposition authorizing the creation of the district is approved by a simple majority vote of the voters of the proposed district voting on the proposition and the total vote cast upon the proposition exceeds forty percent of the total number of votes cast in the proposed district at the preceding state general election.

A public hospital district initially may be created with three, five, or seven commissioner districts. At the election at which the proposition is submitted to the voters as to whether a district shall be formed, three, five, or seven commissioners shall be elected from either three, five, or seven commissioner districts, or at-large positions, or both, as determined by resolution of the county commissioners of the county or counties in which the proposed public hospital district is located, all in accordance with section 4 of this act. The election of the initial commissioners shall be null and void if the district is not authorized to be created.

No primary shall be held. A special filing period shall be opened as provided in RCW 29.15.170 and 29.15.180. The person receiving the greatest number of votes for the commissioner of each commissioner district or at-large position shall be elected as the commissioner of that district. The terms of office of the initial public hospital district commissioners shall be staggered, with the length of the terms assigned so that the person or persons who are elected receiving the greater number of votes being assigned a longer term or terms of office and each term of an initial commissioner running until a successor assumes office who is elected at one of the next three following district general elections the first of which occurs at least one hundred twenty days after the date of the election where voters approved the ballot proposition creating the district, as follows:

(a) ~~((The person who is elected receiving the greatest number of votes shall be elected to a six-year term of office if the election is held in an odd-numbered year or a five-year term of office if the election is held in an even-numbered year;~~
 (b) ~~the person who is elected receiving the next greatest number of votes shall be elected to a four-year term of office if the election is held in an odd-numbered year or a three-year term of office if the election is held in an even-numbered year; and~~
 (c) ~~the other person who is elected shall be elected to a two-year term of office if the election is held in an odd-numbered year or a one-year term of office if the election is held in an even-numbered year))~~ If the public hospital district will have three commissioners, the successor to one initial commissioner shall be elected at such first following district general election, the successor to one initial commissioner shall be elected at the second following district general election, and the successor to one initial commissioner shall be elected at the third following district general election;

(b) If the public hospital district will have five commissioners, the successor to one initial commissioner shall be elected at such first following district general election, the successors to two initial commissioners shall be elected at the second following district general election, and the successors to two initial commissioners shall be elected at the third following district general election;

(c) If the public hospital district will have seven commissioners, the successors to two initial commissioners shall be elected at such first following district general election, the successors to three initial commissioners shall be elected at the second following district general election, and the successors to three initial commissioners shall be elected at the third following district general election.

The initial commissioners shall take office immediately when they are elected and qualified (~~(; but the length of such terms shall be computed from the first day of January in the year following this election)~~). The term of office of each successor shall be six years. Each commissioner shall serve until a successor is elected and qualified and assumes office in accordance with RCW 29.04.170.

(2) (~~(Commissioner districts shall be used as follows: (a))~~) Only a registered voter who resides in a commissioner district may be a candidate for, or hold office as, a commissioner of the commissioner district (~~(; and (b) only voters of a commissioner district may vote at a primary to nominate candidates for a commissioner of the commissioner district)~~). Voters of the entire public hospital district may vote at a primary or general election to elect a person as a commissioner of the commissioner district.

If the proposed public hospital district initially will have three commissioner districts and the public hospital district is county-wide, and if the county has three county legislative authority districts, the county legislative authority districts shall be used as public hospital district commissioner districts. In all other instances the county auditor of the county in which all or the largest portion of the proposed public hospital district is located shall draw the initial ~~((three))~~ public hospital district commissioner districts (~~(; each of which shall constitute as nearly as possible one-third of the total population of the proposed public hospital district and number the districts one, two, and three)~~) and designate at-large positions, if appropriate, as provided in section 4 of this act. Each of the ~~((three))~~ commissioner positions shall be numbered ~~((one through three))~~ consecutively and associated with the commissioner district or at-large position of the same number.

~~((The public hospital district commissioners may redraw commissioner districts, if the public hospital district has boundaries that are not coterminous with the boundaries of a county with three county legislative authority districts, so that each district comprises as nearly as possible one-third of the total population of the public hospital district.))~~ The commissioners of a public hospital district that is not coterminous with the boundaries of a county that has three county legislative authority districts shall at the times required in chapter 29.70 RCW and may from time to time redraw ~~((hospital district))~~ commissioner district boundaries ~~((as provided))~~ in a manner consistent with chapter 29.70 RCW.

Sec. 2. RCW 70.44.042 and 1967 c 227 s 2 are each amended to read as follows:

Notwithstanding any provision in RCW 70.44.040 to the contrary, any board of public hospital district commissioners may, by resolution, abolish commissioner districts and permit candidates for any position on the board to reside anywhere in the public hospital district.

At any general or special election which may be called for that purpose, the board of public hospital district commissioners may, or on petition of ten percent of the voters based on the total vote cast in the last district general election in the public hospital district shall, by resolution, submit to the voters of the district the proposition to reestablish commissioner districts.

Sec. 3. RCW 70.44.053 and 1994 c 223 s 80 are each amended to read as follows:

At any general or special election which may be called for that purpose the board of public hospital district commissioners may, or on petition of ten percent of the voters based on the total vote cast in the last district general election in the public hospital district shall, by resolution, submit to the voters of the district the proposition increasing the number of commissioners to either five or seven members. The petition or resolution shall specify whether it is proposed to increase the number of commissioners to either five or seven members.

~~((If the voters of the district approve the ballot proposition authorizing the increase in the number of commissioners to either five or seven members, the board of commissioners shall redistrict the public hospital district into the appropriate number of commissioner districts. The additional commissioners shall be elected from commissioner districts in which no existing commissioner resides at the next state general election occurring one hundred twenty days or more after the date of the election at which the voters of the district approved the ballot proposition authorizing the increase in the number of commissioners. If needed, special filing periods shall be authorized as provided in RCW 29.15.170 and 29.15.180 for qualified persons to file for the vacant office. A primary shall be held to nominate candidates if sufficient time exists to hold a primary and more than two candidates file for the vacant office. Otherwise, a primary shall not be held and the candidate receiving the greatest number of votes for each position shall be elected. Except for the initial terms of office, persons elected to each of these additional commissioner positions shall be elected to a six-year term.~~

~~—Where the number of commissioners is increased from three to five, the initial terms of the two new commissioners shall be staggered so that the person who is elected receiving the greatest number of votes shall be elected to a six-year term of office if the election is held in an odd-numbered year or a five-year term if the election is held in an even-numbered year, and the other person elected shall be elected to a four-year term of office if the election is held in an odd-numbered year or a three-year term if the election is held in an even-numbered year. The newly elected commissioners shall assume office as provided in RCW 29.04.170.~~

~~—Where the number of commissioners is increased from three or five to seven, the county auditor of the county in which all or the largest portion of the hospital district is located shall cause the initial terms of office of the additional commissioners to be staggered over the next three district general elections so that two commissioners would normally be elected at the first district general election following the election where the additional commissioners are elected, two commissioners are normally elected at the second district general election after the election of the additional commissioners, and three commissioners are normally elected at the third district general election following the election of the additional commissioners. The newly elected commissioners shall assume office as provided in RCW 29.04.170.)~~

NEW SECTION. Sec. 4. A new section is added to chapter 70.44 RCW to read as follows:

If the voters of the district approve the ballot proposition authorizing the increase in the number of commissioners to either five or seven members, the additional commissioners shall be elected at large from the entire district; provided that, the board of commissioners of the district may by resolution redistrict the public hospital district into five commissioner districts if the district has five commissioners or seven commissioner districts if the district has seven commissioners. The board of commissioners shall draw the boundaries of each commissioner district to include as nearly as possible equal portions of the total population of the public hospital district.

If the board of commissioners increases the number of commissioner districts as provided in this section, one commissioner shall be elected from each commissioner district, and no commissioner may be elected from a commissioner district in which another commissioner resides.

NEW SECTION. Sec. 5. A new section is added to chapter 70.44 RCW to read as follows:

In all existing public hospital districts in which an increase in the number of district commissioners is proposed, the additional commissioner positions shall be deemed to be vacant and the board of commissioners of the public hospital district shall appoint qualified persons to fill those vacancies in accordance with RCW 42.12.070.

Each person who is appointed shall serve until a qualified person is elected at the next general election of the district occurring one hundred twenty days or more after the date of the election at which the voters of the district approved the ballot proposition authorizing the increase in the number of commissioners. If needed, special filing periods shall be authorized as provided in RCW 29.15.170 and 29.15.180 for qualified persons to file for the vacant office. A primary shall be held to nominate candidates if sufficient time exists to hold a primary and more than two candidates file for the vacant office. Otherwise, no primary shall be held and the candidate receiving the greatest number of votes for each position shall be elected. Except for the initial terms of office, persons elected to each of these

additional commissioner positions shall be elected to a six-year term. The newly elected commissioners shall assume office as provided in RCW 29.04.170.

The initial terms of the new commissioners shall be staggered as follows: (1) When the number of commissioners is increased from three to five, the person elected receiving the greatest number of votes shall be elected to a six-year term of office, and the other person shall be elected to a four-year term; (2) when the number of commissioners is increased from three or five to seven, the terms of the new commissioners shall be staggered over the next three district general elections so that two commissioners will be elected at the first district general election following the election where the additional commissioners are elected, two commissioners will be at the second district general election after the election of the additional commissioners, and three commissioners will be elected at the third district general election following the election of the additional commissioners, with the persons elected receiving the greatest number of votes elected to serve the longest terms.

NEW SECTION. Sec. 6. A new section is added to chapter 70.44 RCW to read as follows:

If, as the result of redrawing the boundaries of commissioner districts as permitted or required under the provisions of this chapter, chapter 29.70 RCW, or any other statute, more than the correct number of commissioners who are associated with commissioner districts reside in the same commissioner district, a commissioner or commissioners residing in that redrawn commissioner district equal in number to the number of commissioners in excess of the correct number shall be assigned to the drawn commissioner district or districts in which less than the correct number of commissioners associated with commissioner districts reside. The commissioner or commissioners who are so assigned shall be those with the shortest unexpired term or terms of office, but if the number of such commissioners with the same terms of office exceeds the number that are to be assigned, the board of commissioners shall select by lot from those commissioners which one or ones are assigned. A commissioner who is so assigned shall be deemed to be a resident of the commissioner district to which he or she is assigned for purposes of determining whether a position is vacant.

NEW SECTION. Sec. 7. A new section is added to chapter 70.44 RCW to read as follows:

No appointment to fill a vacant position on or election to the board of commissioners of any public hospital district made after June 9, 1994, and before the effective date of this act is deemed to be invalid solely due to the public hospital district's failure to redraw its commissioner district boundaries if necessary to comply with chapter 223, Laws of 1994.

NEW SECTION. Sec. 8. This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately.

Passed the House February 21, 1997.
Passed the Senate April 9, 1997.
Approved by the Governor April 21, 1997.
Filed in Office of Secretary of State April 21, 1997.

CHAPTER 100

[House Bill 1278]

AUTHORIZING THE USE OF "LAGER" ON MALT LIQUOR PACKAGES

AN ACT Relating to requiring beer manufacturers to use the term lager on the outside label of contents of packages containing malt liquor; and amending RCW 66.28.120 and 66.04.010.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 66.28.120 and 1982 c 39 s 2 are each amended to read as follows:

Every person manufacturing or distributing malt liquor for sale within the state shall put upon all packages containing malt liquor so manufactured or distributed a distinctive label showing the nature of the contents, the name of the person by whom the malt liquor was manufactured, and the place where it was manufactured. For the purpose of this section, the contents of packages containing malt liquor shall be shown by the use of the word "beer," "ale," "malt liquor," "lager," "stout," or "porter," on the outside of the packages.

**Sec. 2. RCW 66.04.010 and 1991 c 192 s 1 are each amended to read as follows:*

In this title, unless the context otherwise requires:

(1) "Alcohol" is that substance known as ethyl alcohol, hydrated oxide of ethyl, or spirit of wine, which is commonly produced by the fermentation or distillation of grain, starch, molasses, or sugar, or other substances including all dilutions and mixtures of this substance. The term "alcohol" does not include alcohol in the possession of a manufacturer or distiller of alcohol fuel, as described in RCW 66.12.130, which is intended to be denatured and used as a fuel for use in motor vehicles, farm implements, and machines or implements of husbandry.

(2) "Beer" means any malt beverage or malt liquor as these terms are defined in this chapter.

(3) "Brewer" means any person engaged in the business of manufacturing beer and malt liquor.

(4) "Board" means the liquor control board, constituted under this title.

(5) "Club" means an organization of persons, incorporated or unincorporated, operated solely for fraternal, benevolent, educational, athletic or social purposes, and not for pecuniary gain.

(6) "Consume" includes the putting of liquor to any use, whether by drinking or otherwise.

(7) *"Dentist"* means a practitioner of dentistry duly and regularly licensed and engaged in the practice of his profession within the state pursuant to chapter 18.32 RCW.

(8) *"Distiller"* means a person engaged in the business of distilling spirits.

(9) *"Druggist"* means any person who holds a valid certificate and is a registered pharmacist and is duly and regularly engaged in carrying on the business of pharmaceutical chemistry pursuant to chapter 18.64 RCW.

(10) *"Drug store"* means a place whose principal business is, the sale of drugs, medicines and pharmaceutical preparations and maintains a regular prescription department and employs a registered pharmacist during all hours the drug store is open.

(11) *"Employee"* means any person employed by the board, including a vendor, as hereinafter in this section defined.

(12) *"Fund"* means 'liquor revolving fund.'

(13) *"Hotel"* means every building or other structure kept, used, maintained, advertised or held out to the public to be a place where food is served and sleeping accommodations are offered for pay to transient guests, in which twenty or more rooms are used for the sleeping accommodation of such transient guests and having one or more dining rooms where meals are served to such transient guests, such sleeping accommodations and dining rooms being conducted in the same building and buildings, in connection therewith, and such structure or structures being provided, in the judgment of the board, with adequate and sanitary kitchen and dining room equipment and capacity, for preparing, cooking and serving suitable food for its guests: **PROVIDED FURTHER**, That in cities and towns of less than five thousand population, the board shall have authority to waive the provisions requiring twenty or more rooms.

(14) *"Imprisonment"* means confinement in the county jail.

(15) *"Liquor"* includes the four varieties of liquor herein defined (aleohol, spirits, wine and beer), and all fermented, spirituous, vinous, or malt liquor, or combinations thereof, and mixed liquor, a part of which is fermented, spirituous, vinous or malt liquor, or otherwise intoxicating; and every liquid or solid or semisolid or other substance, patented or not, containing alcohol, spirits, wine or beer, and all drinks or drinkable liquids and all preparations or mixtures capable of human consumption, and any liquid, semisolid, solid, or other substance, which contains more than one percent of alcohol by weight shall be conclusively deemed to be intoxicating. Liquor does not include confections or food products that contain one percent or less of alcohol by weight.

(16) *"Manufacturer"* means a person engaged in the preparation of liquor for sale, in any form whatsoever.

(17) *"Malt beverage,"* ((or)) *"malt liquor,"* or *"lager"* means any beverage such as beer, ale, lager beer, stout, and porter obtained by the alcoholic fermentation of an infusion or decoction of pure hops, or pure extract of hops

and pure barley malt or other wholesome grain or cereal in pure water containing not more than eight percent of alcohol by weight, and not less than one-half of one percent of alcohol by volume. For the purposes of this title, any such beverage containing more than eight percent of alcohol by weight shall be referred to as "strong beer."

(18) "Package" means any container or receptacle used for holding liquor.

(19) "Permit" means a permit for the purchase of liquor under this title.

(20) "Person" means an individual, copartnership, association, or corporation.

(21) "Physician" means a medical practitioner duly and regularly licensed and engaged in the practice of his profession within the state pursuant to chapter 18.71 RCW.

(22) "Prescription" means a memorandum signed by a physician and given by him to a patient for the obtaining of liquor pursuant to this title for medicinal purposes.

(23) "Public place" includes streets and alleys of incorporated cities and towns; state or county or township highways or roads; buildings and grounds used for school purposes; public dance halls and grounds adjacent thereto; those parts of establishments where beer may be sold under this title, soft drink establishments, public buildings, public meeting halls, lobbies, halls and dining rooms of hotels, restaurants, theatres, stores, garages and filling stations which are open to and are generally used by the public and to which the public is permitted to have unrestricted access; railroad trains, stages, and other public conveyances of all kinds and character, and the depots and waiting rooms used in conjunction therewith which are open to unrestricted use and access by the public; publicly owned bathing beaches, parks, and/or playgrounds; and all other places of like or similar nature to which the general public has unrestricted right of access, and which are generally used by the public.

(24) "Regulations" means regulations made by the board under the powers conferred by this title.

(25) "Restaurant" means any establishment provided with special space and accommodations where, in consideration of payment, food, without lodgings, is habitually furnished to the public, not including drug stores and soda fountains.

(26) "Sale" and "sell" include exchange, barter, and traffic; and also include the selling or supplying or distributing, by any means whatsoever, of liquor, or of any liquid known or described as beer or by any name whatever commonly used to describe malt or brewed liquor or of wine, by any person to any person; and also include a sale or selling within the state to a foreign consignee or his agent in the state. "Sale" and "sell" shall not include the giving, at no charge, of a reasonable amount of liquor by a person not licensed by the board to a person not licensed by the board, for personal use only. "Sale" and "sell" also does not include a raffle authorized under RCW 9.46.0315:

PROVIDED, That the nonprofit organization conducting the raffle has obtained the appropriate permit from the board.

(27) **"Soda fountain" means a place especially equipped with apparatus for the purpose of dispensing soft drinks, whether mixed or otherwise.**

(28) **"Spirits" means any beverage which contains alcohol obtained by distillation, including wines exceeding twenty-four percent of alcohol by volume.**

(29) **"Store" means a state liquor store established under this title.**

(30) **"Tavern" means any establishment with special space and accommodation for sale by the glass and for consumption on the premises, of beer, as herein defined.**

(31) **"Vendor" means a person employed by the board as a store manager under this title.**

(32) **"Winery" means a business conducted by any person for the manufacture of wine for sale, other than a domestic winery.**

(33) **"Domestic winery" means a place where wines are manufactured or produced within the state of Washington.**

(34) **"Wine" means any alcoholic beverage obtained by fermentation of fruits (grapes, berries, apples, et cetera) or other agricultural product containing sugar, to which any saccharine substances may have been added before, during or after fermentation, and containing not more than twenty-four percent of alcohol by volume, including sweet wines fortified with wine spirits, such as port, sherry, muscatel and angelica, not exceeding twenty-four percent of alcohol by volume and not less than one-half of one percent of alcohol by volume. For purposes of this title, any beverage containing no more than fourteen percent of alcohol by volume when bottled or packaged by the manufacturer shall be referred to as "table wine," and any beverage containing alcohol in an amount more than fourteen percent by volume when bottled or packaged by the manufacturer shall be referred to as "fortified wine." However, "fortified wine" shall not include: (a) Wines that are both sealed or capped by cork closure and aged two years or more; and (b) wines that contain more than fourteen percent alcohol by volume solely as a result of the natural fermentation process and that have not been produced with the addition of wine spirits, brandy, or alcohol.**

This subsection shall not be interpreted to require that any wine be labeled with the designation "table wine" or "fortified wine."

(35) **"Beer wholesaler" means a person who buys beer from a brewer or brewery located either within or beyond the boundaries of the state for the purpose of selling the same pursuant to this title, or who represents such brewer or brewery as agent.**

(36) **"Wine wholesaler" means a person who buys wine from a vintner or winery located either within or beyond the boundaries of the state for the purpose of selling the same not in violation of this title, or who represents such vintner or winery as agent.**

***Sec. 2 was vetoed. See message at end of chapter.**

Passed the House March 11, 1997.

Passed the Senate April 9, 1997.

Approved by the Governor April 21, 1997, with the exception of certain items that were vetoed.

Filed in Office of Secretary of State April 21, 1997.

Note: Governor's explanation of partial veto is as follows:

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

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

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

Section 2 of this legislation defines the word "lager" the same as the definition provided in the Liquor Code for "malt beverage" and "malt liquor." However, these terms do not have the same meaning. Even if this definition were correct, it is unnecessary to accomplish the purpose of the bill.

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

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

CHAPTER 101

[House Bill 1300]

DEPARTMENT OF FINANCIAL INSTITUTIONS—CORRECTIONS OF STATUTES

AN ACT Relating to correcting or removing deficiencies, conflicts, or obsolete provisions affecting the department of financial institutions; amending RCW 21.20.740, 21.30.010, 30.04.010, 31.45.160, 32.04.020, and 33.44.020; and repealing RCW 30.04.270, 30.04.290, 30.04.900, 30.08.120, 30.12.050, 30.43.010, 30.43.020, 30.43.045, 31.12.095, 31.12.355, 32.04.040, 32.12.060, 32.20.290, and 33.04.010.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 21.20.740 and 1979 ex.s. c 68 s 42 are each amended to read as follows:

(1) Every issuer which has registered securities under Washington state securities law shall file with the director reports described in subsection (2) of this section. Such reports shall be filed with the director not more than one hundred twenty days (unless extension of time is granted by the director) after the end of the issuer's fiscal year.

(2) The reports required by subsection (1) of this section shall contain such information, statements and documents regarding the financial and business conditions of the issuer and the number and description of securities of the issuer held by its officers, directors and controlling shareholders and shall be in such form and filed at such annual times as the director may require by rule or order. For the purposes of RCW 21.20.720, 21.20.740 and 21.20.745, a "controlling shareholder" shall mean a person who is directly or indirectly the beneficial holder of more than ten percent of the outstanding voting securities of an issuer.

(3)(a) The reports described in subsection (2) of this section shall include financial statements corresponding to those required under the provisions of RCW 21.20.210 and to the issuer's fiscal year setting forth in comparative form the corresponding information for the preceding year and such financial statements shall be furnished to all shareholders within one hundred twenty days (unless extension of time is granted by the director) after the end of such year, but at least twenty days prior to the date of the annual meeting of shareholders.

(b) Such financial statements shall be prepared as to form and content in accordance with rules ~~((and regulations))~~ prescribed by the director and shall be audited (except that financial statements filed prior to July 1, 1976 need be audited only as to the most recent fiscal year) by an independent certified public accountant who is not an employee, officer or member of the board of directors of the issuer or a holder of securities of the issuer. The report of such independent certified public accountant shall be based upon an audit made in accordance with generally accepted auditing standards with no limitations on its scope.

(4) The director may by rule or order exempt any issuer or class of issuers from this section for a period of up to one year if the director finds that the filing of any such report by a specific issuer or class of issuers is not necessary for the protection of investors and the public interest.

(5) For the purposes of RCW 21.20.740 and 21.20.745, "issuer" does not include issuers of:

(a) Securities registered by the issuer pursuant to section 12 of the securities and exchange act of 1934 as now or hereafter amended or exempted from registration under that act on a basis other than the number of shareholders and total assets.

(b) Securities which are held of record by less than two hundred persons or whose total assets are less than \$500,000 at the close of the issuer's fiscal year.

(6) Any issuer who has been required to file under RCW 21.20.740 and who subsequently becomes excluded from the definition of "issuer" by virtue of RCW 21.20.740(5) must file a certification setting forth the basis on which they claim to no longer be an issuer within the meaning of this ~~((act))~~ chapter.

(7) The reports filed under this section shall be filed and maintained by the director for public inspection. Any person is entitled to receive copies thereof from the director upon payment of the reasonable costs of duplication.

(8) Filing of reports pursuant to this section shall not constitute an approval thereof by the director or a finding by the director that the report is true, complete and not misleading. It shall be unlawful to make, or cause to be made, to any prospective purchaser, seller, customer or client, any representation inconsistent with this subsection.

Sec. 2. RCW 21.30.010 and 1994 c 92 s 5 are each amended to read as follows:

Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter.

(1) "Administrator" means the person designated by the director in accordance with the provisions of RCW (~~(21-20.460)~~) 21.30.390.

(2) "Board of trade" means any person or group of persons engaged in buying or selling any commodity or receiving any commodity for sale on consignment, whether such person or group of persons is characterized as a board of trade, exchange, or other form of marketplace.

(3) "Director" means the director of financial institutions.

(4) "Commodity broker-dealer" means, for the purposes of registration in accordance with this chapter, any person engaged in the business of making offers, sales, or purchases of commodities under commodity contracts or under commodity options.

(5) "Commodity sales representative" means, for the purposes of registration in accordance with this chapter, any person authorized to act and acting for a commodity broker-dealer in effecting or attempting to effect a transaction in a commodity contract or commodity option.

(6) "Commodity exchange act" means the act of congress known as the commodity exchange act, as amended, codified at 7 U.S.C. Sec. 1 et seq.

(7) "Commodity futures trading commission" means the independent regulatory agency established by congress to administer the commodity exchange act.

(8) "CFTC rule" means any rule, regulation, or order of the commodity futures trading commission in effect on October 1, 1986, and all subsequent amendments, additions, or other revisions thereto, unless the administrator, within ten days following the effective date of any such amendment, addition, or revision, disallows the application thereof by rule or order.

(9) "Commodity" means, except as otherwise specified by the director by rule or order, any agricultural, grain, or livestock product or by-product, any metal or mineral (including a precious metal set forth in subsection (17) of this section), any gem or gemstone (whether characterized as precious, semiprecious, or otherwise), any fuel (whether liquid, gaseous, or otherwise), any foreign currency, and all other goods, articles, products, or items of any kind. However, the term commodity does not include (a) a numismatic coin whose fair market value is at least fifteen percent higher than the value of the metal it contains, (b) real property or any timber, agricultural, or livestock product grown or raised on real property and offered or sold by the owner or lessee of such real property, or (c) any work of art offered or sold by art dealers, at public auction, or offered or sold through a private sale by the owner thereof.

(10) "Commodity contract" means any account, agreement, or contract for the purchase or sale, primarily for speculation or investment purposes and not for use or consumption by the offeree or purchaser, of one or more commodities, whether for immediate or subsequent delivery or whether delivery is intended by the parties, and whether characterized as a cash contract, deferred shipment or deferred delivery contract, forward contract, futures contract, installment or margin contract,

leverage contract, or otherwise. Any commodity contract offered or sold shall, in the absence of evidence to the contrary, be presumed to be offered or sold for speculation or investment purposes. A commodity contract shall not include any contract or agreement which requires, and under which the purchaser receives, within twenty-eight calendar days from the payment in good funds of any portion of the purchase price, physical delivery of the total amount of each commodity to be purchased under the contract or agreement.

(11) "Commodity option" means any account, agreement, or contract giving a party thereto the right to purchase or sell one or more commodities and/or one or more commodity contracts, whether characterized as an option, privilege, indemnity, bid, offer, put, call, advance guaranty, decline guaranty or otherwise, but does not include a commodity option traded on a national securities exchange registered with the United States securities and exchange commission.

(12) "Commodity merchant" means any of the following, as defined or described in the commodity exchange act or by CFTC rule:

- (a) Futures commission merchant;
- (b) Commodity pool operator;
- (c) Commodity trading advisor;
- (d) Introducing broker;
- (e) Leverage transaction merchant;
- (f) An associated person of any of the foregoing;
- (g) Floor broker; and

(h) Any other person (other than a futures association) required to register with the commodity futures trading commission.

(13) "Financial institution" means a bank, savings institution, or trust company organized under, or supervised pursuant to, the laws of the United States or of any state.

(14) "Offer" or "offer to sell" includes every offer, every attempt to offer to dispose of, or solicitation of an offer to buy, to purchase, or to acquire, for value.

(15) "Sale" or "sell" includes every sale, contract of sale, contract to sell, or disposition, for value.

(16) "Person" means an individual, a corporation, a partnership, an association, a joint-stock company, a trust where the interests of the beneficiaries are evidenced by a security, an unincorporated organization, a government, or a political subdivision of a government, but does not include a contract market designated by the commodity futures trading commission or any clearinghouse thereof or a national securities exchange registered with the United States securities and exchange commission (or any employee, officer, or director of such contract market, clearinghouse, or exchange acting solely in that capacity).

(17) "Precious metal" means:

- (a) Silver, in either coin, bullion, or other form;
- (b) Gold, in either coin, bullion, or other form;
- (c) Platinum, in either coin, bullion, or other form; and

(d) Such other items as the director may specify by rule or order.

Sec. 3. RCW 30.04.010 and 1996 c 2 s 2 are each amended to read as follows:

~~((Certain terms used in this title shall have the meanings ascribed in this section.))~~ Unless the context clearly requires otherwise, the definitions in this section apply throughout this title.

(1) "Banking" shall include the soliciting, receiving or accepting of money or its equivalent on deposit as a regular business.

(2) "Bank," unless a different meaning appears from the context, means any corporation organized under the laws of this state engaged in banking, other than a trust company, savings association, or a mutual savings bank.

(3) "Branch" means any established office of deposit, domestic or otherwise, maintained by any bank or trust company other than its head office. "Branch" does not mean a machine permitting customers to leave funds in storage or communicate with bank employees who are not located at the site of the machine, unless employees of the bank at the site of the machine take deposits on a regular basis. An office or facility of an entity other than the bank shall not be deemed to be established by the bank, regardless of any affiliation, accommodation arrangement, or other relationship between the other entity and the bank.

(4) The term "trust business" shall include the business of doing any or all of the things specified in RCW 30.08.150 (2), (3), (4), (5), (6), (7), (8), (9), (10) and (11).

(5) "Trust company," unless a different meaning appears from the context, means any corporation organized under the laws of this state engaged in trust business.

(6) "Person" unless a different meaning appears from the context, shall include a firm, association, partnership or corporation, or the plural thereof, whether resident, nonresident, citizen or not.

(7) "Director" means the director of financial institutions.

(8) "Foreign bank" and "foreign banker" shall include:

~~((1))~~ (a) Every corporation not organized under the laws of the territory or state of Washington doing a banking business, except a national bank;

~~((2))~~ (b) Every unincorporated company, partnership or association of two or more individuals organized under the laws of another state or country, doing a banking business;

~~((3))~~ (c) Every other unincorporated company, partnership or association of two or more individuals, doing a banking business, if the members thereof owning a majority interest therein or entitled to more than one-half of the net assets thereof are not residents of this state;

~~((4))~~ (d) Every nonresident of this state doing a banking business in his or her own name and right only.

Sec. 4. RCW 31.45.160 and 1994 c 92 s 288 are each amended to read as follows:

Whenever the director has taken possession of the property and business of a licensee, the director may petition the superior court for the appointment of a receiver to liquidate the affairs of the licensee. During the time that the director retains possession of the property and business of a licensee, the director has the same powers and authority with reference to the licensee as is vested in the director ~~((with respect to industrial loan companies))~~ under chapter 31.04 RCW, and the licensee has the same rights to hearings and judicial review as are granted ~~((to industrial loan companies))~~ under chapter 31.04 RCW.

Sec. 5. RCW 32.04.020 and 1996 c 2 s 20 are each amended to read as follows:

Unless the context clearly requires otherwise, the definitions in this section apply throughout this title.

(1) The use of the term "savings bank" ~~((in this title))~~ refers to mutual savings banks and converted mutual savings banks only.

(2) The use of the words "mutual savings" as part of a name under which business of any kind is or may be transacted by any person, firm, or corporation, except such as were organized and in actual operation on June 9, 1915, or as may be thereafter organized and operated under the requirements of this title is hereby prohibited.

(3) The use of the term "director" ~~((in this title))~~ refers to the director of financial institutions.

(4) The use of the word "branch" ~~((in this title))~~ refers to an established office or facility other than the principal office, at which employees of the savings bank take deposits. The term "branch" ~~((in this title))~~ does not refer to a machine permitting customers to leave funds in storage or communicate with savings bank employees who are not located at the site of that machine, unless employees of the savings bank at the site of that machine take deposits on a regular basis. An office of an entity other than the savings bank is not established by the savings bank, regardless of any affiliation, accommodation arrangement, or other relationship between the other entity and the savings bank.

Sec. 6. RCW 33.44.020 and 1994 c 92 s 467 are each amended to read as follows:

Any association organized under the laws of this state, or under the laws of the United States, may, if it has obtained the approval, required by law or regulation, of any federal agencies, including the federal home loan bank board and the federal savings and loan insurance corporation, be converted into a savings bank or commercial bank in the following manner:

(1) The board of directors of such association shall pass a resolution declaring its intention to convert the association into a savings bank or commercial bank and shall apply to the director of financial institutions for leave to submit to the members of the association the question whether the association shall be converted into a savings bank or a commercial bank. A duplicate of the application to the director of financial institutions shall be filed with the director of financial

institutions, except that no such filing shall be required in the case of an association organized under the laws of the United States. The application shall include a proposal which sets forth the method by and extent to which membership or stockholder interests, as the case may be, in the association are to be converted into membership or stockholder interests, as the case may be, in the savings bank or commercial bank, and the proposal shall allow for any member or stockholder to withdraw the value of his or her interest at any time within sixty days of the completion of the conversion. The proposal shall be subject to the approval of the director of financial institutions and shall conform to all applicable regulations of the federal home loan bank board, the federal savings and loan insurance corporation, the federal deposit insurance corporation, or other federal regulatory agency.

(2) Thereupon the director of financial institutions shall make the same investigation and determine the same questions as would be required by law to make and determine in case of the submission to the director of financial institutions of a certificate of incorporation of a proposed new savings bank or commercial bank, and the director of financial institutions shall also determine whether by the proposed conversion the business needs and conveniences of the members of the association would be served with facility and safety, except that no such conference shall be pertinent to such investigation or determination in the case of an association organized under the laws of the United States. After the director of financial institutions determines whether it is expedient and desirable to permit the proposed conversion, the director of financial institutions shall, within sixty days after the filing of the application, endorse thereon over the official signature of the director of financial institutions the word "granted" or the word "refused", with the date of such endorsement and shall immediately notify the secretary of such association of his or her decision. If an application to convert to a mutual savings bank is granted, the director of financial institutions shall require the applicants to enter into such an agreement or undertaking with the director of financial institutions as trustee for the depositors with the mutual savings bank to make such contributions in cash to the expense fund of the mutual savings bank as in the director of financial institutions judgment will be necessary then and from time to time thereafter to pay the operating expenses of the mutual savings bank if its earnings should not be sufficient to pay the same in addition to the payment of such dividends as may be declared and credited to depositors from its earnings.

If the application is denied by the director of financial institutions, the association, acting by a two-thirds majority of its board of directors, may, within thirty days after receiving the notice of the denial, appeal to the superior court in the manner prescribed in ((RCW 34.05.570)) chapter 34.05 RCW.

(3) If the application is granted by the director of financial institutions or by the court, as the case may be, the board of directors of the association shall, within sixty days thereafter, submit the question of the proposed conversion to the members of the association at a special meeting called for that purpose. Notice of

the meeting shall state the time, place and purpose of the meeting, and that the only question to be voted upon will be, "shall the (naming the association) be converted into a savings bank or commercial bank under the laws of the state of Washington?" The vote on the question shall be by ballot. Any member may vote by proxy or may transmit the member's ballot by mail if the bylaws provide a method for so doing. If two-thirds or more in number of the members voting on the question vote affirmatively, then the board of directors shall have power, and it shall be its duty, to proceed to convert such association into a savings bank or commercial bank; otherwise, the proposed conversion shall be abandoned and shall not be again submitted to the members within three years from the date of the meeting.

(4) If authority for the proposed conversion has been approved by the members as required by this section, the directors shall, within thirty days thereafter, subscribe and acknowledge and file with the director of financial institutions in triplicate a certificate of reincorporation, stating:

(a) The name by which the converted corporation is to be known.

(b) The place where the bank is to be located and its business transacted, naming the city or town and county, which city or town shall be the same as that where the principal place of business of the corporation has theretofore been located.

(c) The name, occupation, residence and post office address of each signer of the certificate.

(d) The amount of the assets of the corporation, the amount of its liabilities and the amount of its contingent, reserve, expense, and guaranty fund, as applicable, as of the first day of the then calendar month.

(e) A declaration that each signer will accept the responsibilities and faithfully discharge the duties of a trustee or director of the bank, and is free from all the disqualifications specified in the laws applicable to savings banks or commercial banks.

(f) Such other items as the director of financial institutions may require.

(5) Upon the filing of the certificate in triplicate, the director of financial institutions shall, within thirty days thereafter, if satisfied that all the provisions of this chapter have been complied with, issue in triplicate an authorization certificate stating that the corporation has complied with all the requirements of law, and that it has authority to transact at the place designated in its certificate of incorporation the business of a savings bank or commercial bank. One of the director of financial institutions certificates of authorization shall be attached to each of the certificates of reincorporation, and one set of these shall be filed and retained by the director of financial institutions, one set shall be filed in the office of the secretary of state, and one set shall be transmitted to the bank for its files. Upon the receipt from the corporation of the same fees as are required for filing and recording other incorporation certificates or articles, the secretary of state shall file the certificates and record the same; whereupon the conversion of the association

shall be deemed complete, and the signers of said reincorporation certificate and their successors shall thereupon become and be a corporation having the powers and being subject to the duties and obligations prescribed by the laws of this state applicable to savings banks or commercial banks, as the case may be. The time of existence of the corporation shall be perpetual unless provided otherwise in the articles of incorporation of the association or unless sooner terminated pursuant to law.

NEW SECTION. Sec. 7. The following acts or parts of acts are each repealed:

- (1) RCW 30.04.270 and 1994 c 92 s 26 & 1955 c 33 s 30.04.270;
- (2) RCW 30.04.290 and 1994 c 92 s 27, 1973 1st ex.s. c 53 s 36, 1961 c 20 s 1, & 1955 c 33 s 30.04.290;
- (3) RCW 30.04.900 and 1994 c 92 s 41, 1987 c 498 s 2, & 1986 c 279 s 54;
- (4) RCW 30.08.120 and 1994 c 92 s 57 & 1955 c 33 s 30.08.120;
- (5) RCW 30.12.050 and 1994 c 92 s 68, 1986 c 279 s 34, & 1955 c 33 s 30.12.050;
- (6) RCW 30.43.010 and 1994 c 92 s 104, 1986 c 279 s 45, 1979 c 137 s 1, & 1974 ex.s. c 166 s 1;
- (7) RCW 30.43.020 and 1994 c 92 s 105, 1981 c 83 s 1, & 1974 ex.s. c 166 s 2;
- (8) RCW 30.43.045 and 1994 c 92 s 106 & 1981 c 83 s 2;
- (9) RCW 31.12.095 and 1994 c 92 s 183 & 1984 c 31 s 11;
- (10) RCW 31.12.355 and 1994 c 92 s 192 & 1984 c 31 s 37;
- (11) RCW 32.04.040 and 1994 c 92 s 295, 1985 c 469 s 16, & 1955 c 13 s 32.04.040;
- (12) RCW 32.12.060 and 1994 c 92 s 326 & 1955 c 13 s 32.12.060;
- (13) RCW 32.20.290 and 1994 c 92 s 338, 1967 c 145 s 8, & 1955 c 13 s 32.20.290; and
- (14) RCW 33.04.010 and 1994 c 92 s 415, 1982 c 3 s 3, & 1945 c 235 s 119-A.

Passed the House March 11, 1997.

Passed the Senate April 9, 1997.

Approved by the Governor April 21, 1997.

Filed in Office of Secretary of State April 21, 1997.

CHAPTER 102

[Substitute House Bill 1393]

CRIME VICTIMS' COMPENSATION—LIMITING PROTESTS OR APPEALS—EXEMPTION FOR EMPLOYERS

AN ACT Relating to crime victims' compensation; amending RCW 7.68.110; and adding a new section to chapter 51.52 RCW.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 7.68.110 and 1989 c 175 s 40 are each amended to read as follows:

The provisions contained in chapter 51.52 RCW relating to appeals shall govern appeals under this chapter: **PROVIDED**, That no provision contained in chapter 51.52 RCW concerning employers as parties to any settlement, appeal, or other action shall apply to this chapter: **PROVIDED FURTHER**, That appeals taken from a decision of the board of industrial insurance appeals under this chapter shall be governed by the provisions relating to judicial review of administrative decisions contained in RCW 34.05.510 through 34.05.598, and the department shall have the same right of review from a decision of the board of industrial insurance appeals as does the claimant; **PROVIDED FURTHER**, That the time in which to file a protest or appeal from any order, decision, or award under this chapter shall be ninety days from the date the order, decision, or award is communicated to the parties.

NEW SECTION. Sec. 2. A new section is added to chapter 51.52 RCW to read as follows:

This chapter shall not apply to matters concerning employers as parties to any settlement, appeal, or other action in accordance with chapter 7.68 RCW.

Passed the House March 7, 1997.

Passed the Senate April 8, 1997.

Approved by the Governor April 21, 1997.

Filed in Office of Secretary of State April 21, 1997.

CHAPTER 103

[Substitute House Bill 1550]

DISABILITY RETIREMENT BENEFITS—DENIAL TO PUBLIC EMPLOYEES INJURED FROM OWN CRIMINAL CONDUCT

AN ACT Relating to disability retirement benefits resulting from criminal conduct; adding a new section to chapter 41.26 RCW; adding a new section to chapter 41.32 RCW; adding a new section to chapter 41.40 RCW; and declaring an emergency.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. Sec. 1. A new section is added to chapter 41.26 RCW to read as follows:

A member shall not receive a disability retirement benefit under RCW 41.26.120, 41.26.125, 41.26.130, or 41.26.470 if the disability is the result of criminal conduct by the member committed after the effective date of this act.

NEW SECTION. Sec. 2. A new section is added to chapter 41.32 RCW to read as follows:

A member shall not receive a disability retirement benefit under RCW 41.32.540, 41.32.550, 41.32.790, or 41.32.880 if the disability is the result of criminal conduct by the member committed after the effective date of this act.

NEW SECTION. **Sec. 3.** A new section is added to chapter 41.40 RCW to read as follows:

A member shall not receive a disability retirement benefit under RCW 41.40.200, 41.40.220, 41.40.230, 41.40.235, 41.40.250, or 41.40.670 if the disability is the result of criminal conduct by the member committed after the effective date of this act.

NEW SECTION. **Sec. 4.** If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

NEW SECTION. **Sec. 5.** This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately.

Passed the House March 12, 1997.

Passed the Senate April 9, 1997.

Approved by the Governor April 21, 1997.

Filed in Office of Secretary of State April 21, 1997.

CHAPTER 104

[House Bill 1573]

ASSISTIVE DEVICES FOR CHILDREN WITH DISABILITIES—INCREASING AVAILABILITY

AN ACT Relating to authorizing educational agencies to rent, sell, or transfer assistive technology for the benefit of individuals with disabilities and authorizing the creation of interagency cooperative agreements for the purpose of providing assistive technology for children with disabilities; amending RCW 28A.335.180; adding a new section to chapter 28A.335 RCW; and adding a new section to chapter 28A.155 RCW.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 28A.335.180 and 1991 c 116 s 1 are each amended to read as follows:

Notwithstanding any other provision of law, school districts, educational service districts, or any other state or local governmental agency concerned with education, when declaring texts and other books, equipment, materials or relocatable facilities as surplus, shall, prior to other disposal thereof, serve notice in writing in a newspaper of general circulation in the school district and to any public school district or private school in Washington state annually requesting such a notice, that the same is available for sale, rent, or lease to public school districts or private schools, at depreciated cost or fair market value, whichever is greater: **PROVIDED**, That students wishing to purchase texts pursuant to RCW 28A.320.230(2) shall have priority as to such texts. **The notice requirement in this section does not apply to the sale or transfer of assistive devices under section 2 of this act or chapter 72.40 RCW.** Such districts or agencies shall not otherwise sell, rent or lease such surplus property to any person, firm, organization, or nongovernmental agency for at least thirty days following publication of notice in a newspaper of general circulation in the school district.

NEW SECTION. Sec. 2. A new section is added to chapter 28A.335 RCW to read as follows:

Notwithstanding any other provision of law, the office of the superintendent of public instruction, the Washington state school for the blind, the Washington state school for the deaf, school districts, educational service districts, and all other state or local governmental agencies concerned with education may loan, lease, sell, or transfer assistive devices for the use and benefit of children with disabilities to children with disabilities or their parents or to any other public or private nonprofit agency providing services to or on behalf of individuals with disabilities including but not limited to any agency providing educational, health, or rehabilitation services. The notice requirement in RCW 28A.335.180 does not apply to the loan, lease, sale, or transfer of such assistive devices. The sale or transfer of such devices is authorized under this section regardless of whether or not the devices have been declared surplus. The sale or transfer shall be recorded in an agreement between the parties and based upon the item's depreciated value.

For the purposes of this section, "assistive device" means any item, piece of equipment, or product system, whether acquired commercially off-the-shelf, modified, or customized, that is used to increase, maintain, or improve functional capabilities of children with disabilities.

For the purpose of implementing this section, each educational agency shall establish and maintain an inventory of assistive technology devices in its possession that exceed one hundred dollars and, for each such device, shall establish a value, which shall be adjusted annually to reflect depreciation.

This section shall not enhance or diminish the obligation of school districts to provide assistive technology to children with disabilities where needed to achieve a free and appropriate public education and equal opportunity in accessing academic and extracurricular activities.

NEW SECTION. Sec. 3. A new section is added to chapter 28A.155 RCW to read as follows:

Notwithstanding any other provision of law, the office of the superintendent of public instruction, the Washington state school for the deaf, the Washington state school for the blind, school districts, educational service districts, and all other state and local government educational agencies and the department of services for the blind, the department of social and health services, and all other state and local government agencies concerned with the care, education, or habilitation or rehabilitation of children with disabilities may enter into interagency cooperative agreements for the purpose of providing assistive technology devices and services to children with disabilities. Such arrangements may include but are not limited to interagency agreements for the acquisition, including joint funding, maintenance, loan, sale, lease, or transfer of assistive technology devices and for the provision of assistive technology services including but not limited to assistive technology assessments and training.

For the purposes of this section, "assistive device" means any item, piece of equipment, or product system, whether acquired commercially off-the-shelf, modified, or customized, that is used to increase, maintain, or improve functional capabilities of children with disabilities. The term "assistive technology service" means any service that directly assists a child with a disability in the selection, acquisition, or use of an assistive technology device. Assistive technology service includes:

- (1) The evaluation of the needs of a child with a disability, including a functional evaluation of the child in the child's customary environment;
- (2) Purchasing, leasing, or otherwise providing for the acquisition of assistive technology devices by children with disabilities;
- (3) Selecting, designing, fitting, customizing, adapting, applying, retaining, repairing, or replacing of assistive technology devices;
- (4) Coordinating and using other therapies, interventions, or services with assistive technology devices, such as those associated with existing education and rehabilitation plans and programs;
- (5) Training or technical assistance for a child with a disability or if appropriate, the child's family; and
- (6) Training or technical assistance for professionals, including individuals providing education and rehabilitation services, employers, or other individuals who provide services to, employ, or are otherwise substantially involved in the major life functions of children with disabilities.

Passed the House March 3, 1997.

Passed the Senate April 9, 1997.

Approved by the Governor April 21, 1997.

Filed in Office of Secretary of State April 21, 1997.

CHAPTER 105

[House Bill 1636]

CRIMINAL HARASSMENT—INCLUSION OF IMMEDIATE THREAT OF INJURY

AN ACT Relating to the crime of harassment; and amending RCW 9A.46.020.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 9A.46.020 and 1992 c 186 s 2 are each amended to read as follows:

- (1) A person is guilty of harassment if:
 - (a) Without lawful authority, the person knowingly threatens:
 - (i) To cause bodily injury immediately or in the future to the person threatened or to any other person; or
 - (ii) To cause physical damage to the property of a person other than the actor; or
 - (iii) To subject the person threatened or any other person to physical confinement or restraint; or

(iv) Maliciously to do any other act which is intended to substantially harm the person threatened or another with respect to his or her physical or mental health or safety; and

(b) The person by words or conduct places the person threatened in reasonable fear that the threat will be carried out.

(2) A person who harasses another is guilty of a gross misdemeanor punishable under chapter 9A.20 RCW, except that the person is guilty of a class C felony if either of the following applies: (a) The person has previously been convicted in this or any other state of any crime of harassment, as defined in RCW 9A.46.060, of the same victim or members of the victim's family or household or any person specifically named in a no-contact or no-harassment order; or (b) the person harasses another person under subsection (1)(a)(i) of this section by threatening to kill the person threatened or any other person.

(3) The penalties provided in this section for harassment do not preclude the victim from seeking any other remedy otherwise available under law.

Passed the House March 12, 1997.

Passed the Senate April 9, 1997.

Approved by the Governor April 21, 1997.

Filed in Office of Secretary of State April 21, 1997.

CHAPTER 106

[Engrossed Substitute House Bill 1678]

MORTGAGE BROKERS—STANDARDS REVISED

AN ACT Relating to standards for licensing mortgage brokers; amending RCW 19.146.010, 19.146.020, 19.146.0201, 19.146.030, 19.146.050, 19.146.060, 19.146.080, 19.146.200, 19.146.205, 19.146.210, 19.146.215, 19.146.220, 19.146.228, 19.146.235, 19.146.240, 19.146.245, 19.146.250, 19.146.260, 19.146.265, and 19.146.280; adding a new section to chapter 82.04 RCW; and repealing RCW 19.146.090.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 19.146.010 and 1994 c 33 s 3 are each amended to read as follows:

Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter.

(1) "Affiliate" means any person who directly or indirectly through one or more intermediaries, controls, or is controlled by, or is under common control with another person.

(2) "Borrower" means any person who consults with or retains a mortgage broker or loan originator in an effort to obtain or seek advice or information on obtaining or applying to obtain a residential mortgage loan for himself, herself, or persons including himself or herself, regardless of whether the person actually obtains such a loan.

(3) "Computer loan (~~(origination)~~) information systems" or "~~(CLO)~~ CLI system" means the real estate mortgage financing information system defined by rule of the director.

(4) "Department" means the department of financial institutions.

(5) "Designated broker" means a natural person designated by the applicant for a license or licensee who meets the experience, education, and examination requirements set forth in RCW 19.146.210(1)(e).

(6) "Director" means the director of financial institutions.

~~((6))~~ (7) "Employee" means an individual who has an employment relationship acknowledged by both the employee and the licensee, and the individual is treated as an employee by the licensee for purposes of compliance with federal income tax laws.

~~((7))~~ (8) "Independent contractor" or "person who independently contracts" means any person that expressly or impliedly contracts to perform mortgage brokering services for another and that with respect to its manner or means of performing the services is not subject to the other's right of control, and that is not treated as an employee by the other for purposes of compliance with federal income tax laws.

~~((8))~~ (9) "Investigation" means an examination undertaken for the purpose of detection of violations of this chapter or securing information lawfully required under this chapter.

(10) "Loan originator" means a person employed, either directly or indirectly, or retained as an independent contractor by a person required to be licensed as a mortgage broker, or a natural person who represents a person required to be licensed as a mortgage broker, in the performance of any act specified in subsection ~~((10))~~ (12) of this section.

~~((9))~~ (11) "Lock-in agreement" means an agreement with a borrower made by a mortgage broker or loan originator, in which the mortgage broker or loan originator agrees that, for a period of time, a specific interest rate or other financing terms will be the rate or terms at which it will make a loan available to that borrower.

~~((10))~~ (12) "Mortgage broker" means any person who for compensation or gain, or in the expectation of compensation or gain (a) makes a residential mortgage loan or assists a person in obtaining or applying to obtain a residential mortgage loan or (b) holds himself or herself out as being able to make a residential mortgage loan or assist a person in obtaining or applying to obtain a residential mortgage loan.

~~((11))~~ (13) "Person" means a natural person, corporation, company, limited liability corporation, partnership, or association.

~~((12))~~ (14) "Residential mortgage loan" means any loan primarily for personal, family, or household use secured by a mortgage or deed of trust on residential real estate upon which is constructed or intended to be constructed a single family dwelling or multiple family dwelling of four or less units.

~~((1-3))~~ (15) "Third-party provider" means any person other than a mortgage broker or lender who provides goods or services to the mortgage broker in connection with the preparation of the borrower's loan and includes, but is not limited to, credit reporting agencies, title companies, appraisers, structural and pest inspectors, or escrow companies.

Sec. 2. RCW 19.146.020 and 1994 c 33 s 5 are each amended to read as follows:

(1) Except as provided under subsections (2) and (3) of this section, the following are exempt from all provisions of this chapter:

(a) Any person doing business under the laws of ~~((this))~~ the state of Washington or the United States relating to commercial banks, bank holding companies, savings banks, trust companies, savings and loan associations, credit unions, consumer loan companies, insurance companies, or real estate investment trusts as defined in 26 U.S.C. Sec. 856 and the affiliates, subsidiaries, and service corporations thereof;

(b) An attorney licensed to practice law in this state who is not principally engaged in the business of negotiating residential mortgage loans when such attorney renders services in the course of his or her practice as an attorney;

(c) Any person doing any act under order of any court, except for a person subject to an injunction to comply with any provision of this chapter or any order of the director issued under this chapter;

(d) Any person making or acquiring a residential mortgage loan solely with his or her own funds for his or her own investment without intending to resell the residential mortgage loans;

(e) A real estate broker or salesperson licensed by the state who obtains financing for a real estate transaction involving a bona fide sale of real estate in the performance of his or her duties as a real estate broker and who receives only the customary real estate broker's or salesperson's commission in connection with the transaction;

(f) Any mortgage broker approved and subject to auditing by the federal national mortgage association~~((, the government national mortgage association,))~~ or the federal home loan mortgage corporation;

(g) The United States of America, the state of Washington, any other state, and any Washington city, county, or other political subdivision, and any agency, division, or corporate instrumentality of any of the entities in this subsection (1)(g); and

(h) A real estate broker who provides only information regarding rates, terms, and lenders in connection with a ~~((ELO))~~ CLI system, who receives a fee for providing such information, who conforms to all rules of the director with respect to the providing of such service, and who discloses on a form approved by the director that to obtain a loan the borrower must deal directly with a mortgage broker or lender. However, a real estate broker shall not be exempt if he or she does any of the following:

- (i) Holds himself or herself out as able to obtain a loan from a lender;
- (ii) Accepts a loan application, or submits a loan application to a lender;
- (iii) Accepts any deposit for third-party services or any loan fees from a borrower, whether such fees are paid before, upon, or after the closing of the loan;
- (iv) Negotiates rates or terms with a lender on behalf of a borrower; or
- (v) Provides the disclosure required by RCW 19.146.030(1).

(2) Those persons otherwise exempt under subsection (1)(d) or (f) of this section must comply with RCW 19.146.0201 and shall be subject to the director's authority to issue a cease and desist order for any violation of RCW 19.146.0201 and shall be subject to the director's authority to obtain and review books and records that are relevant to any allegation of such a violation.

(3) Any person otherwise exempted from the licensing provisions of this chapter may voluntarily submit an application to the director for a mortgage broker's license. The director shall review such application and may grant or deny licenses to such applicants upon the same grounds and with the same fees as may be applicable to persons required to be licensed under this chapter.

(a) Upon receipt of a license under this subsection, such an applicant is required to continue to maintain a valid license, is subject to all provisions of this chapter, and has no further right to claim exemption from the provisions of this chapter except as provided in (b) of this subsection.

(b) Any licensee under this subsection who would otherwise be exempted from the requirements of licensing by RCW 19.146.020 may apply to the director for exemption from licensing. The director shall adopt rules for reviewing such applications and shall grant exemptions from licensing to applications which are consistent with those rules and consistent with the other provisions of this chapter.

Sec. 3. RCW 19.146.0201 and 1994 c 33 s 6 are each amended to read as follows:

It is ~~(unlawful)~~ a violation of this chapter for a loan originator, mortgage broker required to be licensed under this chapter, or mortgage broker otherwise exempted from this chapter under RCW 19.146.020(1) (d) or (f) in connection with a residential mortgage loan to:

(1) Directly or indirectly employ any scheme, device, or artifice to defraud or mislead borrowers or lenders or to defraud any person;

(2) Engage in any unfair or deceptive practice toward any person;

(3) Obtain property by fraud or misrepresentation;

(4) Solicit or enter into a contract with a borrower that provides in substance that the mortgage broker may earn a fee or commission through the mortgage broker's "best efforts" to obtain a loan even though no loan is actually obtained for the borrower;

(5) Solicit, advertise, or enter into a contract for specific interest rates, points, or other financing terms unless the terms are actually available at the time of soliciting, advertising, or contracting from a person exempt from licensing under RCW 19.146.020(1) (f) or (g) or a lender with whom the mortgage broker

maintains a written correspondent or loan brokerage agreement under RCW 19.146.040;

(6) Fail to make disclosures to loan applicants and noninstitutional investors as required by RCW 19.146.030 and any other applicable state or federal law;

(7) Make, in any manner, any false or deceptive statement or representation with regard to the rates, points, or other financing terms or conditions for a residential mortgage loan or engage in bait and switch advertising;

(8) Negligently make any false statement or knowingly and willfully make any omission of material fact in connection with any reports filed by a ~~((licensee;))~~ mortgage broker or in connection with any ~~((examination of the licensee's business))~~ investigation conducted by the department;

(9) Make any payment, directly or indirectly, to any appraiser of a property, for the purposes of influencing the independent judgment of the appraiser with respect to the value of the property;

(10) ~~((Fail to include the words "licensed mortgage broker" in any advertising for the broker's services that is directed at the general public if the person is required to be licensed under this chapter;~~

~~—(11))~~ Advertise any rate of interest without conspicuously disclosing the annual percentage rate implied by such rate of interest or otherwise fail to comply with any requirement of the truth-in-lending act, 15 U.S.C. Sec. 1601 and Regulation Z, 12 C.F.R. Sec. 226, the Real Estate Settlement Procedures Act, 12 U.S.C. Sec. 2601 and Regulation X, 24 C.F.R. Sec. 3500, or the equal credit opportunity act, 15 U.S.C. Sec. 1691 and Regulation B, Sec. 202.9, 202.11, and 202.12, as now or hereafter amended, in any advertising of residential mortgage loans or any other mortgage brokerage activity;

~~((12))~~ (11) Fail to pay third-party providers no later than thirty days after the recording of the loan closing documents or ninety days after completion of the third-party service, whichever comes first, unless otherwise agreed or unless the third-party service provider has been notified in writing that a bona fide dispute exists regarding the performance or quality of the third-party service;

~~((13))~~ (12) Collect, charge, attempt to collect or charge or use or propose any agreement purporting to collect or charge any fee prohibited by RCW 19.146.030 or 19.146.070;

~~((14))~~ (13)(a) Except when complying with (b) and (c) of this subsection, to act as a mortgage broker in any transaction (i) in which the mortgage broker acts or has acted as a real estate broker or salesperson or (ii) in which another person doing business under the same licensed real estate broker acts or has acted as a real estate broker or salesperson;

(b) Prior to providing mortgage broker services to the borrower, the mortgage broker, in addition to other disclosures required by this chapter and other laws, shall provide to the borrower the following written disclosure:

THIS IS TO GIVE YOU NOTICE THAT I OR ONE OF MY ASSOCIATES HAVE/HAS ACTED AS A REAL ESTATE BROKER

OR SALESPERSON REPRESENTING THE BUYER/SELLER IN THE SALE OF THIS PROPERTY TO YOU. I AM ALSO A LICENSED MORTGAGE BROKER, AND WOULD LIKE TO PROVIDE MORTGAGE BROKERAGE SERVICES TO YOU IN CONNECTION WITH YOUR LOAN TO PURCHASE THE PROPERTY.

YOU ARE NOT REQUIRED TO USE ME AS A MORTGAGE BROKER IN CONNECTION WITH THIS TRANSACTION. YOU ARE FREE TO COMPARISON SHOP WITH OTHER MORTGAGE BROKERS AND LENDERS, AND TO SELECT ANY MORTGAGE BROKER OR LENDER OF YOUR CHOOSING; and

(c) A real estate broker or salesperson licensed under chapter 18.85 RCW who also acts as a mortgage broker shall carry on such mortgage brokerage business activities and shall maintain such person's mortgage brokerage business records separate and apart from the real estate brokerage activities conducted pursuant to chapter 18.85 RCW. Such activities shall be deemed separate and apart even if they are conducted at an office location with a common entrance and mailing address, so long as each business is clearly identified by a sign visible to the public, each business is physically separated within the office facility, and no deception of the public as to the separate identities of the brokerage business firms results. This subsection ~~((14))~~ (13)(c) shall not require a real estate broker or salesperson licensed under chapter 18.85 RCW who also acts as a mortgage broker to maintain a physical separation within the office facility for the conduct of its real estate and mortgage brokerage activities where the director determines that maintaining such physical separation would constitute an undue financial hardship upon the mortgage broker and is unnecessary for the protection of the public; or

~~((15))~~ (14) Fail to comply with any provision of RCW 19.146.030 through ~~((19.146.090))~~ 19.146.080 or any rule adopted under those sections.

Sec. 4. RCW 19.146.030 and 1994 c 33 s 18 are each amended to read as follows:

(1) ~~((Upon))~~ Within three business days following receipt of a loan application ~~((and before the receipt of))~~ or any moneys from a borrower, a mortgage broker shall provide to each borrower a full written disclosure containing an itemization and explanation of all fees and costs that the borrower is required to pay in connection with obtaining a residential mortgage loan, and specifying the fee or fees which inure to the benefit of the mortgage broker and other such disclosures as may be required by rule. A good faith estimate of a fee or cost shall be provided if the exact amount of the fee or cost is not determinable. This subsection shall not be construed to require disclosure of the distribution or breakdown of loan fees, discount, or points between the mortgage broker and any lender or investor.

(2) The written disclosure shall contain the following information:

(a) The annual percentage rate, finance charge, amount financed, total amount of all payments, number of payments, amount of each payment, amount of points or prepaid interest and the conditions and terms under which any loan terms may

change between the time of disclosure and closing of the loan; and if a variable rate, the circumstances under which the rate may increase, any limitation on the increase, the effect of an increase, and an example of the payment terms resulting from an increase. Disclosure in compliance with the requirements of the Truth-in-Lending Act, 15 U.S.C. Sec. 1601 and Regulation Z, 12 C.F.R. Sec. 226, as now or hereafter amended, shall be deemed to comply with the disclosure requirements of this subsection;

(b) The itemized costs of any credit report, appraisal, title report, title insurance policy, mortgage insurance, escrow fee, property tax, insurance, structural or pest inspection, and any other third-party provider's costs associated with the residential mortgage loan. Disclosure through good faith estimates of settlement services and special information booklets in compliance with the requirements of the Real Estate Settlement Procedures Act, 12 U.S.C. Sec. 2601, and Regulation X, 24 C.F.R. Sec. 3500, as now or hereafter amended, shall be deemed to comply with the disclosure requirements of this subsection;

(c) If applicable, the cost, terms, duration, and conditions of a lock-in agreement and whether a lock-in agreement has been entered, and whether the lock-in agreement is guaranteed by the mortgage broker or lender, and if a lock-in agreement has not been entered, disclosure in a form (~~approved by~~) acceptable to the director that the disclosed interest rate and terms are subject to change;

(d) A statement that if the borrower is unable to obtain a loan for any reason, the mortgage broker must, within five days of a written request by the borrower, give copies of any appraisal, title report, or credit report paid for by the borrower to the borrower, and transmit the appraisal, title report, or credit report to any other mortgage broker or lender to whom the borrower directs the documents to be sent;

(e) (~~The name of the lender and the nature of the business relationship between the lender providing the residential mortgage loan and the mortgage broker, if any. PROVIDED, That this disclosure may be made at any time up to the time the borrower accepts the lender's commitment~~) Whether and under what conditions any lock-in fees are refundable to the borrower; and

(f) A statement providing that moneys paid by the borrower to the mortgage broker for third-party provider services are held in a trust account and any moneys remaining after payment to third-party providers will be refunded.

(3) If subsequent to the written disclosure being provided under this section, a mortgage broker enters into a lock-in agreement with a borrower or represents to the borrower that the borrower has entered into a lock-in agreement, then no less than three business days thereafter including Saturdays, the mortgage broker shall deliver or send by first-class mail to the borrower a written confirmation of the terms of the lock-in agreement, which shall include a copy of the disclosure made under subsection (2)(c) of this section.

(4) (~~A violation of the Truth-in-Lending Act, Regulation Z, the Real Estate Settlement Procedures Act, and Regulation X is a violation of this section for purposes of this chapter.~~

—(5)) A mortgage broker shall not charge any fee that inures to the benefit of the mortgage broker if it exceeds the fee disclosed on the written disclosure pursuant to this section, unless (a) the need to charge the fee was not reasonably foreseeable at the time the written disclosure was provided and (b) the mortgage broker has provided to the borrower, no less than three business days prior to the signing of the loan closing documents, a clear written explanation of the fee and the reason for charging a fee exceeding that which was previously disclosed. However, if the borrower's closing costs, excluding prepaid escrowed costs of ownership as defined by rule, does not exceed the total closing costs in the most recent good faith estimate, no other disclosures shall be required by this subsection.

Sec. 5. RCW 19.146.050 and 1987 c 391 s 7 are each amended to read as follows:

All moneys received by a mortgage broker from a borrower for payment of third-party provider services shall be deemed as held in trust immediately upon receipt by the mortgage broker. A mortgage broker shall deposit, prior to the end of the ~~((next))~~ third business day following receipt of such trust funds, all ~~((moneys received from borrowers for third-party provider services))~~ such trust funds in a trust account of a federally insured financial institution located in this state. All trust account funds collected under this chapter must remain on deposit in a trust account in the state of Washington until disbursement. The trust account shall be designated and maintained for the benefit of borrowers. Moneys maintained in the trust account shall be exempt from execution, attachment, or garnishment. A mortgage broker shall not in any way encumber the corpus of the trust account or commingle any other operating funds with trust account funds. Withdrawals from the trust account shall be only for the payment of bona fide services rendered by a third-party provider or for refunds to borrowers. The director shall make rules which: (1) Direct mortgage brokers how to handle checks and other instruments that are received by the broker and that combine trust funds with other funds; and (2) permit transfer of trust funds out of the trust account for payment of other costs only when necessary and only with the prior express written permission of the borrower. Any interest earned on the trust account shall be refunded or credited to the borrowers at closing. Trust accounts that are operated in a manner consistent with this section and any rules adopted by the director, are considered exempt from taxation under chapter 82.04 RCW.

Sec. 6. RCW 19.146.060 and 1994 c 33 s 20 are each amended to read as follows:

- (1) A mortgage broker shall use generally accepted accounting principles.
- (2) Except as otherwise provided in subsection (3) of this section, a mortgage broker shall maintain accurate~~((;))~~ and current~~((, and readily available))~~ books and records which shall be readily available at the mortgage broker's usual business location until at least ~~((four years))~~ twenty-five months have elapsed following the effective period to which the books and records relate.

(3) Where a mortgage broker's usual business location is outside of the state of Washington, the mortgage broker shall, as determined by the director by rule, either maintain its books and records at a location in this state, or reimburse the director for his or her expenses, including but not limited to transportation, food, and lodging expenses, relating to any examination or investigation resulting under this chapter.

(4) "Books and records" includes but is not limited to:

(a) Copies of all advertisements placed by or at the request of the mortgage broker which mention rates or fees. In the case of radio or television advertisements, or advertisements placed on a telephonic information line or other electronic source of information including but not limited to a computer data base or electronic bulletin board, a mortgage broker shall keep copies of the precise script for the advertisement. All advertisement records shall include for each advertisement the date or dates of publication and name of each periodical, broadcast station, or telephone information line which published the advertisement or, in the case of a flyer or other material distributed by the mortgage broker, the dates, methods, and areas of distribution; and

(b) Copies of all documents, notes, computer records if not stored in printed form, correspondence or memoranda relating to a borrower from whom the mortgage broker has accepted a deposit or other funds, or accepted a residential mortgage loan application or with whom the mortgage broker has entered into an agreement to assist in obtaining a residential mortgage loan.

Sec. 7. RCW 19.146.080 and 1987 c 391 s 10 are each amended to read as follows:

Except as otherwise required by the United States Code or the Code of Federal Regulations, now or as amended, if a borrower is unable to obtain a loan for any reason and the borrower has paid for an appraisal, title report, or credit report in full, the mortgage broker shall give a copy of the appraisal, title report, or credit report to the borrower and transmit the originals to any other mortgage broker or lender to whom the borrower directs that the documents be transmitted. Regardless of whether the borrower has obtained a loan, the mortgage broker must provide the copies or transmit the documents within five days after the borrower has made the request in writing.

Sec. 8. RCW 19.146.200 and 1994 c 33 s 7 are each amended to read as follows:

(1) A person may not engage in the business of a mortgage broker, except as an employee of a person licensed or exempt from licensing, without first obtaining and maintaining a license under this chapter. However, a person who independently contracts with a licensed mortgage broker need not be licensed if the licensed mortgage broker and the independent contractor have on file with the director a binding written agreement under which the licensed mortgage broker assumes responsibility for the independent contractor's violations of any provision of this chapter or rules adopted under this chapter; and if the licensed mortgage

broker's bond or other security required under this chapter runs to the benefit of the state and any person who suffers loss by reason of the independent contractor's violation of any provision of this chapter or rules adopted under this chapter.

(2) A person may not bring a suit or action for the collection of compensation as a mortgage broker unless the plaintiff alleges and proves that he or she was a duly licensed mortgage broker, or exempt from the license requirement of this chapter, at the time of offering to perform or performing any such an act or service regulated by this chapter. This subsection does not apply to suits or actions for the collection or compensation for services performed prior to the effective date of section 5, chapter 468, Laws of 1993.

(3) The license must be prominently displayed in the mortgage broker's place of business.

Sec. 9. RCW 19.146.205 and 1994 c 33 s 8 are each amended to read as follows:

(1) Application for a mortgage broker license under this chapter shall be in writing and in the form prescribed by the director. ~~((Unless waived by the director;))~~ The application shall contain at least the following information:

(a) The name, address, date of birth, and social security number of the applicant, and any other names, dates of birth, or social security numbers previously used by the applicant, unless waived by the director;

(b) If the applicant is a partnership or association, the name, address, date of birth, and social security number of each general partner or principal of the association, and any other names, dates of birth, or social security numbers previously used by the members, unless waived by the director;

(c) If the applicant is a corporation, the name, address, date of birth, and social security number of each officer, director, registered agent, and each principal stockholder, and any other names, dates of birth, or social security numbers previously used by the officers, directors, registered agents, and principal stockholders unless waived by the director;

(d) The street address, county, and municipality where the principal business office is to be located;

(e) ~~((Submission of))~~ The name, address, date of birth, and social security number of the applicant's designated broker, and any other names, dates of birth, or social security numbers previously used by the designated broker and a complete set of the designated broker's fingerprints taken by an authorized law enforcement officer; and

(f) Such other information regarding the applicant's or designated broker's background, financial responsibility, experience, character, and general fitness as the director may require by rule.

(2) The director may exchange fingerprint data with the federal bureau of investigation.

(3) At the time of filing an application for a license under this chapter, each applicant shall pay to the director the appropriate application fee in an amount

determined by rule of the director in accordance with RCW 43.24.086 to cover, but not exceed, the cost of processing and reviewing the application. The director shall deposit the moneys in the banking examination fund, unless the consumer services account is created as a dedicated, nonappropriated account, in which case the director shall deposit the moneys in the consumer services account.

~~((3))~~ (4)(a) Each applicant for a mortgage broker's license shall file and maintain a surety bond, in an amount of not greater than sixty thousand dollars nor less than twenty thousand dollars which the director deems adequate to protect the public interest, executed by the applicant as obligor and by a surety company authorized to do a surety business in this state as surety. The bonding requirement as established by the director may take the form of a uniform bond amount for all licensees or the director may establish by rule a schedule establishing a range of bond amounts which shall vary according to the annual average number of loan originators or independent contractors of a licensee. The bond shall run to the state of Washington as obligee, and shall run first to the benefit of the borrower and then to the benefit of the state and any person or persons who suffer loss by reason of the applicant's or its loan originator's violation of any provision of this chapter or rules adopted under this chapter. The bond shall be conditioned that the obligor as licensee will faithfully conform to and abide by this chapter and all rules adopted under this chapter, and shall reimburse all persons who suffer loss by reason of a violation of this chapter or rules adopted under this chapter. Borrowers shall be given priority over the state and other persons. The state and other third parties shall be allowed to receive distribution pursuant to a valid claim against the remainder of the bond. In the case of claims made by any person or entity who is not a borrower, no final judgment may be entered prior to one hundred eighty days following the date the claim is filed. The bond shall be continuous and may be canceled by the surety upon the surety giving written notice to the director of its intent to cancel the bond. The cancellation shall be effective thirty days after the notice is received by the director. Whether or not the bond is renewed, continued, reinstated, reissued, or otherwise extended, replaced, or modified, including increases or decreases in the penal sum, it shall be considered one continuous obligation, and the surety upon the bond shall not be liable in an aggregate or cumulative amount exceeding the penal sum set forth on the face of the bond. In no event shall the penal sum, or any portion thereof, at two or more points in time be added together in determining the surety's liability. The bond shall not be liable for any penalties imposed on the licensee, including, but not limited to, any increased damages or attorneys' fees, or both, awarded under RCW 19.86.090. The applicant may obtain the bond directly from the surety or through a group bonding arrangement involving a professional organization comprised of mortgage brokers if the arrangement provides at least as much coverage as is required under this subsection.

(b) In lieu of a surety bond, the applicant may, upon approval by the director, file with the director a certificate of deposit, an irrevocable letter of credit, or such

other instrument as approved by the director by rule, drawn in favor of the director for an amount equal to the required bond.

(c) In lieu of the surety bond or compliance with (b) of this subsection, an applicant may obtain insurance or coverage from an association comprised of mortgage brokers that is organized as a mutual corporation for the sole purpose of insuring or self-insuring claims that may arise from a violation of this chapter. An applicant may only substitute coverage under this subsection for the requirements of (a) or (b) of this subsection if the director, with the consent of the insurance commissioner, has authorized such association to organize a mutual corporation under such terms and conditions as may be imposed by the director to ensure that the corporation is operated in a financially responsible manner to pay any claims within the financial responsibility limits specified in (a) of this subsection.

Sec. 10. RCW 19.146.210 and 1994 c 33 s 10 are each amended to read as follows:

(1) The director shall issue and deliver a mortgage broker license to an applicant if, after investigation, the director makes the following findings:

(a) The applicant has paid the required license fees;

(b) The applicant has complied with RCW 19.146.205;

(c) Neither the applicant (~~nor~~), any of its principals (~~has~~), or the designated broker have had a license issued under this chapter or any similar state statute suspended or revoked within five years of the filing of the present application;

(d) Neither the applicant (~~nor~~), any of its principals (~~has~~), or the designated broker have been convicted of a gross misdemeanor involving dishonesty or financial misconduct or a felony within seven years of the filing of the present application;

(e) (~~Either the applicant or one of its principals, who may be designated by the applicant~~) The designated broker, (i) has at least two years of experience in the residential mortgage loan industry or has completed the educational requirements established by rule of the director and (ii) has passed a written examination whose content shall be established by rule of the director; and

(f) The applicant has demonstrated financial responsibility, character, and general fitness such as to command the confidence of the community and to warrant a belief that the business will be operated honestly, fairly, and efficiently within the purposes of this chapter.

(2) If the director does not find the conditions of subsection (1) of this section have been met, the director shall not issue the license. The director shall notify the applicant of the denial and return to the applicant the bond or approved alternative and any remaining portion of the license fee that exceeds the department's actual cost to investigate the license.

(3) The director shall issue a license under this chapter to any licensee issued a license under chapter 468, Laws of 1993, that has a valid license and is otherwise in compliance with the provisions of this chapter.

(4) A license issued pursuant to this chapter is valid from the date of issuance with no fixed date of expiration.

(5) A licensee may surrender a license by delivering to the director written notice of surrender, but the surrender does not affect the licensee's civil or criminal liability arising from acts or omissions occurring before such surrender.

(6) To prevent undue delay in the issuance of a license and to facilitate the business of a mortgage broker, an interim license with a fixed date of expiration may be issued when the director determines that the mortgage broker has substantially fulfilled the requirements for licensing as defined by rule.

Sec. 11. RCW 19.146.215 and 1994 c 33 s 11 are each amended to read as follows:

~~((Either the applicant or one of its principals, who may be designated by the applicant, and every branch manager))~~ The designated broker of every licensee shall complete an annual continuing education requirement, which the director shall define by rule.

Sec. 12. RCW 19.146.220 and 1996 c 103 s 1 are each amended to read as follows:

(1) The director shall enforce all laws and rules relating to the licensing of mortgage brokers, grant or deny licenses to mortgage brokers, and hold hearings.

(2) The director may impose the following sanctions:

(a) Deny applications for licenses for: (i) Violations of orders, including cease and desist orders issued under this chapter; or (ii) any violation of RCW 19.146.050 or 19.146.0201 (1) through (9);

(b) Suspend or revoke licenses for:

(i) False statements or omission of material information on the application that, if known, would have allowed the director to deny the application for the original license;

(ii) Failure to pay a fee required by the director or maintain the required bond;

(iii) Failure to comply with any directive or order of the director; or

(iv) Any violation of RCW 19.146.050, 19.146.060(3), 19.146.0201 (1) through (9) or ~~((12))~~ (12), 19.146.205~~((3))~~ (4), or 19.146.265;

(c) Impose fines on the licensee, employee or loan originator of the licensee, or other person subject to this chapter for:

(i) Any violations of RCW 19.146.0201 (1) through (9) or ~~((12))~~ (12), 19.146.030 through ~~((19.146.090))~~ 19.146.080, 19.146.200, 19.146.205~~((3))~~ (4), or 19.146.265; or

(ii) Failure to comply with any directive or order of the director;

(d) Issue orders directing a licensee, its employee or loan originator, or other person subject to this chapter to:

(i) Cease and desist from conducting business in a manner that is injurious to the public or violates any provision of this chapter; or

(ii) Pay restitution to an injured borrower; or

(e) Issue orders removing from office or prohibiting from participation in the conduct of the affairs of a licensed mortgage broker, or both, any officer, principal, employee, or loan originator of any licensed mortgage broker or any person subject to licensing under this chapter for:

(i) Any violation of 19.146.0201 (1) through (9) or ~~((13))~~ (12), 19.146.030 through ~~((19.146.090))~~ 19.146.080, 19.146.200, 19.146.205~~((3))~~ (4), or 19.146.265; or

(ii) False statements or omission of material information on the application that, if known, would have allowed the director to deny the application for the original license;

(iii) Conviction of a gross misdemeanor involving dishonesty or financial misconduct or a felony after obtaining a license; or

(iv) Failure to comply with any directive or order of the director.

(3) Each day's continuance of a violation or failure to comply with any directive or order of the director is a separate and distinct violation or failure.

(4) The director shall establish by rule standards for licensure of applicants licensed in other jurisdictions. ~~((Every licensed mortgage broker that does not maintain a physical office within the state must maintain a registered agent within the state to receive service of any lawful process in any judicial or administrative noncriminal suit, action, or proceeding, against the licensed mortgage broker which arises under this chapter or any rule or order under this chapter, with the same force and validity as if served personally on the licensed mortgage broker. Service upon the registered agent shall be effective if the plaintiff, who may be the director in a suit, action, or proceeding instituted by him or her, sends notice of the service and a copy of the process by registered mail to the defendant or respondent at the last address of the respondent or defendant on file with the director. In any judicial action, suit, or proceeding arising under this chapter or any rule or order adopted under this chapter between the department or director and a licensed mortgage broker who does not maintain a physical office in this state, venue shall be exclusively in the superior court of Thurston county.))~~

Sec. 13. RCW 19.146.228 and 1994 c 33 s 9 are each amended to read as follows:

The director shall establish fees by rule in accordance with RCW 43.24.086 sufficient to cover, but not exceed, the costs of administering this chapter. These fees may include:

(1) An annual assessment paid by each licensee (1) or before a date specified by rule;

(2) An ~~((examination))~~ investigation fee to cover the costs of any ~~((examination))~~ investigation of the books and records of a licensee or other person subject to this chapter; and

(3) An application fee to cover the costs of processing applications made to the director under this chapter.

Mortgage brokers shall not be charged investigation fees for the processing of complaints when the investigation determines that no violation of this chapter occurred or when the mortgage broker provides a remedy satisfactory to the complainant and the director and no order of the director is issued. All moneys, fees, and penalties collected under the authority of this chapter shall be deposited into the banking examination fund, unless the consumer services account is created as a dedicated, nonappropriated account, in which case all moneys, fees, and penalties collected under this chapter shall be deposited in the consumer services account.

Sec. 14. RCW 19.146.235 and 1994 c 33 s 17 are each amended to read as follows:

For the purposes of investigating complaints arising under this chapter, the director may at any time, either personally or by a designee, examine the business, including but not limited to the books, accounts, records, and files used therein, of every licensee and of every person engaged in the business of mortgage brokering, whether such a person shall act or claim to act under or without the authority of this chapter. For that purpose the director and designated representatives shall have access during regular business hours to the offices and places of business, books, accounts, papers, records, files, safes, and vaults of all such persons. The director or designated person may ~~((require)) direct or order~~ the attendance of and examine under oath all persons whose testimony may be required about the loans or the business or subject matter of any such examination or investigation, and may direct or order such person to produce books, accounts, records, files, and any other documents the director or designated person deems relevant to the inquiry. If a person who receives such a directive or order does not attend and testify, or does not produce the requested books, records, files, or other documents within the time period established in the directive or order, then the director or designated person may issue a subpoena requiring attendance or compelling production of books, records, files, or other documents. No person subject to examination or investigation under this chapter shall withhold, abstract, remove, mutilate, destroy, or secrete any books, records, computer records, or other information.

Once during the first two years of licensing, the director may visit, either personally or by designee, the licensee's place or places of business to conduct a compliance examination. The director may examine, either personally or by designee, a sample of the licensee's loan files, interview the licensee or other designated employee or independent contractor, and undertake such other activities as necessary to ensure that the licensee is in compliance with the provisions of this chapter. For those licensees issued licenses prior to March 21, 1994, the cost of such an examination shall be considered to have been prepaid in their license fee. After this one visit within the two-year period subsequent to issuance of a license, the director or a designee may visit the licensee's place or places of business only to ensure that corrective action has been taken or to investigate a complaint.

Sec. 15. RCW 19.146.240 and 1994 c 33 s 21 are each amended to read as follows:

(1) The director or any person injured by a violation of this chapter may bring an action against the surety bond or approved alternative of the licensed mortgage broker who committed the violation or who employed or engaged the loan originator who committed the violation.

(2) ~~((A))~~ (a) The director or any person who is damaged by the licensee's or its loan originator's violation of this chapter, or rules adopted under this chapter, may bring suit upon the surety bond or approved alternative in the superior court of any county in which jurisdiction over the licensee may be obtained. Jurisdiction shall be exclusively in the superior court. Any such action must be brought not later than one year after the alleged violation of this chapter or rules adopted under this chapter. Except as provided in subsection (2)(b) of this section, in the event valid claims of borrowers against a bond or deposit exceed the amount of the bond or deposit, each borrower claimant shall only be entitled to a pro rata amount, based on the amount of the claim as it is valid against the bond or deposit, without regard to the date of filing of any claim or action. If, after all valid borrower claims are paid, valid claims by nonborrower claimants exceed the remaining amount of the bond or deposit, each nonborrower claimant shall only be entitled to a pro rata amount, based on the amount of the claim as it is valid against the bond or deposit, without regard to the date of the filing or any claim or action. A judgment arising from a violation of this chapter or rule adopted under this chapter shall be entered for actual damages and in no case be less than the amount paid by the borrower to the licensed mortgage broker plus reasonable attorneys' fees and costs. In no event shall the surety bond or approved alternative provide payment for any trebled or punitive damages.

(b) Borrowers shall be given priority over the director and other persons in distributions in actions against the surety bond. The director and other third parties shall then be entitled to distribution to the extent of their claims as found valid against the remainder of the bond. In the case of claims made by any person or entity who is not a borrower, no final judgment may be entered prior to one hundred eighty days following the date the claim is filed. This provision regarding priority shall not restrict the right of any claimant to file a claim within one year.

(3) The remedies provided under this section are cumulative and nonexclusive and do not affect any other remedy available at law.

Sec. 16. RCW 19.146.245 and 1994 c 33 s 22 are each amended to read as follows:

A licensed mortgage broker is liable for any conduct violating this chapter by the designated broker, a loan originator, or other licensed mortgage broker while employed or engaged by the licensed mortgage broker. ~~((In addition, a branch office manager is liable for any conduct violating this chapter by a loan originator or other licensed mortgage broker employed or engaged at the branch office.))~~

Sec. 17. RCW 19.146.250 and 1993 c 468 s 16 are each amended to read as follows:

No license issued under the provisions of this chapter shall authorize any person other than the person to whom it is issued to do any act by virtue thereof nor to operate in any other manner than under his or her own name except:

(1) A licensed mortgage broker may operate or advertise under a name other than the one under which the license is issued by obtaining the written consent of the director to do so; and

(2) A broker may establish one or more branch offices under a name or names different from that of the main office if the name or names are approved by the director, so long as each branch office is clearly identified as a branch or division of the main office. ~~((No broker may establish branch offices under more than three names.))~~ Both the name of the branch office and of the main office must clearly appear on the sign identifying the office, if any, and in any advertisement or on any letterhead of any stationery or any forms, or signs used by the mortgage firm on which either the name of the main or branch offices appears.

Sec. 18. RCW 19.146.260 and 1994 c 33 s 23 are each amended to read as follows:

~~((Every licensed mortgage broker must have and maintain an office in this state, or within thirty miles of the border of this state, accessible to the public and which shall serve as his or her office for the transaction of business. The broker's license must be prominently displayed.))~~ Every licensed mortgage broker that does not maintain a physical office within the state must maintain a registered agent within the state to receive service of any lawful process in any judicial or administrative noncriminal suit, action, or proceeding against the licensed mortgage broker which arises under this chapter or any rule or order under this chapter, with the same force and validity as if served personally on the licensed mortgage broker. Service upon the registered agent shall not be effective unless the plaintiff, who may be the director in a suit, action, or proceeding instituted by him or her, no later than the next business day sends notice of the service and a copy of the process by registered mail to the defendant or respondent at the last address of the respondent or defendant on file with the director. In any judicial action, suit, or proceeding arising under this chapter or any rule or order adopted under this chapter between the department or director and a licensed mortgage broker who does not maintain a physical office in this state, venue shall be exclusively in the superior court of the Thurston county.

Sec. 19. RCW 19.146.265 and 1994 c 33 s 24 are each amended to read as follows:

A licensed mortgage broker may apply to the director for authority to establish one or more branch offices under the same or different name as the main office upon the payment of a fee as prescribed by the director by rule. Provided that the applicant is in good standing with the department, as defined in rule by the director, the director shall promptly issue a duplicate license for each of the branch offices

showing the location of the main office and the particular branch. Each duplicate license shall be prominently displayed in the office for which it is issued. ~~((Each branch office shall be required to have a branch manager who meets the experience and educational requirements for branch managers as established by rule of the director.))~~

Sec. 20. RCW 19.146.280 and 1994 c 33 s 26 are each amended to read as follows:

(1) There is established the mortgage brokerage commission consisting of five commission members who shall act in an advisory capacity to the director on mortgage brokerage issues.

(2) The director shall appoint the members of the commission, weighing the recommendations from professional organizations representing mortgage brokers. At least three of the commission members shall be mortgage brokers ~~((required to apply for a mortgage brokers license))~~ licensed under this chapter and at least one shall be exempt from licensure under RCW 19.146.020(1)(f). No commission member shall be appointed who has had less than five years' experience in the business of residential mortgage lending. In addition, the director or a designee shall serve as an ex officio, nonvoting member of the commission. Voting members of the commission shall serve for two-year terms with three of the initial commission members serving one-year terms. The department shall provide staff support to the commission.

(3) The commission may establish a code of conduct for its members. Any commissioner may bring a motion before the commission to remove a commissioner for failing to conduct themselves in a manner consistent with the code of conduct. The motion shall be in the form of a recommendation to the director to dismiss a specific commissioner and shall enumerate causes for doing so. The commissioner in question shall recuse himself or herself from voting on any such motion. Any such motion must be approved unanimously by the remaining four commissioners. Approved motions shall be immediately transmitted to the director for review and action.

(4) Members of the commission shall be reimbursed for their travel expenses incurred in carrying out the provisions of this chapter in accordance with RCW 43.03.050 and 43.03.060. All costs and expenses associated with the commission shall be paid from the banking examination fund, unless the consumer services account is created as a dedicated, nonappropriated account, in which case all costs and expenses shall be paid from the consumer services account.

~~((4))~~ (5) The commission shall advise the director on the characteristics and needs of the mortgage brokerage profession.

~~((5))~~ (6) The department, in consultation with other applicable agencies of state government, shall conduct a continuing review of the number and type of consumer complaints arising from residential mortgage lending in the state. The department shall report its findings to the senate committee on ~~((labor and commerce))~~ financial institutions and house of representatives committee on

financial institutions and insurance along with recommendations for any changes in the licensing requirements of this chapter, ~~((no later than December 1, 1996))~~ biennially by December 1st of each even-numbered year.

NEW SECTION. Sec. 21. A new section is added to chapter 82.04 RCW to read as follows:

This chapter shall not apply to amounts received from trust accounts that are operated in a manner consistent with RCW 19.146.050 and any rules adopted by the director of financial institutions.

NEW SECTION. Sec. 22. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

NEW SECTION. Sec. 23. RCW 19.146.090 and 1987 c 391 s 11 are each repealed.

Passed the House March 12, 1997.

Passed the Senate April 11, 1997.

Approved by the Governor April 21, 1997.

Filed in Office of Secretary of State April 21, 1997.

CHAPTER 107

[Substitute House Bill 1887]

DEPARTMENT OF LABOR AND INDUSTRIES WISHA ADVISORY COMMITTEE

AN ACT Relating to establishing the department of labor and industries WISHA advisory committee; adding a new section to chapter 49.17 RCW; providing an effective date; and declaring an emergency.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. Sec. 1. A new section is added to chapter 49.17 RCW to read as follows:

The director shall appoint a WISHA advisory committee composed of ten members: Four members representing subject workers, each of whom shall be appointed from a list of at least three names submitted by a recognized state-wide organization of employees, representing a majority of employees; four members representing subject employers, each of whom shall be appointed from a list of at least three names submitted by a recognized state-wide organization of employers, representing a majority of employers; and two ex officio members, without a vote, one of whom shall be the chairperson of the board of industrial insurance appeals, and the other representing the department. The member representing the department shall be chairperson. The committee shall provide comment on department rule making, policies, and other initiatives. The committee shall also conduct a continuing study of any aspect of safety and health the committee determines to require their consideration. The committee shall report its findings to the department or the board of industrial insurance appeals for action as deemed appropriate. The members of the committee shall be appointed for a term of three

years commencing on July 1, 1997, and the terms of the members representing the workers and employers shall be staggered so that the director shall designate one member from each group initially appointed whose term shall expire on June 30, 1998, and one member from each group whose term shall expire on June 30, 1999. The members shall serve without compensation, but are entitled to travel expenses as provided in RCW 43.03.050 and 43.03.060. The committee may hire such experts, if any, as it requires to discharge its duties and may utilize such personnel and facilities of the department and board of industrial insurance appeals as it needs, without charge. All expenses of the committee must be paid by the department.

****NEW SECTION. Sec. 2. This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect July 1, 1997.***

*Sec. 2 was vetoed. See message at end of chapter.

Passed the House March 13, 1997.

Passed the Senate April 8, 1997.

Approved by the Governor April 21, 1997, with the exception of certain items that were vetoed.

Filed in Office of Secretary of State April 21, 1997.

Note: Governor's explanation of partial veto is as follows:

"I am returning herewith, without my approval as to section 2, Substitute House Bill No. 1887 entitled:

"AN ACT Relating to establishing the department of labor and industries WISHA advisory committee;"

This legislation includes an emergency clause in section 2. Although the creation of the WISHA advisory committee is important, it is not a matter necessary for the immediate preservation of the public peace, health or safety, or support of the state government and its existing public institutions.

For this reason, I have vetoed section 2 of Substitute House Bill No. 1887.

With the exception of section 2, Substitute House Bill No. 1887 is approved."

CHAPTER 108

[Substitute House Bill 1930]

BIRTH CERTIFICATES—COPYING RESTRICTIONS

AN ACT Relating to birth certificates; and adding a new section to chapter 70.58 RCW.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. Sec. 1. A new section is added to chapter 70.58 RCW to read as follows:

No person may prepare or issue any birth certificate that purports to be an original, certified copy, or copy of a birth certificate except as authorized in this chapter.

The department shall adopt rules providing for the release of paper or electronic copies of birth certificate records that include adequate standards for

security and confidentiality, assure the proper record is identified, and prevent fraudulent use of records. All certified copies of birth certificates in the state must be on paper and in a format provided and approved by the department and must include security features to deter the alteration, counterfeiting, duplication, or simulation without ready detection.

Federal, state, and local governmental agencies may, upon request and with submission of the appropriate fee, be furnished copies of birth certificates if the birth certificate will be used for the agencies' official duties. The department may enter into agreements with offices of vital statistics outside the state for the transmission of copies of birth certificates to those offices when the birth certificates relate to residents of those jurisdictions and receipt of copies of birth certificates from those offices. The agreement must specify the statistical and administrative purposes for which the birth certificates may be used and must provide instructions for the proper retention and disposition of the copies. Copies of birth certificates that are received by the department from other offices of vital statistics outside the state must be handled as provided under the agreements.

The department may disclose information that may identify any person named in any birth certificate record for research purposes as provided under chapter 42.48 RCW.

Passed the House March 18, 1997.

Passed the Senate April 9, 1997.

Approved by the Governor April 21, 1997.

Filed in Office of Secretary of State April 21, 1997.

CHAPTER 109

[House Bill 2040]

ADMINISTRATION OF UNITED STATES DEPARTMENT OF ENERGY WORKERS' COMPENSATION CLAIMS AT HANFORD BY THE DEPARTMENT OF LABOR AND INDUSTRIES

AN ACT Relating to authorizing the continuation of a special insuring agreement for workers' compensation for the United States department of energy; amending 1951 c 144 s 1 (uncodified); adding a new section to chapter 51.04 RCW; and repealing 1951 c 144 s 2 (uncodified).

Be it enacted by the Legislature of the State of Washington:

Sec. 1. 1951 c 144 s 1 (uncodified) is amended to read as follows:

The department of labor and industries upon the request of the secretary of defense of the United States or the ~~((chairman))~~ secretary of the United States ~~((atomic energy commission))~~ department of energy, may in its discretion approve ~~((or promulgate war projects insurance rating plans or defense projects insurance rating plans, providing for insurance with respect to cost plus fixed fee projects, and all war, defense or other contracts in the national interest of every kind and nature, involved in the prosecution of the war, national defense or national interest, and engaged in the performance of the work, either directly or indirectly, for the United States, regardless of whether such plan conforms to the requirements~~

~~specified in the industrial insurance law of this state whenever the department finds that the application of such plan will effectively aid the national interest, the prosecution of the war or the defense of the United States; and the department may further approve or direct changes or modifications of such plans:~~

~~—Whenever war projects insurance rating plans or defense projects insurance rating plans provide for pensions, and funds are paid in for pensions pursuant to said plans the state finance committee is authorized to invest said pension funds in national, state, county, municipal, or school district bonds as such plans heretofore or hereafter provide for and not otherwise)) special insuring agreements providing industrial insurance coverage for workers engaged in the performance of work, either directly or indirectly, for the United States, regarding projects and contracts at the Hanford Nuclear Reservation. The agreements need not conform to the requirements specified in the industrial insurance law of this state if the department finds that the application of the plan will effectively aid the national interest. The department may also approve or direct changes or modifications of the agreements as it deems necessary.~~

An agreement entered into under this section remains in full force and effect for as long as the department deems it necessary to accomplish the purposes of this section.

NEW SECTION. Sec. 2. 1951 c 144 s 2 (uncodified) is repealed.

NEW SECTION. Sec. 3. Section 1 of this act is added to chapter 51.04 RCW.

NEW SECTION. Sec. 4. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

Passed the House March 13, 1997.

Passed the Senate April 9, 1997.

Approved by the Governor April 21, 1997.

Filed in Office of Secretary of State April 21, 1997.

CHAPTER 110

[House Bill 2098]

LONGSHORE AND HARBOR WORKERS' COMPENSATION INSURANCE PLAN— EXTENSION AND ADMINISTRATION

AN ACT Relating to longshore and harbor workers' compensation insurance; amending RCW 48.22.070; repealing 1995 c 327 s 2, 1993 c 177 s 3, & 1992 c 209 s 6 (uncodified); and declaring an emergency.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 48.22.070 and 1993 c 177 s 1 are each amended to read as follows:

(1) ~~((Before July 1, 1992,))~~ The commissioner shall adopt rules establishing a reasonable plan to insure that workers' compensation coverage as required by the

United States longshore and harbor workers' compensation act, 33 U.S.C. Secs. 901 through 950, and maritime employer's liability coverage incidental to the workers' compensation coverage is available to those unable to purchase it through the normal insurance market. This plan shall require the participation of all authorized insurers writing primary or excess United States longshore and harbor workers' compensation insurance in the state of Washington and the Washington state industrial insurance fund as defined in RCW 51.08.175 which is authorized to participate in the plan and to make payments in support of the plan in accordance with this section. Any underwriting losses or surpluses incurred by the plan shall be determined by the governing committee of the plan and shall be shared by plan participants in accordance with the following ratios: The state industrial insurance fund, fifty percent; and authorized insurers writing primary or excess United States longshore and harbor workers' compensation insurance, fifty percent.

(2) The Washington state industrial insurance fund may obtain or provide reinsurance coverage for the plan created under subsection (1) of this section the terms of which shall be negotiated between the state fund and the plan. This coverage shall not be obtained or provided if the commissioner determines that the premium to be charged would result in unaffordable rates for coverage provided by the plan. In considering whether excess of loss coverage premiums would result in unaffordable rates for workers' compensation coverage provided by the plan, the commissioner shall compare the resulting plan rates to those provided under any similar pool or plan of other states ~~((in existence prior to July 1, 1992))~~.

(3) An applicant for plan insurance, a person insured under the plan, or an insurer, affected by a ruling or decision of the manager or committee designated to operate the plan may appeal to the commissioner for resolution of a dispute. In adopting rules under this section, the commissioner shall require that the plan use generally accepted actuarial principles for rate making.

NEW SECTION. Sec. 2. 1995 c 327 s 2, 1993 c 177 s 3, & 1992 c 209 s 6 (uncodified) are each repealed.

NEW SECTION. Sec. 3. This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately.

Passed the House March 13, 1997.

Passed the Senate April 9, 1997.

Approved by the Governor April 21, 1997.

Filed in Office of Secretary of State April 21, 1997.

CHAPTER 111

[Engrossed House Bill 2142]

LOTTERY WINNINGS—ASSIGNMENT OF RIGHTS

AN ACT Relating to assignment of rights of lottery winnings; amending RCW 67.70.100; and declaring an emergency.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 67.70.100 and 1996 c 228 s 2 are each amended to read as follows:

(1) Except under subsection (2) of this section, no right of any person to a prize drawn is assignable, except that payment of any prize drawn may be paid to the estate of a deceased prize winner, and except that any person pursuant to an appropriate judicial order may be paid the prize to which the winner is entitled.

(2)(a) The payment of all or part of the remainder of an annuity may be assigned to another person, pursuant to a voluntary assignment of the right to receive future annual prize payments, if the assignment is made pursuant to an appropriate judicial order of the Thurston county superior court or the superior court of the county in which the prize winner resides, if the winner is a resident of Washington state. If the prize winner is not a resident of Washington state, the winner must seek an appropriate order from the Thurston county superior court.

(b) If there is a voluntary assignment under (a) of this subsection, a copy of the petition for an order under (a) of this subsection and all notices of any hearing in the matter shall be served on the attorney general no later than ten days before any hearing or entry of any order.

(c) The court receiving the petition may issue an order approving the assignment and directing the director to pay to the assignee the remainder or portion of an annuity so assigned upon finding that all of the following conditions have been met:

(i) The assignment has been memorialized in writing and executed by the assignor and is subject to Washington law;

(ii) The assignor provides a sworn declaration to the court attesting to the facts that the assignor has had the opportunity to be represented by independent legal counsel in connection with the assignment, has received independent financial and tax advice concerning the effects of the assignment, and is of sound mind and not acting under duress, and the court makes findings determining so; (~~and~~)

(iii) The assignee has provided a one-page written disclosure statement that sets forth in bold-face type, fourteen point or larger, the payments being assigned by amount and payment dates, the purchase price, or loan amount being paid; the interest rate or rate of discount to present value, assuming monthly compounding and funding on the contract date; and the amount, if any, of any origination or closing fees that will be charged to the lottery winner. The disclosure statement must also advise the winner that the winner should consult with and rely upon the advice of his or her own independent legal or financial advisors regarding the potential federal and state tax consequences of the transaction; and

(iv) The proposed assignment does not and will not include or cover payments or portions of payments subject to offsets pursuant to RCW 67.70.255 unless appropriate provision is made in the order to satisfy the obligations giving rise to the offset.

(d) The commission may intervene as of right in any proceeding under this section but shall not be deemed an indispensable or necessary party.

(3) The director will not pay the assignee an amount in excess of the annual payment entitled to the assignor.

(4) The commission may adopt rules pertaining to the assignment of prizes under this section, including recovery of actual costs incurred by the commission. The recovery of actual costs shall be deducted from the initial annuity payment made to the assignee.

(5) No voluntary assignment under this section is effective unless and until the national office of the federal internal revenue service provides a ruling that declares that the voluntary assignment of prizes will not affect the federal income tax treatment of prize winners who do not assign their prizes. If at any time the federal internal revenue service or a court of competent jurisdiction provides a determination letter, revenue ruling, other public ruling of the internal revenue service or published decision to any state lottery or state lottery prize winner declaring that the voluntary assignment of prizes will effect the federal income tax treatment of prize winners who do not assign their prizes, the director shall immediately file a copy of that letter, ruling, or published decision with the secretary of state. No further voluntary assignments may be allowed after the date the ruling, letter, or published decision is filed.

(6) The occurrence of any event described in subsection (5) of this section does not render invalid or ineffective assignments validly made and approved pursuant to an appropriate judicial order before the occurrence of any such event.

(7) The requirement for a disclosure statement in subsection (2)(c)(iii) of this section does not apply to any assignment agreement executed before the effective date of this section.

(8) The commission and the director shall be discharged of all further liability upon payment of a prize pursuant to this section.

NEW SECTION. Sec. 2. This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately.

Passed the House March 14, 1997.

Passed the Senate April 9, 1997.

Approved by the Governor April 21, 1997.

Filed in Office of Secretary of State April 21, 1997.

CHAPTER 112

[Substitute Senate Bill 5562]

INVOLUNTARY COMMITMENT OF MENTALLY ILL PERSONS

AN ACT Relating to the involuntary commitment of mentally ill persons; amending RCW 71.05.010, 71.05.040, 71.05.050, 71.05.100, 71.05.110, 71.05.150, 71.05.155, 71.05.160, 71.05.170, 71.05.180, 71.05.190, 71.05.200, 71.05.210, 71.05.215, 71.05.220, 71.05.230, 71.05.240, 71.05.260, 71.05.270, 71.05.280, 71.05.290, 71.05.300, 71.05.320, 71.05.330, 71.05.340, 71.05.350, 71.05.360, 71.05.370, 71.05.410, 71.05.460, 71.05.470, 71.05.490, 71.05.525, 9A.44.010, and 71.24.025;

reenacting and amending RCW 71.05.020; adding a new section to chapter 71.05 RCW; and creating new sections.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. Sec. 1. It is the intent of the legislature to enhance continuity of care for persons with serious mental disorders that can be controlled or stabilized in a less restrictive alternative commitment. Within the guidelines stated in *In Re LaBelle* 107 Wn. 2d 196 (1986), the legislature intends to encourage appropriate interventions at a point when there is the best opportunity to restore the person to or maintain satisfactory functioning.

For persons with a prior history or pattern of repeated hospitalizations or law enforcement interventions due to decompensation, the consideration of prior mental history is particularly relevant in determining whether the person would receive, if released, such care as is essential for his or her health or safety.

Therefore, the legislature finds that for persons who are currently under a commitment order, a prior history of decompensation leading to repeated hospitalizations or law enforcement interventions should be given great weight in determining whether a new less restrictive alternative commitment should be ordered.

Sec. 2. RCW 71.05.010 and 1989 c 120 s 1 are each amended to read as follows:

The provisions of this chapter are intended by the legislature:

- (1) To end inappropriate, indefinite commitment of mentally disordered persons and to eliminate legal disabilities that arise from such commitment;
- (2) To provide prompt evaluation and ~~((short term))~~ timely and appropriate treatment of persons with serious mental disorders;
- (3) To safeguard individual rights;
- (4) To provide continuity of care for persons with serious mental disorders;
- (5) To encourage the full use of all existing agencies, professional personnel, and public funds to prevent duplication of services and unnecessary expenditures;
- (6) To encourage, whenever appropriate, that services be provided within the community;
- (7) To protect the public safety.

Sec. 3. RCW 71.05.020 and 1989 c 420 s 13, 1989 c 205 s 8, and 1989 c 120 s 2 are each reenacted and amended to read as follows:

For the purposes of this chapter:

- (1) "Antipsychotic medications," also referred to as "neuroleptics," means that class of drugs primarily used to treat serious manifestations of mental illness associated with thought disorders and currently includes phenothiazines, thioxanthenes, butyrophenone, dihydroindolone, and dibenzoxazine;
- (2) "Attending staff" means any person on the staff of a public or private agency having responsibility for the care and treatment of a patient;

(3) "Custody" means involuntary detention under the provisions of this chapter or chapter 10.77 RCW, uninterrupted by any period of unconditional release from a facility providing involuntary care and treatment;

(4) "Department" means the department of social and health services;

(5) "Developmental disabilities professional" means a person who has specialized training and three years of experience in directly treating or working with persons with developmental disabilities and is a psychiatrist, psychologist, or social worker, and such other developmental disabilities professionals as may be defined by rules adopted by the secretary;

(6) "Developmental disability" means that condition defined in RCW 71A.10.020(2);

(7) "Evaluation and treatment facility" means any facility which can provide directly, or by direct arrangement with other public or private agencies, emergency evaluation and treatment, outpatient care, and timely and appropriate inpatient care to persons suffering from a mental disorder, and which is certified as such by the department. A physically separate and separately operated portion of a state hospital may be designated as an evaluation and treatment facility. A facility which is part of, or operated by, the department or any federal agency will not require certification. No correctional institution or facility, or jail, shall be an evaluation and treatment facility within the meaning of this chapter;

(8) "Gravely disabled" means a condition in which a person, as a result of a mental disorder: (a) Is in danger of serious physical harm resulting from a failure to provide for his or her essential human needs of health or safety, or (b) manifests severe deterioration in routine functioning evidenced by repeated and escalating loss of cognitive or volitional control over his or her actions and is not receiving such care as is essential for his or her health or safety;

((2)) (9) "Habilitative services" means those services provided by program personnel to assist persons in acquiring and maintaining life skills and in raising their levels of physical, mental, social, and vocational functioning. Habilitative services include education, training for employment, and therapy. The habilitative process shall be undertaken with recognition of the risk to the public safety presented by the individual being assisted as manifested by prior charged criminal conduct;

(10) "Individualized service plan" means a plan prepared by a developmental disabilities professional with other professionals as a team, for an individual with developmental disabilities, which shall state:

(a) The nature of the person's specific problems, prior charged criminal behavior, and habilitation needs;

(b) The conditions and strategies necessary to achieve the purposes of habilitation;

(c) The intermediate and long-range goals of the habilitation program, with a projected timetable for the attainment;

(d) The rationale for using this plan of habilitation to achieve those intermediate and long-range goals;

(e) The staff responsible for carrying out the plan;

(f) Where relevant in light of past criminal behavior and due consideration for public safety, the criteria for proposed movement to less-restrictive settings, criteria for proposed eventual discharge from involuntary confinement, and a projected possible date for discharge from involuntary confinement; and

(g) The type of residence immediately anticipated for the person and possible future types of residences;

(11) "Judicial commitment" means a commitment by a court pursuant to the provisions of this chapter;

(12) "Likelihood of serious harm" means: (a) A substantial risk that physical harm will be inflicted by an individual upon his or her own person, as evidenced by threats or attempts to commit suicide or inflict physical harm on oneself, (b) a substantial risk that physical harm will be inflicted by an individual upon another, as evidenced by behavior which has caused such harm or which places another person or persons in reasonable fear of sustaining such harm, or (c) a substantial risk that physical harm will be inflicted by an individual upon the property of others, as evidenced by behavior which has caused substantial loss or damage to the property of others;

(13) "Mental disorder" means any organic, mental, or emotional impairment which has substantial adverse effects on an individual's cognitive or volitional functions;

~~((3) "Likelihood of serious harm" means either: (a) A substantial risk that physical harm will be inflicted by an individual upon his or her own person, as evidenced by threats or attempts to commit suicide or inflict physical harm on one's self, (b) a substantial risk that physical harm will be inflicted by an individual upon another, as evidenced by behavior which has caused such harm or which places another person or persons in reasonable fear of sustaining such harm, or (c) a substantial risk that physical harm will be inflicted by an individual upon the property of others, as evidenced by behavior which has caused substantial loss or damage to the property of others;~~

~~—(4))~~ (14) "Mental health professional" means a psychiatrist, psychologist, psychiatric nurse, or social worker, and such other mental health professionals as may be defined by rules adopted by the secretary pursuant to the provisions of this chapter;

(15) "Peace officer" means a law enforcement official of a public agency or governmental unit, and includes persons specifically given peace officer powers by any state law, local ordinance, or judicial order of appointment;

~~((5) "Judicial commitment" means a commitment by a court pursuant to the provisions of this chapter;~~

~~—(6) "Public agency" means any evaluation and treatment facility or institution, hospital, or sanitarium which is conducted for, or includes a department or ward~~

conducted for, the care and treatment of persons who are mentally ill or deranged, if the agency is operated directly by, federal, state, county, or municipal government, or a combination of such governments;

~~—(7)) (16) "Private agency" means any person, partnership, corporation, or association not defined as a public agency, whether or not financed in whole or in part by public funds, which constitutes an evaluation and treatment facility or private institution, hospital, or sanitarium, which is conducted for, or includes a department or ward conducted for the care and treatment of persons who are mentally ill;~~

~~((8) "Attending staff" means any person on the staff of a public or private agency having responsibility for the care and treatment of a patient;~~

~~—(9) "Department" means the department of social and health services of the state of Washington;~~

~~—(10) "Resource management services" has the meaning given in chapter 71.24 RCW;~~

~~—(11) "Secretary" means the secretary of the department of social and health services, or his designee;~~

~~—(12) "Mental health professional" means a psychiatrist, psychologist, psychiatric nurse, or social worker, and such other mental health professionals as may be defined by rules and regulations adopted by the secretary pursuant to the provisions of this chapter;~~

~~—(13)) (17) "Professional person" shall mean a mental health professional, as above defined, and shall also mean a physician, registered nurse, and such others as may be defined by rules ((and regulations)) adopted by the secretary pursuant to the provisions of this chapter;~~

~~((14)) (18) "Psychiatrist" means a person having a license as a physician and surgeon in this state who has in addition completed three years of graduate training in psychiatry in a program approved by the American medical association or the American osteopathic association and is certified or eligible to be certified by the American board of psychiatry and neurology;~~

~~((15) "Psychologist" means a person who has been licensed as a psychologist pursuant to chapter 18.83 RCW;~~

~~—(16) "Social worker" means a person with a master's or further advanced degree from an accredited school of social work or a degree from a graduate school deemed equivalent under rules and regulations adopted by the secretary;~~

~~—(17) "Evaluation and treatment facility" means any facility which can provide directly, or by direct arrangement with other public or private agencies, emergency evaluation and treatment, outpatient care, and short term inpatient care to persons suffering from a mental disorder, and which is certified as such by the department of social and health services: PROVIDED, That a physically separate and separately operated portion of a state hospital may be designated as an evaluation and treatment facility: PROVIDED FURTHER, That a facility which is part of, or operated by, the department of social and health services or any federal agency.~~

~~will not require certification. AND PROVIDED FURTHER, That no correctional institution or facility, or jail, shall be an evaluation and treatment facility within the meaning of this chapter;~~

~~— (18) "Antipsychotic medications," also referred to as "neuroleptics," means that class of drugs primarily used to treat serious manifestations of mental illness associated with thought disorders and currently includes phenothiazines, thioxanthenes, butyrophenone, dihydroindolone, and dibenzoxazipine;~~

~~— (19) "Developmental disability" means that condition defined in RCW 71A.10.020(2);~~

~~— (20) "Developmental disabilities professional" means a person who has specialized training and three years of experience in directly treating or working with persons with developmental disabilities and is a psychiatrist or psychologist, or a social worker, and such other developmental disabilities professionals as may be defined by rules adopted by the secretary;~~

~~— (21) "Habilitative services" means those services provided by program personnel to assist persons in acquiring and maintaining life skills and in raising their levels of physical, mental, social, and vocational functioning. Habilitative services include education, training for employment, and therapy. The habilitative process shall be undertaken with recognition of the risk to the public safety presented by the individual being assisted as manifested by prior charged criminal conduct;~~

~~— (22)) (19) "Psychologist" means a person who has been licensed as a psychologist pursuant to chapter 18.83 RCW;~~

~~((23)) (20) "Public agency" means any evaluation and treatment facility or institution, hospital, or sanitarium which is conducted for, or includes a department or ward conducted for, the care and treatment of persons who are mentally ill or deranged, if the agency is operated directly by, federal, state, county, or municipal government, or a combination of such governments;~~

~~(21) "Resource management services" has the meaning given in chapter 71.24 RCW;~~

~~(22) "Secretary" means the secretary of the department of social and health services, or his or her designee;~~

~~(23) "Social worker" means a person with a master's or further advanced degree from an accredited school of social work or a degree deemed equivalent under rules adopted by the secretary((;~~

~~— (24) "Individualized service plan" means a plan prepared by a developmental disabilities professional with other professionals as a team, for an individual with developmental disabilities, which shall state:~~

~~— (a) The nature of the person's specific problems, prior charged criminal behavior, and habilitation needs;~~

~~— (b) The conditions and strategies necessary to achieve the purposes of habilitation;~~

- ~~— (c) The intermediate and long-range goals of the habilitation program, with a projected timetable for the attainment;~~
- ~~— (d) The rationale for using this plan of habilitation to achieve those intermediate and long-range goals;~~
- ~~— (e) The staff responsible for carrying out the plan;~~
- ~~— (f) Where relevant in light of past criminal behavior and due consideration for public safety, the criteria for proposed movement to less-restrictive settings, criteria for proposed eventual discharge from involuntary confinement, and a projected possible date for discharge from involuntary confinement; and~~
- ~~— (g) The type of residence immediately anticipated for the person and possible future types of residences)).~~

Sec. 4. RCW 71.05.040 and 1987 c 439 s 1 are each amended to read as follows:

Persons who are developmentally disabled, impaired by chronic alcoholism or drug abuse, or ~~((senile))~~ suffering from dementia shall not be detained for evaluation and treatment or judicially committed solely by reason of that condition unless such condition causes a person to be gravely disabled or as a result of a mental disorder such condition exists that constitutes a likelihood of serious harm ~~((to self or others))~~.

Sec. 5. RCW 71.05.050 and 1979 ex.s. c 215 s 6 are each amended to read as follows:

Nothing in this chapter shall be construed to limit the right of any person to apply voluntarily to any public or private agency or practitioner for treatment of a mental disorder, either by direct application or by referral. Any person voluntarily admitted for inpatient treatment to any public or private agency shall be released immediately upon his or her request. Any person voluntarily admitted for inpatient treatment to any public or private agency shall orally be advised of the right to immediate release and further advised of such rights in writing as are secured to them pursuant to this chapter and their rights of access to attorneys, courts, and other legal redress. Their condition and status shall be reviewed at least once each one hundred eighty days for evaluation as to the need for further treatment and/or possible release, at which time they shall again be advised of their right to release upon request: PROVIDED HOWEVER, That if the professional staff of any public or private agency or hospital regards a person voluntarily admitted who requests release as presenting, as a result of a mental disorder, an imminent likelihood of serious harm ~~((to himself or others))~~, or is gravely disabled, they may detain such person for sufficient time to notify the designated county mental health professional of such person's condition to enable such mental health professional to authorize such person being further held in custody or transported to an evaluation and treatment center pursuant to the provisions of this chapter, which shall in ordinary circumstances be no later than the next judicial day: PROVIDED FURTHER, That if a person is brought to the emergency room of a public or private agency or hospital for observation or treatment, ~~((said))~~ the person refuses

voluntary admission, and the professional staff of the public or private agency or hospital regard~~(s)~~ such person as presenting as a result of a mental disorder an imminent likelihood of serious harm ~~((to himself or others))~~, or as presenting an imminent danger because of grave disability, they may detain such person for sufficient time to notify the designated county mental health professional of such person's condition to enable such mental health professional to authorize such person being further held in custody or transported to an evaluation treatment center pursuant to the conditions in this chapter, but which time shall be no more than six hours from the time the professional staff determine that an evaluation by the county designated mental health professional is necessary.

Sec. 6. RCW 71.05.100 and 1987 c 75 s 18 are each amended to read as follows:

In addition to the responsibility provided for by RCW 43.20B.330, any person, or his or her estate, or his or her spouse, or the parents of a minor person who is involuntarily detained pursuant to this chapter for the purpose of treatment and evaluation outside of a facility maintained and operated by the department shall be responsible for the cost of such care and treatment. In the event that an individual is unable to pay for such treatment or in the event payment would result in a substantial hardship upon the individual or his or her family, then the county of residence of such person shall be responsible for such costs. If it is not possible to determine the county of residence of the person, the cost shall be borne by the county where the person was originally detained. The department shall, pursuant to chapter 34.05 RCW, adopt standards as to (1) inability to pay in whole or in part, (2) a definition of substantial hardship, and (3) appropriate payment schedules. Such standards shall be applicable to all county mental health administrative boards. Financial responsibility with respect to department services and facilities shall continue to be as provided in RCW 43.20B.320 through 43.20B.360 and 43.20B.370.

Sec. 7. RCW 71.05.110 and 1973 1st ex.s. c 142 s 16 are each amended to read as follows:

Attorneys appointed for persons pursuant to this chapter shall be compensated for their services as follows: (1) The person for whom an attorney is appointed shall, if he or she is financially able pursuant to standards as to financial capability and indigency set by the superior court of the county in which the proceeding is held, bear the costs of such legal services; (2) if such person is indigent pursuant to such standards, the costs of such services shall be borne by the county in which the proceeding is held, subject however to the responsibility for costs provided in RCW 71.05.320(2).

Sec. 8. RCW 71.05.150 and 1984 c 233 s I are each amended to read as follows:

(1)(a) When a mental health professional designated by the county receives information alleging that a person, as a result of a mental disorder~~(:);~~ (i) Presents a likelihood of serious harm ~~((to others or himself))~~, or (ii) is gravely disabled~~(:);~~

such mental health professional, after investigation and evaluation of the specific facts alleged, and of the reliability and credibility of the person or persons, if any, providing information to initiate detention, may, if satisfied that the allegations are true and that the person will not voluntarily seek appropriate treatment, file a petition for initial detention. Before filing the petition, the county designated mental health professional must personally interview the person, unless the person refuses an interview, and determine whether the person will voluntarily receive appropriate evaluation and treatment at an evaluation and treatment facility.

(b) Whenever it appears, by petition for initial detention, to the satisfaction of a judge of the superior court that a person presents, as a result of a mental disorder, a likelihood of serious harm (~~to others or himself~~), or is gravely disabled, and that the person has refused or failed to accept appropriate evaluation and treatment voluntarily, the judge may issue an order requiring the person to appear (~~(not less than)~~) within twenty-four hours after service of the order at a designated evaluation and treatment facility for not more than a seventy-two hour evaluation and treatment period. The order shall state the address of the evaluation and treatment facility to which the person is to report and whether the required seventy-two hour evaluation and treatment services may be delivered on an outpatient or inpatient basis and that if the person named in the order fails to appear at the evaluation and treatment facility at or before the date and time stated in the order, such person may be involuntarily taken into custody for evaluation and treatment. The order shall also designate retained counsel or, if counsel is appointed from a list provided by the court, the name, business address, and telephone number of the attorney appointed to represent the person.

(c) The mental health professional shall then serve or cause to be served on such person, his or her guardian, and conservator, if any, a copy of the order to appear together with a notice of rights and a petition for initial detention. After service on such person the mental health professional shall file the return of service in court and provide copies of all papers in the court file to the evaluation and treatment facility and the designated attorney. The mental health professional shall notify the court and the prosecuting attorney that a probable cause hearing will be held within seventy-two hours of the date and time of outpatient evaluation or admission to the evaluation and treatment facility. The person shall be permitted to remain in his or her home or other place of his or her choosing prior to the time of evaluation and shall be permitted to be accompanied by one or more of his or her relatives, friends, an attorney, a personal physician, or other professional or religious advisor to the place of evaluation. An attorney accompanying the person to the place of evaluation shall be permitted to be present during the admission evaluation. Any other individual accompanying the person may be present during the admission evaluation. The facility may exclude the individual if his or her presence would present a safety risk, delay the proceedings, or otherwise interfere with the evaluation.

(d) If the person ordered to appear does appear on or before the date and time specified, the evaluation and treatment facility may admit such person as required by RCW 71.05.170 or may provide treatment on an outpatient basis. If the person ordered to appear fails to appear on or before the date and time specified, the evaluation and treatment facility shall immediately notify the mental health professional designated by the county who may notify a peace officer to take such person or cause such person to be taken into custody and placed in an evaluation and treatment facility. Should the mental health professional notify a peace officer authorizing him or her to take a person into custody under the provisions of this subsection, he or she shall file with the court a copy of such authorization and a notice of detention. At the time such person is taken into custody there shall commence to be served on such person, his or her guardian, and conservator, if any, a copy of the original order together with a notice of detention, a notice of rights, and a petition for initial detention.

(2) When a mental health professional designated by the county receives information alleging that a person, as the result of a mental disorder, presents an imminent likelihood of serious harm ~~((to himself or others))~~, or is in imminent danger because of being gravely disabled, after investigation and evaluation of the specific facts alleged and of the reliability and credibility of the person or persons providing the information if any, the mental health professional may take such person, or cause by oral or written order such person to be taken into emergency custody in an evaluation and treatment facility for not more than seventy-two hours as described in RCW 71.05.180.

(3) A peace officer may take such person or cause such person to be taken into custody and placed in an evaluation and treatment facility pursuant to subsection (1)(d) of this section.

(4) A peace officer may, without prior notice of the proceedings provided for in subsection (1) of this section, take or cause such person to be taken into custody and immediately delivered to an evaluation and treatment facility or the emergency department of a local hospital:

(a) Only pursuant to subsections (1)(d) and (2) of this section; or

(b) When he or she has reasonable cause to believe that such person is suffering from a mental disorder and presents an imminent likelihood of serious harm ~~((to others or himself))~~ or is in imminent danger because of being gravely disabled.

(5) Persons delivered to evaluation and treatment facilities by peace officers pursuant to subsection (4)(b) of this section may be held by the facility for a period of up to twelve hours: PROVIDED, That they are examined by a mental health professional within three hours of their arrival. Within twelve hours of their arrival, the designated county mental health professional must file a supplemental petition for detention, and commence service on the designated attorney for the detained person.

Sec. 9. RCW 71.05.155 and 1979 ex.s. c 215 s 10 are each amended to read as follows:

When a mental health professional is requested by a representative of a law enforcement agency, including a police officer, sheriff, a municipal attorney, or prosecuting attorney to undertake an investigation under RCW 71.05.150, (~~as now or hereafter amended;~~) the mental health professional shall, if requested to do so, advise (~~said~~) the representative in writing of the results of the investigation including a statement of reasons for the decision to detain or release the person investigated. Such written report shall be submitted within seventy-two hours of the completion of the investigation or the request from the law enforcement representative, whichever occurs later.

Sec. 10. RCW 71.05.160 and 1974 ex.s. c 145 s 9 are each amended to read as follows:

Any facility receiving a person pursuant to RCW 71.05.150 shall require a petition for initial detention stating the circumstances under which the person's condition was made known and stating that such officer or person has evidence, as a result of his or her personal observation or investigation, that the actions of the person for which application is made constitute a likelihood of serious harm (~~to himself or others~~), or that he or she is gravely disabled, and stating the specific facts known to him or her as a result of his or her personal observation or investigation, upon which he or she bases the belief that such person should be detained for the purposes and under the authority of this chapter.

If a person is involuntarily placed in an evaluation and treatment facility pursuant to RCW 71.05.150, on the next judicial day following the initial detention, the mental health professional designated by the county shall file with the court and serve the designated attorney of the detained person the petition or supplemental petition for initial detention, proof of service of notice, and a copy of a notice of emergency detention.

Sec. 11. RCW 71.05.170 and 1989 c 205 s 10 are each amended to read as follows:

Whenever the designated county mental health professional petitions for detention of a person whose actions constitute a likelihood of serious harm (~~to himself or others~~), or who is gravely disabled, the facility providing seventy-two hour evaluation and treatment must immediately accept on a provisional basis the petition and the person. The facility shall then evaluate the person's condition and admit or release such person in accordance with RCW 71.05.210. The facility shall notify in writing the court and the designated county mental health professional of the date and time of the initial detention of each person involuntarily detained in order that a probable cause hearing shall be held no later than seventy-two hours after detention.

The duty of a state hospital to accept persons for evaluation and treatment under this section shall be limited by chapter 71.24 RCW.

Sec. 12. RCW 71.05.180 and 1979 ex.s. c 215 s 11 are each amended to read as follows:

If the evaluation and treatment facility admits the person, it may detain him or her for evaluation and treatment for a period not to exceed seventy-two hours from the time of acceptance as set forth in RCW 71.05.170. The computation of such seventy-two hour period shall exclude Saturdays, Sundays and holidays.

Sec. 13. RCW 71.05.190 and 1979 ex.s. c 215 s 12 are each amended to read as follows:

If the person is not approved for admission by a facility providing seventy-two hour evaluation and treatment, and the individual has not been arrested, the facility shall furnish transportation, if not otherwise available, for the person to his or her place of residence or other appropriate place. If the individual has been arrested, the evaluation and treatment facility shall detain the individual for not more than eight hours at the request of the peace officer in order to enable a peace officer to return to the facility and take the individual back into custody.

Sec. 14. RCW 71.05.200 and 1989 c 120 s 5 are each amended to read as follows:

(1) Whenever any person is detained for evaluation and treatment pursuant to this chapter, both the person and, if possible, a responsible member of his or her immediate family, guardian, or conservator, if any, shall be advised as soon as possible in writing or orally, by the officer or person taking him or her into custody or by personnel of the evaluation and treatment facility where the person is detained that unless the person is released or voluntarily admits himself or herself for treatment within seventy-two hours of the initial detention:

(a) That a judicial hearing in a superior court, either by a judge or court commissioner thereof, shall be held not more than seventy-two hours after the initial detention to determine whether there is probable cause to detain the person after the seventy-two hours have expired for up to an additional fourteen days without further automatic hearing for the reason that the person is a mentally ill person whose mental disorder presents a likelihood of serious harm (~~to others or himself or herself~~) or that the person is gravely disabled;

(b) That the person has a right to communicate immediately with an attorney; has a right to have an attorney appointed to represent him or her before and at the probable cause hearing if he or she is indigent; and has the right to be told the name and address of the attorney the mental health professional has designated pursuant to this chapter;

(c) That the person has the right to remain silent and that any statement he or she makes may be used against him or her;

(d) That the person has the right to present evidence and to cross-examine witnesses who testify against him or her at the probable cause hearing; and

(e) That the person has the right to refuse medications, including antipsychotic medication beginning twenty-four hours prior to the probable cause hearing.

(2) When proceedings are initiated under RCW 71.05.150 (2), (3), or (4)(b), no later than twelve hours after such person is admitted to the evaluation and treatment facility the personnel of the evaluation and treatment facility or the designated mental health professional shall serve on such person a copy of the petition for initial detention and the name, business address, and phone number of the designated attorney and shall forthwith commence service of a copy of the petition for initial detention on ~~((said))~~ the designated attorney.

(3) The judicial hearing described in subsection (1) of this section is hereby authorized, and shall be held according to the provisions of subsection (1) of this section and rules promulgated by the supreme court.

Sec. 15. RCW 71.05.210 and 1994 sp.s. c 9 s 747 are each amended to read as follows:

Each person involuntarily admitted to an evaluation and treatment facility shall, within twenty-four hours of his or her admission, be examined and evaluated by a licensed physician who may be assisted by a physician assistant according to chapter 18.71A RCW or an advanced registered nurse practitioner according to chapter 18.79 RCW and a mental health professional as defined in this chapter, and shall receive such treatment and care as his or her condition requires including treatment on an outpatient basis for the period that he or she is detained, except that, beginning twenty-four hours prior to a court proceeding, the individual may refuse all but emergency life-saving treatment, and the individual shall be informed at an appropriate time of his or her right to such refusal of treatment. Such person shall be detained up to seventy-two hours, if, in the opinion of the professional person in charge of the facility, or his or her professional designee, the person presents a likelihood of serious harm ~~((to himself or herself or others))~~, or is gravely disabled. A person who has been detained for seventy-two hours shall no later than the end of such period be released, unless referred for further care on a voluntary basis, or detained pursuant to court order for further treatment as provided in this chapter.

If, after examination and evaluation, the licensed physician and mental health professional determine that the initial needs of the person would be better served by placement in a chemical dependency treatment facility, then the person shall be referred to an approved treatment program defined under RCW 70.96A.020.

An evaluation and treatment center admitting any person pursuant to this chapter whose physical condition reveals the need for hospitalization shall assure that such person is transferred to an appropriate hospital for treatment. Notice of such fact shall be given to the court, the designated attorney, and the designated county mental health professional and the court shall order such continuance in proceedings under this chapter as may be necessary, but in no event may this continuance be more than fourteen days.

Sec. 16. RCW 71.05.215 and 1991 c 105 s 1 are each amended to read as follows:

(1) A person found to be gravely disabled or presents a likelihood of serious harm as a result of a mental disorder has a right to refuse antipsychotic medication unless it is determined that the failure to medicate may result in a likelihood of serious harm or substantial deterioration or substantially prolong the length of involuntary commitment and there is no less intrusive course of treatment than medication in the best interest of that person.

(2) The department shall adopt rules to carry out the purposes of this chapter. These rules shall include:

(a) An attempt to obtain the informed consent of the person prior to administration of antipsychotic medication.

(b) For short-term treatment up to thirty days, the right to refuse antipsychotic medications unless there is an additional concurring medical opinion approving medication.

(c) For continued treatment beyond thirty days through the hearing on any petition filed under RCW 71.05.370(7), the right to periodic review of the decision to medicate by the medical director or designee.

(d) Administration of antipsychotic medication in an emergency and review of this decision within twenty-four hours. An emergency exists if the person presents an imminent likelihood of serious harm ~~((to self or others))~~, and medically acceptable alternatives to administration of antipsychotic medications are not available or are unlikely to be successful; and in the opinion of the physician, the person's condition constitutes an emergency requiring the treatment be instituted prior to obtaining a second medical opinion.

(e) Documentation in the medical record of the physician's attempt to obtain informed consent and the reasons why antipsychotic medication is being administered over the person's objection or lack of consent.

Sec. 17. RCW 71.05.220 and 1973 1st ex.s. c 142 s 27 are each amended to read as follows:

At the time a person is involuntarily admitted to an evaluation and treatment facility, the professional person in charge or his or her designee shall take reasonable precautions to inventory and safeguard the personal property of the person detained. A copy of the inventory, signed by the staff member making it, shall be given to the person detained and shall, in addition, be open to inspection to any responsible relative, subject to limitations, if any, specifically imposed by the detained person. For purposes of this section, "responsible relative" includes the guardian, conservator, attorney, spouse, parent, adult child, or adult brother or sister of the person. The facility shall not disclose the contents of the inventory to any other person without the consent of the patient or order of the court.

Sec. 18. RCW 71.05.230 and 1987 c 439 s 3 are each amended to read as follows:

A person detained for seventy-two hour evaluation and treatment may be detained for not more than fourteen additional days of involuntary intensive

treatment or ninety additional days of a less restrictive alternative to involuntary intensive treatment if the following conditions are met:

(1) The professional staff of the agency or facility providing evaluation services has analyzed the person's condition and finds that ~~((said))~~ the condition is caused by mental disorder and either results in a likelihood of serious harm ~~((to the person detained or to others))~~, or results in the detained person being gravely disabled and are prepared to testify those conditions are met; and

(2) The person has been advised of the need for voluntary treatment and the professional staff of the facility has evidence that he or she has not in good faith volunteered; and

(3) The facility providing intensive treatment is certified to provide such treatment by the department ~~((of social and health services))~~; and

(4) The professional staff of the agency or facility or the mental health professional designated by the county has filed a petition for fourteen day involuntary detention or a ninety day less restrictive alternative with the court. The petition must be signed either by two physicians or by one physician and a mental health professional who have examined the person. If involuntary detention is sought the petition shall state facts that support the finding that such person, as a result of mental disorder, presents a likelihood of serious harm ~~((to others or himself or herself))~~, or is gravely disabled and that there are no less restrictive alternatives to detention in the best interest of such person or others. The petition shall state specifically that less restrictive alternative treatment was considered and specify why treatment less restrictive than detention is not appropriate. If an involuntary less restrictive alternative is sought, the petition shall state facts that support the finding that such person, as a result of mental disorder, presents a likelihood of serious harm ~~((to others or himself or herself))~~, or is gravely disabled and shall set forth the less restrictive alternative proposed by the facility; and

(5) A copy of the petition has been served on the detained person, his or her attorney and his or her guardian or conservator, if any, prior to the probable cause hearing; and

(6) The court at the time the petition was filed and before the probable cause hearing has appointed counsel to represent such person if no other counsel has appeared; and

(7) The court has ordered a fourteen day involuntary intensive treatment or a ninety day less restrictive alternative treatment after a probable cause hearing has been held pursuant to RCW 71.05.240; and

(8) At the conclusion of the initial commitment period, the professional staff of the agency or facility or the mental health professional designated by the county may petition for an additional period of either ninety days of less restrictive alternative treatment or ninety days of involuntary intensive treatment as provided in RCW 71.05.290; and

(9) If the hospital or facility designated to provide outpatient treatment is other than the facility providing involuntary treatment, the outpatient facility so designated has agreed to assume such responsibility.

Sec. 19. RCW 71.05.240 and 1992 c 168 s 3 are each amended to read as follows:

If a petition is filed for fourteen day involuntary treatment or ninety days of less restrictive alternative treatment, the court shall hold a probable cause hearing within seventy-two hours of the initial detention of such person as determined in RCW 71.05.180(~~(-as now or hereafter amended)~~). If requested by the detained person or his or her attorney, the hearing may be postponed for a period not to exceed forty-eight hours. The hearing may also be continued subject to the conditions set forth in RCW 71.05.210 or subject to the petitioner's showing of good cause for a period not to exceed twenty-four hours.

At the conclusion of the probable cause hearing, if the court finds by a preponderance of the evidence that such person, as the result of mental disorder, presents a likelihood of serious harm (~~(to others or himself or herself)~~), or is gravely disabled, and, after considering less restrictive alternatives to involuntary detention and treatment, finds that no such alternatives are in the best interests of such person or others, the court shall order that such person be detained for involuntary treatment not to exceed fourteen days in a facility certified to provide treatment by the department (~~(of social and health services)~~). If the court finds that such person, as the result of a mental disorder, presents a likelihood of serious harm (~~(to others or himself or herself)~~), or is gravely disabled, but that treatment in a less restrictive setting than detention is in the best interest of such person or others, the court shall order an appropriate less restrictive course of treatment for not to exceed ninety days.

The court shall specifically state to such person and give such person notice in writing that if involuntary treatment beyond the fourteen day period or beyond the ninety days of less restrictive treatment is to be sought, such person will have the right to a full hearing or jury trial as required by RCW 71.05.310. The court shall also provide written notice that the person is barred from the possession of firearms.

Sec. 20. RCW 71.05.260 and 1987 c 439 s 7 are each amended to read as follows:

(1) Involuntary intensive treatment ordered at the time of the probable cause hearing shall be for no more than fourteen days, and shall terminate sooner when, in the opinion of the professional person in charge of the facility or his or her professional designee, (a) the person no longer constitutes a likelihood of serious harm (~~(to himself or herself or others)~~), or (b) no longer is gravely disabled, or (c) is prepared to accept voluntary treatment upon referral, or (d) is to remain in the facility providing intensive treatment on a voluntary basis.

(2) A person who has been detained for fourteen days of intensive treatment shall be released at the end of the fourteen days unless one of the following applies:

(a) Such person agrees to receive further treatment on a voluntary basis; or (b) such person is a patient to whom RCW 71.05.280 is applicable.

Sec. 21. RCW 71.05.270 and 1973 1st ex.s. c 142 s 32 are each amended to read as follows:

Nothing in this chapter shall prohibit the professional person in charge of a treatment facility, or his or her professional designee, from permitting a person detained for intensive treatment to leave the facility for prescribed periods during the term of the person's detention, under such conditions as may be appropriate.

Sec. 22. RCW 71.05.280 and 1986 c 67 s 3 are each amended to read as follows:

At the expiration of the fourteen day period of intensive treatment, a person may be confined for further treatment pursuant to RCW 71.05.320 if:

(1) Such person after having been taken into custody for evaluation and treatment has threatened, attempted, or inflicted: (a) Physical harm upon the person of another or himself or herself, or substantial damage upon the property of another, and (b) as a result of mental disorder presents a likelihood of serious harm ~~((to others or himself));~~ or

(2) Such person was taken into custody as a result of conduct in which he or she attempted or inflicted physical harm upon the person of another or himself or herself, or substantial damage upon the property of others, and continues to present, as a result of mental disorder, a likelihood of serious harm ~~((to others or himself));~~ or

(3) Such person has been determined to be incompetent and criminal charges have been dismissed pursuant to RCW 10.77.090(3), ~~((as now or hereafter amended;))~~ and has committed acts constituting a felony, and as a result of a mental disorder, presents a substantial likelihood of repeating similar acts. In any proceeding pursuant to this subsection it shall not be necessary to show intent, wilfulness, or state of mind as an element of the felony; or

(4) Such person is gravely disabled.

~~((For the purposes of this chapter "custody" shall mean involuntary detention under the provisions of this chapter or chapter 10.77 RCW, uninterrupted by any period of unconditional release from a facility providing involuntary care and treatment.))~~

NEW SECTION. **Sec. 23.** A new section is added to chapter 71.05 RCW to read as follows:

For the purposes of continued less restrictive alternative commitment under the process provided in RCW 71.05.280 and 71.05.320(2), in determining whether or not the person is gravely disabled, great weight shall be given to evidence of a prior history or pattern of decompensation and discontinuation of treatment resulting in: (1) Repeated hospitalizations; or (2) repeated peace officer interventions resulting in juvenile offenses, criminal charges, diversion programs, or jail admissions. Such evidence may be used to provide a factual basis for

concluding that the individual would not receive, if released, such care as is essential for his or her health or safety.

Sec. 24. RCW 71.05.290 and 1986 c 67 s 4 are each amended to read as follows:

(1) At any time during a person's fourteen day intensive treatment period, the professional person in charge of a treatment facility or his or her professional designee or the designated county mental health professional may petition the superior court for an order requiring such person to undergo an additional period of treatment. Such petition must be based on one or more of the grounds set forth in RCW 71.05.280.

(2) The petition shall summarize the facts which support the need for further confinement and shall be supported by affidavits signed by two examining physicians, or by one examining physician and examining mental health professional. The affidavits shall describe in detail the behavior of the detained person which supports the petition and shall explain what, if any, less restrictive treatments which are alternatives to detention are available to such person, and shall state the willingness of the affiant to testify to such facts in subsequent judicial proceedings under this chapter.

(3) If a person has been determined to be incompetent pursuant to RCW 10.77.090(3) (~~((as now existing or hereafter amended))~~), then the professional person in charge of the treatment facility or his or her professional designee or the county designated mental health professional may directly file a petition for one hundred eighty day treatment under RCW 71.05.280(3). No petition for initial detention or fourteen day detention is required before such a petition may be filed.

Sec. 25. RCW 71.05.300 and 1989 c 420 s 14 are each amended to read as follows:

The petition for ninety day treatment shall be filed with the clerk of the superior court at least three days before expiration of the fourteen-day period of intensive treatment. At the time of filing such petition, the clerk shall set a time for the person to come before the court on the next judicial day after the day of filing unless such appearance is waived by the person's attorney, and the clerk shall notify the designated county mental health professional. The designated county mental health professional shall immediately notify the person detained, his or her attorney, if any, and his or her guardian or conservator, if any, and the prosecuting attorney, and provide a copy of the petition to such persons as soon as possible.

At the time set for appearance the detained person shall be brought before the court, unless such appearance has been waived and the court shall advise him or her of his or her right to be represented by an attorney and of his or her right to a jury trial. If the detained person is not represented by an attorney, or is indigent or is unwilling to retain an attorney, the court shall immediately appoint an attorney to represent him or her. The court shall, if requested, appoint a reasonably available licensed physician, psychologist, or psychiatrist, designated by the detained person to examine and testify on behalf of the detained person.

The court may, if requested, also appoint a professional person as defined in RCW 71.05.020(~~(+2)~~) to seek less restrictive alternative courses of treatment and to testify on behalf of the detained person. In the case of a developmentally disabled person who has been determined to be incompetent pursuant to RCW 10.77.090(3), then the appointed professional person under this section shall be a developmental disabilities professional.

The court shall also set a date for a full hearing on the petition as provided in RCW 71.05.310.

Sec. 26. RCW 71.05.320 and 1989 c 420 s 15 are each amended to read as follows:

(1) If the court or jury finds that grounds set forth in RCW 71.05.280 have been proven and that the best interests of the person or others will not be served by a less restrictive treatment which is an alternative to detention, the court shall remand him or her to the custody of the department (~~(of social and health services)~~) or to a facility certified for ninety day treatment by the department (~~(of social and health services)~~) for a further period of intensive treatment not to exceed ninety days from the date of judgment: PROVIDED, That if the grounds set forth in RCW 71.05.280(3) are the basis of commitment, then the period of treatment may be up to but not exceed one hundred eighty days from the date of judgment in a facility certified for one hundred eighty day treatment by the department. If the committed person is developmentally disabled and has been determined incompetent pursuant to RCW 10.77.090(3), and the best interests of the person or others will not be served by a less-restrictive treatment which is an alternative to detention, the court shall remand him or her to the custody of the department (~~(of social and health services)~~) or to a facility certified for one hundred eighty-day treatment by the department. When appropriate and subject to available funds, treatment and training of such persons must be provided in a program specifically reserved for the treatment and training of developmentally disabled persons. A person so committed shall receive habilitation services pursuant to an individualized service plan specifically developed to treat the behavior which was the subject of the criminal proceedings. (~~Said~~) The treatment program shall be administered by developmental disabilities professionals and others trained specifically in the needs of developmentally disabled persons. The department may limit admissions to this specialized program in order to ensure that expenditures for services do not exceed amounts appropriated by the legislature and allocated by the department for such services. The department may establish admission priorities in the event that the number of eligible persons exceeds the limits set by the department. An order for treatment less restrictive than involuntary detention may include conditions, and if such conditions are not adhered to, the designated mental health professional or developmental disabilities professional may order the person apprehended under the terms and conditions of RCW 71.05.340 (~~(as now or hereafter amended)~~).

If the court or jury finds that grounds set forth in RCW 71.05.280 have been proven, but finds that treatment less restrictive than detention will be in the best interest of the person or others, then the court shall remand him or her to the custody of the department (~~(of social and health services)~~) or to a facility certified for ninety day treatment by the department (~~(of social and health services)~~) or to a less restrictive alternative for a further period of less restrictive treatment not to exceed ninety days from the date of judgment: PROVIDED, That if the grounds set forth in RCW 71.05.280(3) are the basis of commitment, then the period of treatment may be up to but not exceed one hundred eighty days from the date of judgment.

(2) (~~(Said)~~) The person shall be released from involuntary treatment at the expiration of the period of commitment imposed under subsection (1) of this section unless the superintendent or professional person in charge of the facility in which he or she is confined, or in the event of a less restrictive alternative, the designated mental health professional or developmental disabilities professional, files a new petition for involuntary treatment on the grounds that the committed person;

(a) During the current period of court ordered treatment: (i) Has threatened, attempted, or inflicted physical harm upon the person of another, or substantial damage upon the property of another, and (ii) as a result of mental disorder or developmental disability presents a likelihood of serious harm (~~(to others)~~); or

(b) Was taken into custody as a result of conduct in which he or she attempted or inflicted serious physical harm upon the person of another, and continues to present, as a result of mental disorder or developmental disability a likelihood of serious harm (~~(to others)~~); or

(c) Is in custody pursuant to RCW 71.05.280(3) and as a result of mental disorder or developmental disability presents a substantial likelihood of repeating similar acts considering the charged criminal behavior, life history, progress in treatment, and the public safety; or

(d) Continues to be gravely disabled.

If the conduct required to be proven in (~~(subsections)~~) (b) and (c) of this (~~(section)~~) subsection was found by a judge or jury in a prior trial under this chapter, it shall not be necessary to reprove that element. Such new petition for involuntary treatment shall be filed and heard in the superior court of the county of the facility which is filing the new petition for involuntary treatment unless good cause is shown for a change of venue. The cost of the proceedings shall be borne by the state.

The hearing shall be held as provided in RCW 71.05.310, and if the court or jury finds that the grounds for additional confinement as set forth in this subsection are present, the court may order the committed person returned for an additional period of treatment not to exceed one hundred eighty days from the date of judgment. At the end of the one hundred eighty day period of commitment, the committed person shall be released unless a petition for another one hundred eighty

day period of continued treatment is filed and heard in the same manner as provided ~~((herein above))~~ in this subsection. Successive one hundred eighty day commitments are permissible on the same grounds and pursuant to the same procedures as the original one hundred eighty day commitment.

(3) No person committed as ~~((herein))~~ provided in this section may be detained unless a valid order of commitment is in effect. No order of commitment can exceed one hundred eighty days in length.

Sec. 27. RCW 71.05.330 and 1986 c 67 s 1 are each amended to read as follows:

(1) Nothing in this chapter shall prohibit the superintendent or professional person in charge of the hospital or facility in which the person is being involuntarily treated from releasing him or her prior to the expiration of the commitment period when, in the opinion of the superintendent or professional person in charge, the person being involuntarily treated no longer presents a likelihood of serious harm ~~((to others))~~.

Whenever the superintendent or professional person in charge of a hospital or facility providing involuntary treatment pursuant to this chapter releases a person prior to the expiration of the period of commitment, the superintendent or professional person in charge shall in writing notify the court which committed the person for treatment.

(2) Before a person committed under grounds set forth in RCW 71.05.280(3) or 71.05.320(2)(c) is released under this section, the superintendent or professional person in charge shall in writing notify the prosecuting attorney of the county in which the criminal charges against the committed person were dismissed, of the release date. Notice shall be provided at least thirty days before the release date. Within twenty days after receiving notice, the prosecuting attorney may petition the court in the county in which the person is being involuntarily treated for a hearing to determine whether the person is to be released. The prosecuting attorney shall provide a copy of the petition to the superintendent or professional person in charge of the hospital or facility providing involuntary treatment, the attorney, if any, and the guardian or conservator of the committed person. The court shall conduct a hearing on the petition within ten days of filing the petition. The committed person shall have the same rights with respect to notice, hearing, and counsel as for an involuntary treatment proceeding, except as set forth in this subsection and except that there shall be no right to jury trial. The issue to be determined at the hearing is whether or not the person may be released without substantial danger to other persons, or substantial likelihood of committing felonious acts jeopardizing public safety or security. If the court disapproves of the release, it may do so only on the basis of substantial evidence. Pursuant to the determination of the court upon the hearing, the committed person shall be released or shall be returned for involuntary treatment subject to release at the end of the period for which he or she was committed, or otherwise in accordance with the provisions of this chapter.

Sec. 28. RCW 71.05.340 and 1987 c 439 s 10 are each amended to read as follows:

(1)(a) When, in the opinion of the superintendent or the professional person in charge of the hospital or facility providing involuntary treatment, the committed person can be appropriately served by outpatient treatment prior to or at the expiration of the period of commitment, then such outpatient care may be required as a condition for early release for a period which, when added to the inpatient treatment period, shall not exceed the period of commitment. If the hospital or facility designated to provide outpatient treatment is other than the facility providing involuntary treatment, the outpatient facility so designated must agree in writing to assume such responsibility. A copy of the conditions for early release shall be given to the patient, the designated county mental health professional in the county in which the patient is to receive outpatient treatment, and to the court of original commitment.

(b) Before a person committed under grounds set forth in RCW 71.05.280(3) or 71.05.320(2)(c) is conditionally released under (a) of this subsection, the superintendent or professional person in charge of the hospital or facility providing involuntary treatment shall in writing notify the prosecuting attorney of the county in which the criminal charges against the committed person were dismissed, of the decision to conditionally release the person. Notice and a copy of the conditions for early release shall be provided at least thirty days before the person is released from inpatient care. Within twenty days after receiving notice, the prosecuting attorney may petition the court in the county that issued the commitment order to hold a hearing to determine whether the person may be conditionally released and the terms of the conditional release. The prosecuting attorney shall provide a copy of the petition to the superintendent or professional person in charge of the hospital or facility providing involuntary treatment, the attorney, if any, and guardian or conservator of the committed person, and the court of original commitment. If the county in which the committed person is to receive outpatient treatment is the same county in which the criminal charges against the committed person were dismissed, then the court shall, upon the motion of the prosecuting attorney, transfer the proceeding to the court in that county. The court shall conduct a hearing on the petition within ten days of the filing of the petition. The committed person shall have the same rights with respect to notice, hearing, and counsel as for an involuntary treatment proceeding, except as set forth in this subsection and except that there shall be no right to jury trial. The issue to be determined at the hearing is whether or not the person may be conditionally released without substantial danger to other persons, or substantial likelihood of committing felonious acts jeopardizing public safety or security. If the court disapproves of the conditional release, it may do so only on the basis of substantial evidence. Pursuant to the determination of the court upon the hearing, the conditional release of the person shall be approved by the court on the same or modified conditions or the person shall be returned for involuntary treatment on an inpatient basis subject to release

at the end of the period for which he or she was committed, or otherwise in accordance with the provisions of this chapter.

(2) The hospital or facility designated to provide outpatient care or the secretary may modify the conditions for continued release when such modification is in the best interest of the person. Notification of such changes shall be sent to all persons receiving a copy of the original conditions.

(3)(a) If the hospital or facility designated to provide outpatient care, the designated county mental health professional, or the secretary determines that a conditionally released person is failing to adhere to the terms and conditions of his or her release, ~~((or))~~ that substantial deterioration in the person's functioning has occurred, there is evidence of substantial decompensation with a high probability that the decompensation can be reversed by further inpatient treatment, or there is a likelihood of serious harm, then, upon notification by the hospital or facility designated to provide outpatient care, or on his or her own motion, the designated county mental health professional or the secretary may order that the conditionally released person be apprehended and taken into custody and temporarily detained in an evaluation and treatment facility in or near the county in which he or she is receiving outpatient treatment. The person shall be detained until such time, not exceeding five days, as a hearing can be scheduled to determine whether or not the person should be returned to the hospital or facility from which he or she had been conditionally released. The designated county mental health professional or the secretary may modify or rescind such order at any time prior to commencement of the court hearing.

(b) The court that originally ordered commitment shall be notified within two judicial days of a person's detention under the provisions of this section, and the designated county mental health professional or the secretary shall file his or her petition and order of apprehension and detention with the court and serve them upon the person detained. His or her attorney, if any, and his or her guardian or conservator, if any, shall receive a copy of such papers as soon as possible. Such person shall have the same rights with respect to notice, hearing, and counsel as for an involuntary treatment proceeding, except as specifically set forth in this section and except that there shall be no right to jury trial. The issues to be determined shall be: (i) Whether the conditionally released person did or did not adhere to the terms and conditions of his or her release ((or)); (ii) that substantial deterioration in the person's functioning has occurred; (iii) there is evidence of substantial decompensation with a high probability that the decompensation can be reversed by further inpatient treatment; or (iv) there is a likelihood of serious harm; and, if ((he or she failed to adhere to such terms and conditions, or that substantial deterioration in the person's functioning has)) any of the conditions listed in this subsection (3)(b) have occurred, whether the conditions of release should be modified or the person should be returned to the facility.

(c) Pursuant to the determination of the court upon such hearing, the conditionally released person shall either continue to be conditionally released on

the same or modified conditions or shall be returned for involuntary treatment on an inpatient basis subject to release at the end of the period for which he or she was committed for involuntary treatment, or otherwise in accordance with the provisions of this chapter. Such hearing may be waived by the person and his or her counsel and his or her guardian or conservator, if any, but shall not be waivable unless all such persons agree to waive, and upon such waiver the person may be returned for involuntary treatment or continued on conditional release on the same or modified conditions.

(4) The proceedings set forth in subsection (3) of this section may be initiated by the designated county mental health professional or the secretary on the same basis set forth therein without requiring or ordering the apprehension and detention of the conditionally released person, in which case the court hearing shall take place in not less than five days from the date of service of the petition upon the conditionally released person.

Upon expiration of the period of commitment, or when the person is released from outpatient care, notice in writing to the court which committed the person for treatment shall be provided.

(5) The grounds and procedures for revocation of less restrictive alternative treatment shall be the same as those set forth in this section for conditional releases.

(6) In the event of a revocation of a conditional release, the subsequent treatment period may be for no longer than the actual period authorized in the original court order.

Sec. 29. RCW 71.05.350 and 1973 1st ex.s. c 142 s 40 are each amended to read as follows:

No indigent patient shall be conditionally released or discharged from involuntary treatment without suitable clothing, and the superintendent of a state hospital shall furnish the same, together with such sum of money as he ~~((shall))~~ or she deems necessary for the immediate welfare of the patient. Such sum of money shall be the same as the amount required by RCW 72.02.100 to be provided to persons in need being released from correctional institutions. As funds are available, the secretary may provide payment to indigent persons conditionally released pursuant to this chapter consistent with the optional provisions of RCW 72.02.100 and 72.02.110, and may adopt rules and regulations to do so.

Sec. 30. RCW 71.05.360 and 1974 ex.s. c 145 s 25 are each amended to read as follows:

(1) Every person involuntarily detained or committed under the provisions of this chapter shall be entitled to all the rights set forth in this chapter and shall retain all rights not denied him or her under this chapter.

(2) Each person involuntarily detained or committed pursuant to this chapter shall have the right to adequate care and individualized treatment.

Sec. 31. RCW 71.05.370 and 1991 c 105 s 5 are each amended to read as follows:

Insofar as danger to the individual or others is not created, each person involuntarily detained, treated in a less restrictive alternative course of treatment, or committed for treatment and evaluation pursuant to this chapter shall have, in addition to other rights not specifically withheld by law, the following rights, a list of which shall be prominently posted in all facilities, institutions, and hospitals providing such services:

(1) To wear his or her own clothes and to keep and use his or her own personal possessions, except when deprivation of same is essential to protect the safety of the resident or other persons;

(2) To keep and be allowed to spend a reasonable sum of his or her own money for canteen expenses and small purchases;

(3) To have access to individual storage space for his or her private use;

(4) To have visitors at reasonable times;

(5) To have reasonable access to a telephone, both to make and receive confidential calls;

(6) To have ready access to letter writing materials, including stamps, and to send and receive uncensored correspondence through the mails;

(7) Not to consent to the administration of antipsychotic medications beyond the hearing conducted pursuant to RCW 71.05.320(2) or the performance of electroconvulsant therapy or surgery, except emergency life-saving surgery, unless ordered by a court of competent jurisdiction pursuant to the following standards and procedures:

(a) The administration of antipsychotic medication or electroconvulsant therapy shall not be ordered unless the petitioning party proves by clear, cogent, and convincing evidence that there exists a compelling state interest that justifies overriding the patient's lack of consent to the administration of antipsychotic medications or electroconvulsant therapy, that the proposed treatment is necessary and effective, and that medically acceptable alternative forms of treatment are not available, have not been successful, or are not likely to be effective.

(b) The court shall make specific findings of fact concerning: (i) The existence of one or more compelling state interests; (ii) the necessity and effectiveness of the treatment; and (iii) the person's desires regarding the proposed treatment. If the patient is unable to make a rational and informed decision about consenting to or refusing the proposed treatment, the court shall make a substituted judgment for the patient as if he or she were competent to make such a determination.

(c) The person shall be present at any hearing on a request to administer antipsychotic medication or electroconvulsant therapy filed pursuant to this subsection. The person has the right: (i) To be represented by an attorney; (ii) to present evidence; (iii) to cross-examine witnesses; (iv) to have the rules of evidence enforced; (v) to remain silent; (vi) to view and copy all petitions and reports in the court file; and (vii) to be given reasonable notice and an opportunity to prepare for the hearing. The court may appoint a psychiatrist, psychologist

within their scope of practice, or physician to examine and testify on behalf of such person. The court shall appoint a psychiatrist, psychologist within their scope of practice, or physician designated by such person or the person's counsel to testify on behalf of the person in cases where an order for electroconvulsant therapy is sought.

(d) An order for the administration of antipsychotic medications entered following a hearing conducted pursuant to this section shall be effective for the period of the current involuntary treatment order, and any interim period during which the person is awaiting trial or hearing on a new petition for involuntary treatment or involuntary medication.

(e) Any person detained pursuant to RCW 71.05.320(2), who subsequently refuses antipsychotic medication, shall be entitled to the procedures set forth in RCW 71.05.370(7).

(f) Antipsychotic medication may be administered to a nonconsenting person detained or committed pursuant to this chapter without a court order pursuant to RCW 71.05.215(2) or under the following circumstances:

(i) A person presents an imminent likelihood of serious harm (~~to self or others~~);

(ii) Medically acceptable alternatives to administration of antipsychotic medications are not available, have not been successful, or are not likely to be effective; and

(iii) In the opinion of the physician with responsibility for treatment of the person, or his or her designee, the person's condition constitutes an emergency requiring the treatment be instituted before a judicial hearing as authorized pursuant to this section can be held.

If antipsychotic medications are administered over a person's lack of consent pursuant to this subsection, a petition for an order authorizing the administration of antipsychotic medications shall be filed on the next judicial day. The hearing shall be held within two judicial days. If deemed necessary by the physician with responsibility for the treatment of the person, administration of antipsychotic medications may continue until the hearing is held;

(8) To dispose of property and sign contracts unless such person has been adjudicated an incompetent in a court proceeding directed to that particular issue;

(9) Not to have psychosurgery performed on him or her under any circumstances.

Sec. 32. RCW 71.05.410 and 1973 2nd ex.s. c 24 s 7 are each amended to read as follows:

When a patient would otherwise be subject to the provisions of RCW 71.05.390 and disclosure is necessary for the protection of the patient or others due to his or her unauthorized disappearance from the facility, and his or her whereabouts is unknown, notice of such disappearance, along with relevant information, may be made to relatives and governmental law enforcement agencies

designated by the physician in charge of the patient or the professional person in charge of the facility, or his or her professional designee.

Sec. 33. RCW 71.05.460 and 1973 1st ex.s. c 142 s 51 are each amended to read as follows:

Every person involuntarily detained shall immediately be informed of his or her right to a hearing to review the legality of his or her detention and of his or her right to counsel, by the professional person in charge of the facility providing evaluation and treatment, or his or her designee, and, when appropriate, by the court. If the person so elects, the court shall immediately appoint an attorney to assist him or her.

Sec. 34. RCW 71.05.470 and 1973 1st ex.s. c 142 s 52 are each amended to read as follows:

A person challenging his or her detention or his or her attorney, shall have the right to designate and have the court appoint a reasonably available independent physician or licensed mental health professional to examine the person detained, the results of which examination may be used in the proceeding. The person shall, if he or she is financially able, bear the cost of such expert information, otherwise such expert examination shall be at public expense.

Sec. 35. RCW 71.05.490 and 1973 1st ex.s. c 142 s 54 are each amended to read as follows:

Nothing in this chapter shall prohibit a person committed on or prior to January 1, 1974, from exercising a right available to him or her at or prior to January 1, 1974, for obtaining release from confinement.

Sec. 36. RCW 71.05.525 and 1975 1st ex.s. c 199 s 12 are each amended to read as follows:

When, in the judgment of the department (~~(of social and health services)~~), the welfare of any person committed to or confined in any state juvenile correctional institution or facility necessitates that such a person be transferred or moved for observation, diagnosis or treatment to any state institution or facility for the care of mentally ill juveniles the secretary, or his or her designee, is authorized to order and effect such move or transfer: PROVIDED, HOWEVER, That the secretary shall adopt and implement procedures to assure that persons so transferred shall, while detained or confined in such institution or facility for the care of mentally ill juveniles, be provided with substantially similar opportunities for parole or early release evaluation and determination as persons detained or confined in state juvenile correctional institutions or facilities: PROVIDED, FURTHER, That the secretary shall notify the original committing court of such transfer.

Sec. 37. RCW 9A.44.010 and 1994 c 271 s 302 are each amended to read as follows:

As used in this chapter:

(1) "Sexual intercourse" (a) has its ordinary meaning and occurs upon any penetration, however slight, and

(b) Also means any penetration of the vagina or anus however slight, by an object, when committed on one person by another, whether such persons are of the same or opposite sex, except when such penetration is accomplished for medically recognized treatment or diagnostic purposes, and

(c) Also means any act of sexual contact between persons involving the sex organs of one person and the mouth or anus of another whether such persons are of the same or opposite sex.

(2) "Sexual contact" means any touching of the sexual or other intimate parts of a person done for the purpose of gratifying sexual desire of either party or a third party.

(3) "Married" means one who is legally married to another, but does not include a person who is living separate and apart from his or her spouse and who has filed in an appropriate court for legal separation or for dissolution of his or her marriage.

(4) "Mental incapacity" is that condition existing at the time of the offense which prevents a person from understanding the nature or consequences of the act of sexual intercourse whether that condition is produced by illness, defect, the influence of a substance or from some other cause.

(5) "Physically helpless" means a person who is unconscious or for any other reason is physically unable to communicate unwillingness to an act.

(6) "Forcible compulsion" means physical force which overcomes resistance, or a threat, express or implied, that places a person in fear of death or physical injury to herself or himself or another person, or in fear that she or he or another person will be kidnapped.

(7) "Consent" means that at the time of the act of sexual intercourse or sexual contact there are actual words or conduct indicating freely given agreement to have sexual intercourse or sexual contact.

(8) "Significant relationship" means a situation in which the perpetrator is:

(a) A person who undertakes the responsibility, professionally or voluntarily, to provide education, health, welfare, or organized recreational activities principally for minors; or

(b) A person who in the course of his or her employment supervises minors.

(9) "Abuse of a supervisory position" means a direct or indirect threat or promise to use authority to the detriment or benefit of a minor.

(10) "Developmentally disabled," for purposes of RCW 9A.44.050(1)(c) and 9A.44.100(1)(c), means a person with a developmental disability as defined in RCW 71A.10.020.

(11) "Person with supervisory authority," for purposes of RCW 9A.44.050(1)(c) or (e) and 9A.44.100(1)(c) or (e), means any proprietor or employee of any public or private care or treatment facility who directly supervises developmentally disabled, mentally disordered, or chemically dependent persons at the facility.

(12) "Mentally disordered person" for the purposes of RCW 9A.44.050(1)(e) and 9A.44.100(1)(e) means a person with a "mental disorder" as defined in RCW 71.05.020(~~((2))~~).

(13) "Chemically dependent person" for purposes of RCW 9A.44.050(1)(e) and 9A.44.100(1)(e) means a person who is "chemically dependent" as defined in RCW 70.96A.020(4).

(14) "Health care provider" for purposes of RCW 9A.44.050 and 9A.44.100 means a person who is, holds himself or herself out to be, or provides services as if he or she were: (a) A member of a health care profession under chapter 18.130 RCW; or (b) registered or certified under chapter 18.19 RCW, regardless of whether the health care provider is licensed, certified, or registered by the state.

(15) "Treatment" for purposes of RCW 9A.44.050 and 9A.44.100 means the active delivery of professional services by a health care provider which the health care provider holds himself or herself out to be qualified to provide.

Sec. 38. RCW 71.24.025 and 1995 c 96 s 4 are each amended to read as follows:

Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter.

(1) "Acutely mentally ill" means a condition which is limited to a short-term severe crisis episode of:

(a) A mental disorder as defined in RCW 71.05.020(~~((2))~~) or, in the case of a child, as defined in RCW 71.34.020(~~((12))~~);

(b) Being gravely disabled as defined in RCW 71.05.020(~~((1))~~) or, in the case of a child, a gravely disabled minor as defined in RCW 71.34.020(~~((8))~~); or

(c) Presenting a likelihood of serious harm as defined in RCW 71.05.020(~~((3))~~) or, in the case of a child, as defined in RCW 71.34.020(~~((11))~~).

(2) "Available resources" means those funds which shall be appropriated under this chapter by the legislature during any biennium for the purpose of providing community mental health programs under RCW 71.24.045. When regional support networks are established or after July 1, 1995, "available resources" means federal funds, except those provided according to Title XIX of the Social Security Act, and state funds appropriated under this chapter or chapter 71.05 RCW by the legislature during any biennium for the purpose of providing residential services, resource management services, community support services, and other mental health services. This does not include funds appropriated for the purpose of operating and administering the state psychiatric hospitals, except as negotiated according to RCW 71.24.300(1)(d).

(3) "Licensed service provider" means an entity licensed according to this chapter or chapter 71.05 RCW that meets state minimum standards or individuals licensed under chapter 18.57, 18.71, 18.83, or 18.79 RCW, as it applies to registered nurses and advanced registered nurse practitioners.

(4) "Child" means a person under the age of eighteen years.

(5) "Chronically mentally ill adult" means an adult who has a mental disorder and meets at least one of the following criteria:

(a) Has undergone two or more episodes of hospital care for a mental disorder within the preceding two years; or

(b) Has experienced a continuous psychiatric hospitalization or residential treatment exceeding six months' duration within the preceding year; or

(c) Has been unable to engage in any substantial gainful activity by reason of any mental disorder which has lasted for a continuous period of not less than twelve months. "Substantial gainful activity" shall be defined by the department by rule consistent with Public Law 92-603, as amended.

(6) "Severely emotionally disturbed child" means an infant or child who has been determined by the regional support network to be experiencing a mental disorder as defined in chapter 71.34 RCW, including those mental disorders that result in a behavioral or conduct disorder, that is clearly interfering with the child's functioning in family or school or with peers and who meets at least one of the following criteria:

(a) Has undergone inpatient treatment or placement outside of the home related to a mental disorder within the last two years;

(b) Has undergone involuntary treatment under chapter 71.34 RCW within the last two years;

(c) Is currently served by at least one of the following child-serving systems: Juvenile justice, child-protection/welfare, special education, or developmental disabilities;

(d) Is at risk of escalating maladjustment due to:

(i) Chronic family dysfunction involving a mentally ill or inadequate caretaker;

(ii) Changes in custodial adult;

(iii) Going to, residing in, or returning from any placement outside of the home, for example, psychiatric hospital, short-term inpatient, residential treatment, group or foster home, or a correctional facility;

(iv) Subject to repeated physical abuse or neglect;

(v) Drug or alcohol abuse; or

(vi) Homelessness.

(7) "Community mental health service delivery system" means public or private agencies that provide services specifically to persons with mental disorders as defined under RCW 71.05.020 and receive funding from various public sources including: (a) Federal medicare, medicaid, or early periodic screening, diagnostic, and treatment programs; or (b) state funds from the division of mental health, division of children and family services, division of alcohol and substance abuse, or division of vocational rehabilitation of the department of social and health services.

(8) "Community mental health program" means all mental health services established by a county authority. After July 1, 1995, or when the regional support

networks are established, "community mental health program" means all activities or programs using available resources.

(9) "Community support services" means services for acutely mentally ill persons, chronically mentally ill adults, and severely emotionally disturbed children and includes: (a) Discharge planning for clients leaving state mental hospitals, other acute care inpatient facilities, inpatient psychiatric facilities for persons under twenty-one years of age, and other children's mental health residential treatment facilities; (b) sufficient contacts with clients, families, schools, or significant others to provide for an effective program of community maintenance; and (c) medication monitoring. After July 1, 1995, or when regional support networks are established, for adults and children "community support services" means services authorized, planned, and coordinated through resource management services including, at least, assessment, diagnosis, emergency crisis intervention available twenty-four hours, seven days a week, prescreening determinations for mentally ill persons being considered for placement in nursing homes as required by federal law, screening for patients being considered for admission to residential services, diagnosis and treatment for acutely mentally ill and severely emotionally disturbed children discovered under screening through the federal Title XIX early and periodic screening, diagnosis, and treatment program, investigation, legal, and other nonresidential services under chapter 71.05 RCW, case management services, psychiatric treatment including medication supervision, counseling, psychotherapy, assuring transfer of relevant patient information between service providers, other services determined by regional support networks, and maintenance of a patient tracking system for chronically mentally ill adults and severely emotionally disturbed children.

(10) "County authority" means the board of county commissioners, county council, or county executive having authority to establish a community mental health program, or two or more of the county authorities specified in this subsection which have entered into an agreement to provide a community mental health program.

(11) "Department" means the department of social and health services.

(12) "Mental health services" means community services pursuant to RCW 71.24.035(5)(b) and other services provided by the state for the mentally ill. When regional support networks are established, or after July 1, 1995, "mental health services" shall include all services provided by regional support networks.

(13) "Mentally ill persons" and "the mentally ill" mean persons and conditions defined in subsections (1), (5), (6), and (17) of this section.

(14) "Regional support network" means a county authority or group of county authorities recognized by the secretary that enter into joint operating agreements to contract with the secretary pursuant to this chapter.

(15) "Residential services" means a facility or distinct part thereof which provides food and shelter, and may include treatment services.

When regional support networks are established, or after July 1, 1995, for adults and children "residential services" means a complete range of residences and supports authorized by resource management services and which may involve a facility, a distinct part thereof, or services which support community living, for acutely mentally ill persons, chronically mentally ill adults, severely emotionally disturbed children, or seriously disturbed adults determined by the regional support network to be at risk of becoming acutely or chronically mentally ill. The services shall include at least evaluation and treatment services as defined in chapter 71.05 RCW, acute crisis respite care, long-term adaptive and rehabilitative care, and supervised and supported living services, and shall also include any residential services developed to service mentally ill persons in nursing homes. Residential services for children in out-of-home placements related to their mental disorder shall not include the costs of food and shelter, except for children's long-term residential facilities existing prior to January 1, 1991.

(16) "Resource management services" mean the planning, coordination, and authorization of residential services and community support services administered pursuant to an individual service plan for acutely mentally ill adults and children, chronically mentally ill adults, severely emotionally disturbed children, or seriously disturbed adults determined by the regional support network at their sole discretion to be at risk of becoming acutely or chronically mentally ill. Such planning, coordination, and authorization shall include mental health screening for children eligible under the federal Title XIX early and periodic screening, diagnosis, and treatment program. Resource management services include seven day a week, twenty-four hour a day availability of information regarding mentally ill adults' and children's enrollment in services and their individual service plan to county-designated mental health professionals, evaluation and treatment facilities, and others as determined by the regional support network.

(17) "Seriously disturbed person" means a person who:

(a) Is gravely disabled or presents a likelihood of serious harm to ~~((oneself))~~ himself or herself or others, or to the property of others, as a result of a mental disorder as defined in chapter 71.05 RCW;

(b) Has been on conditional release status at some time during the preceding two years from an evaluation and treatment facility or a state mental health hospital;

(c) Has a mental disorder which causes major impairment in several areas of daily living;

(d) Exhibits suicidal preoccupation or attempts; or

(e) Is a child diagnosed by a mental health professional, as defined in RCW 71.05.020, as experiencing a mental disorder which is clearly interfering with the child's functioning in family or school or with peers or is clearly interfering with the child's personality development and learning.

(18) "Secretary" means the secretary of social and health services.

(19) "State minimum standards" means: (a) Minimum requirements for delivery of mental health services as established by departmental rules and necessary to implement this chapter, including but not limited to licensing service providers and services; (b) minimum service requirements for licensed service providers for the provision of mental health services as established by departmental rules pursuant to chapter 34.05 RCW as necessary to implement this chapter, including, but not limited to: Qualifications for staff providing services directly to mentally ill persons; the intended result of each service; and the rights and responsibilities of persons receiving mental health services pursuant to this chapter; (c) minimum requirements for residential services as established by the department in rule based on clients' functional abilities and not solely on their diagnoses, limited to health and safety, staff qualifications, and program outcomes. Minimum requirements for residential services are those developed in collaboration with consumers, families, counties, regulators, and residential providers serving the mentally ill. Minimum requirements encourage the development of broad-range residential programs, including integrated housing and cross-systems programs where appropriate, and do not unnecessarily restrict programming flexibility; and (d) minimum standards for community support services and resource management services, including at least qualifications for resource management services, client tracking systems, and the transfer of patient information between service providers.

(20) "Tribal authority," for the purposes of this section and RCW 71.24.300 only, means: The federally recognized Indian tribes and the major Indian organizations recognized by the secretary insofar as these organizations do not have a financial relationship with any regional support network that would present a conflict of interest.

NEW SECTION. Sec. 39. The joint legislative audit and review committee shall perform an evaluation of the effect of this act upon persons who have been repeatedly involuntarily committed and shall measure the overall fiscal impact of this act. The committee shall report its findings to the appropriate committees of the legislature by January 1, 2000.

Passed the Senate March 17, 1997.

Passed the House April 9, 1997.

Approved by the Governor April 21, 1997.

Filed in Office of Secretary of State April 21, 1997.

CHAPTER 113

[Substitute Senate Bill 5621]

REGISTRATION OF CRIMINALS WHO HAVE VICTIMIZED CHILDREN

AN ACT Relating to registration of criminals who have victimized children; amending RCW 4.24.550, 9A.44.130, 9A.44.140, 10.01.200, 43.43.540, 70.48.470, and 72.09.330; creating a new section; and prescribing penalties.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. **Sec. 1.** The legislature finds that offenders who commit kidnapping offenses against minor children pose a substantial threat to the well-being of our communities. Child victims are especially vulnerable and unable to protect themselves. The legislature further finds that requiring sex offenders to register has assisted law enforcement agencies in protecting their communities. Similar registration requirements for offenders who have kidnapped or unlawfully imprisoned a child would also assist law enforcement agencies in protecting the children in their communities from further victimization.

Sec. 2. RCW 4.24.550 and 1996 c 215 s 1 are each amended to read as follows:

(1) Public agencies are authorized to release relevant and necessary information regarding sex offenders and kidnapping offenders to the public when the release of the information is necessary for public protection.

(2) Local law enforcement agencies and officials who decide to release information pursuant to this section shall make a good faith effort to notify the public and residents at least fourteen days before the ~~((sex))~~ offender is released. If a change occurs in the release plan, this notification provision will not require an extension of the release date. The department of corrections and the department of social and health services shall provide local law enforcement officials with all relevant information on sex offenders and kidnapping offenders about to be released or placed into the community in a timely manner. When a sex offender or kidnapping offender under county jurisdiction will be released from jail and will reside in a county other than the county of incarceration, the chief law enforcement officer of the jail, or his or her designee, shall notify the sheriff in the county where the offender will reside of the offender's release as provided in RCW 70.48.470.

(3) An elected public official, public employee, or public agency as defined in RCW 4.24.470 is immune from civil liability for damages for any discretionary decision to release relevant and necessary information, unless it is shown that the official, employee, or agency acted with gross negligence or in bad faith. The authorization and immunity in this section applies to information regarding: (a) A person convicted of, or juvenile found to have committed, a sex offense as defined by RCW ~~((9-94A.030))~~ 9A.44.130 or a kidnapping offense as defined by RCW 9A.44.130; (b) a person found not guilty of a sex offense or kidnapping offense by reason of insanity under chapter 10.77 RCW; (c) a person found incompetent to stand trial for a sex offense or kidnapping offense and subsequently committed under chapter 71.05 or 71.34 RCW; (d) a person committed as a sexual psychopath under chapter 71.06 RCW; or (e) a person committed as a sexually violent predator under chapter 71.09 RCW. The immunity provided under this section applies to the release of relevant information to other employees or officials or to the general public.

(4) Except as otherwise provided by statute, nothing in this section shall impose any liability upon a public official, public employee, or public agency for failing to release information as provided in subsections (2) and (3) of this section.

(5) Nothing in this section implies that information regarding persons designated in subsections (2) and (3) of this section is confidential except as otherwise provided by statute.

Sec. 3. RCW 9A.44.130 and 1996 c 275 s 11 are each amended to read as follows:

(1) Any adult or juvenile residing in this state who has been found to have committed or has been convicted of any sex offense or kidnapping offense, or who has been found not guilty by reason of insanity under chapter 10.77 RCW of committing any sex offense or kidnapping offense, shall register with the county sheriff for the county of the person's residence.

(2) The person shall provide the county sheriff with the following information when registering: (a) Name; (b) address; (c) date and place of birth; (d) place of employment; (e) crime for which convicted; (f) date and place of conviction; (g) aliases used; and (h) social security number.

(3)(a) ~~((SEX))~~ Offenders shall register within the following deadlines. For purposes of this section the term "conviction" refers to adult convictions and juvenile adjudications for sex offenses or kidnapping offenses:

(i) ~~((SEX))~~ OFFENDERS IN CUSTODY. ~~(A)~~ Sex offenders who committed a sex offense on, before, or after February 28, 1990, and who, on or after July 28, 1991, are in custody, as a result of that offense, of the state department of corrections, the state department of social and health services, a local division of youth services, or a local jail or juvenile detention facility, and (B) kidnapping offenders who on or after the effective date of this act are in custody of the state department of corrections, the state department of social and health services, a local division of youth services, or a local jail or juvenile detention facility, must register within twenty-four hours from the time of release with the county sheriff for the county of the person's residence. The agency that has jurisdiction over the offender shall provide notice to the ~~((SEX))~~ offender of the duty to register. Failure to register within twenty-four hours of release constitutes a violation of this section and is punishable as provided in subsection (7) of this section.

(ii) ~~((SEX))~~ OFFENDERS NOT IN CUSTODY BUT UNDER STATE OR LOCAL JURISDICTION. Sex offenders~~((;))~~ who, on July 28, 1991, are not in custody but are under the jurisdiction of the indeterminate sentence review board or under the department of correction's active supervision, as defined by the department of corrections, the state department of social and health services, or a local division of youth services, for sex offenses committed before, on, or after February 28, 1990, must register within ten days of July 28, 1991. Kidnapping offenders who, on the effective date of this act, are not in custody but are under the jurisdiction of the indeterminate sentence review board or under the department of correction's active supervision, as defined by the department of corrections, the state department of social and health services, or a local division of youth services, for kidnapping offenses committed before, on, or after the effective date of this act must register within ten days of the effective date of this act. A change in

supervision status of a sex offender who was required to register under this subsection (3)(a)(ii) as of July 28, 1991, or a kidnapping offender required to register as of the effective date of this act shall not relieve the offender of the duty to register or to reregister following a change in residence. The obligation to register shall only cease pursuant to RCW 9A.44.140.

(iii) ~~((SEX))~~ OFFENDERS UNDER FEDERAL JURISDICTION. Sex offenders who, on or after July 23, 1995, and kidnapping offenders who, on or after the effective date of this act, as a result of that offense are in the custody of the United States bureau of prisons or other federal or military correctional agency for sex offenses committed before, on, or after February 28, 1990, or kidnapping offenses committed on, before, or after the effective date of this act, must register within twenty-four hours from the time of release with the county sheriff for the county of the person's residence. Sex offenders who, on July 23, 1995, are not in custody but are under the jurisdiction of the United States bureau of prisons, United States courts, United States parole commission, or military parole board for sex offenses committed before, on, or after February 28, 1990, must register within ten days of July 23, 1995. Kidnapping offenders who, on the effective date of this act, are not in custody but are under the jurisdiction of the United States bureau of prisons, United States courts, United States parole commission, or military parole board for kidnapping offenses committed before, on, or after the effective date of this act must register within ten days of the effective date of this act. A change in supervision status of a sex offender who was required to register under this subsection (3)(a)(iii) as of July 23, 1995, or a kidnapping offender required to register as of the effective date of this act shall not relieve the offender of the duty to register or to reregister following a change in residence. The obligation to register shall only cease pursuant to RCW 9A.44.140.

(iv) ~~((SEX))~~ OFFENDERS WHO ARE CONVICTED BUT NOT CONFINED. Sex offenders who are convicted of a sex offense on or after July 28, 1991, for a sex offense that was committed on or after February 28, 1990, and kidnapping offenders who are convicted on or after the effective date of this act for a kidnapping offense that was committed on or after the effective date of this act, but who are not sentenced to serve a term of confinement immediately upon sentencing, shall report to the county sheriff to register immediately upon completion of being sentenced.

(v) ~~((SEX))~~ OFFENDERS WHO ARE NEW RESIDENTS OR RETURNING WASHINGTON RESIDENTS. Sex offenders and kidnapping offenders who move to Washington state from another state or a foreign country that are not under the jurisdiction of the state department of corrections, the indeterminate sentence review board, or the state department of social and health services at the time of moving to Washington, must register within thirty days of establishing residence or reestablishing residence if the person is a former Washington resident. The duty to register under this subsection applies to sex offenders convicted under the laws of another state or a foreign country, federal or military statutes, or Washington

state for offenses committed on or after February 28, 1990, and to kidnapping offenders convicted under the laws of another state or a foreign country, federal or military statutes, or Washington state for offenses committed on or after the effective date of this act. Sex offenders and kidnapping offenders from other states or a foreign country who, when they move to Washington, are under the jurisdiction of the department of corrections, the indeterminate sentence review board, or the department of social and health services must register within twenty-four hours of moving to Washington. The agency that has jurisdiction over the offender shall notify the offender of the registration requirements before the offender moves to Washington.

(vi) ~~((SEX))~~ OFFENDERS FOUND NOT GUILTY BY REASON OF INSANITY. Any adult or juvenile who has been found not guilty by reason of insanity under chapter 10.77 RCW of (A) committing a sex offense on, before, or after February 28, 1990, and who, on or after July 23, 1995, is in custody, as a result of that finding, of the state department of social and health services, or (B) committing a kidnapping offense on, before, or after the effective date of this act and who on or after the effective date of this act is in custody, as a result of that finding, of the state department of social and health services, must register within twenty-four hours from the time of release with the county sheriff for the county of the person's residence. The state department of social and health services shall provide notice to the adult or juvenile in its custody of the duty to register. Any adult or juvenile who has been found not guilty by reason of insanity of committing a sex offense on, before, or after February 28, 1990, but who was released ~~((prior to))~~ before July 23, 1995, or any adult or juvenile who has been found not guilty by reason of insanity of committing a kidnapping offense but who was released before the effective date of this act, shall be required to register within twenty-four hours of receiving notice of this registration requirement. The state department of social and health services shall make reasonable attempts within available resources to notify sex offenders who were released ((prior to)) before July 23, 1995, and kidnapping offenders who were released before the effective date of this act. Failure to register within twenty-four hours of release, or of receiving notice, constitutes a violation of this section and is punishable as provided in subsection (7) of this section.

(b) Failure to register within the time required under this section constitutes a per se violation of this section and is punishable as provided in subsection (7) of this section. The county sheriff shall not be required to determine whether the person is living within the county.

(c) An arrest on charges of failure to register, service of an information, or a complaint for a violation of this section, or arraignment on charges for a violation of this section, constitutes actual notice of the duty to register. Any person charged with the crime of failure to register under this section who asserts as a defense the lack of notice of the duty to register shall register immediately following actual notice of the duty through arrest, service, or arraignment. Failure to register as

required under this subsection (c) constitutes grounds for filing another charge of failing to register. Registering following arrest, service, or arraignment on charges shall not relieve the offender from criminal liability for failure to register prior to the filing of the original charge.

(d) The deadlines for the duty to register under this section do not relieve any sex offender of the duty to register under this section as it existed prior to July 28, 1991.

(4)(a) If any person required to register pursuant to this section changes his or her residence address within the same county, the person must send written notice of the change of address to the county sheriff at least fourteen days before moving. If any person required to register pursuant to this section moves to a new county, the person must send written notice of the change of address at least fourteen days before moving to the county sheriff in the new county of residence and must register with that county sheriff within twenty-four hours of moving. The person must also send written notice within ten days of the change of address in the new county to the county sheriff with whom the person last registered. If any person required to register pursuant to this section moves out of Washington state, the person must also send written notice within ten days of moving to the new state or a foreign country to the county sheriff with whom the person last registered in Washington state.

(b) It is an affirmative defense to a charge that the person failed to send a notice at least fourteen days in advance of moving as required under (a) of this subsection that the person did not know the location of his or her new residence at least fourteen days before moving. The defendant must establish the defense by a preponderance of the evidence and, to prevail on the defense, must also prove by a preponderance that the defendant sent the required notice within twenty-four hours of determining the new address.

(5) The county sheriff shall obtain a photograph of the individual and shall obtain a copy of the individual's fingerprints.

(6) (~~"Sex offense"~~) For the purpose of RCW 9A.44.130, 10.01.200, 43.43.540, 70.48.470, and 72.09.330:

(a) "Sex offense" means any offense defined as a sex offense by RCW 9.94A.030 and any violation of RCW 9.68A.040 (sexual exploitation of a minor), 9.68A.050 (dealing in depictions of minor engaged in sexually explicit conduct), 9.68A.060 (sending, bringing into state depictions of minor engaged in sexually explicit conduct), 9.68A.090 (communication with minor for immoral purposes), 9.68A.100 (patronizing juvenile prostitute), or 9A.44.096 (sexual misconduct with a minor in the second degree), as well as any gross misdemeanor that is, under chapter 9A.28 RCW, a criminal attempt, criminal solicitation, or criminal conspiracy to commit an offense that is classified as a sex offense under RCW 9.94A.030.

(b) "Kidnapping offense" means the crimes of kidnapping in the first degree, kidnapping in the second degree, and unlawful imprisonment as defined in chapter 9A.40 RCW, where the victim is a minor and the offender is not the minor's parent.

(7) A person who knowingly fails to register or who moves without notifying the county sheriff as required by this section is guilty of a class C felony if the crime for which the individual was convicted was a class A felony or a federal or out-of-state conviction for an offense that under the laws of this state would be a class A felony. If the crime was other than a class A felony or a federal or out-of-state conviction for an offense that under the laws of this state would be a class A felony, violation of this section is a gross misdemeanor.

Sec. 4. RCW 9A.44.140 and 1996 c 275 s 12 are each amended to read as follows:

(1) The duty to register under RCW 9A.44.130 shall end:

(a) For a person convicted of a class A felony: Such person may only be relieved of the duty to register under subsection (3) or (4) of this section.

(b) For a person convicted of a class B felony: Fifteen years after the last date of release from confinement, if any, (including full-time residential treatment) pursuant to the conviction, or entry of the judgment and sentence, if the person has spent fifteen consecutive years in the community without being convicted of any new offenses.

(c) For a person convicted of a class C felony, a violation of RCW 9.68A.090 or 9A.44.096, or an attempt, solicitation, or conspiracy to commit a class C felony: Ten years after the last date of release from confinement, if any, (including full-time residential treatment) pursuant to the conviction, or entry of the judgment and sentence, if the person has spent ten consecutive years in the community without being convicted of any new offenses.

(2) The provisions of subsection (1) of this section shall apply equally to a person who has been found not guilty by reason of insanity under chapter 10.77 RCW of a sex offense or kidnapping offense.

(3) Any person having a duty to register under RCW 9A.44.130 may petition the superior court to be relieved of that duty. The petition shall be made to the court in which the petitioner was convicted of the offense that subjects him or her to the duty to register, or, in the case of convictions in other states, a foreign country, or a federal or military court, to the court in Thurston county. The prosecuting attorney of the county shall be named and served as the respondent in any such petition. The court shall consider the nature of the registrable offense committed, and the criminal and relevant noncriminal behavior of the petitioner both before and after conviction, and may consider other factors. Except as provided in subsection (4) of this section, the court may relieve the petitioner of the duty to register only if the petitioner shows, with clear and convincing evidence, that future registration of the petitioner will not serve the purposes of RCW 9A.44.130, 10.01.200, 43.43.540, 46.20.187, 70.48.470, and 72.09.330.

(4) An offender having a duty to register under RCW 9A.44.130 for a sex offense or kidnapping offense committed when the offender was a juvenile may petition the superior court to be relieved of that duty. The court shall consider the nature of the registrable offense committed, and the criminal and relevant noncriminal behavior of the petitioner both before and after adjudication, and may consider other factors. The court may relieve the petitioner of the duty to register for a sex offense or kidnapping offense that was committed while the petitioner was fifteen years of age or older only if the petitioner shows, with clear and convincing evidence, that future registration of the petitioner will not serve the purposes of RCW 9A.44.130, 10.01.200, 43.43.540, 46.20.187, 70.48.470, and 72.09.330. The court may relieve the petitioner of the duty to register for a sex offense or kidnapping offense that was committed while the petitioner was under the age of fifteen if the petitioner (a) has not been adjudicated of any additional sex offenses or kidnapping offenses during the twenty-four months following the adjudication for the ~~((sex))~~ offense giving rise to the duty to register, and (b) the petitioner proves by a preponderance of the evidence that future registration of the petitioner will not serve the purposes of RCW 9A.44.130, 10.01.200, 43.43.540, 46.20.187, 70.48.470, and 72.09.330.

(5) Unless relieved of the duty to register pursuant to this section, a violation of RCW 9A.44.130 is an ongoing offense for purposes of the statute of limitations under RCW 9A.04.080.

(6) Nothing in RCW 9.94A.220 relating to discharge of an offender shall be construed as operating to relieve the offender of his or her duty to register pursuant to RCW 9A.44.130.

Sec. 5. RCW 10.01.200 and 1990 c 3 s 404 are each amended to read as follows:

The court shall provide written notification to any defendant charged with a sex offense or kidnapping offense of the registration requirements of RCW 9A.44.130. Such notice shall be included on any guilty plea forms and judgment and sentence forms provided to the defendant.

Sec. 6. RCW 43.43.540 and 1990 c 3 s 403 are each amended to read as follows:

The county sheriff shall forward the information and fingerprints obtained pursuant to RCW 9A.44.130 to the Washington state patrol within five working days. The state patrol shall maintain a central registry of sex offenders and kidnapping offenders required to register under RCW 9A.44.130 and shall adopt rules consistent with chapters 10.97, 10.98, and 43.43 RCW as are necessary to carry out the purposes of RCW 9A.44.130, 9A.44.140, 10.01.200, 43.43.540, 46.20.187, 70.48.470, and 72.09.330. The Washington state patrol shall reimburse the counties for the costs of processing the ~~((sex))~~ offender registration, including taking the fingerprints and the photographs.

Sec. 7. RCW 70.48.470 and 1996 c 215 s 2 are each amended to read as follows:

(1) A person having charge of a jail shall notify in writing any confined person who is in the custody of the jail for a conviction of a ~~((sexual[sex]))~~ sex offense or kidnapping offense as defined in RCW ~~((9-94A-030))~~ 9A.44.130 of the registration requirements of RCW 9A.44.130 at the time of the inmate's release from confinement, and shall obtain written acknowledgment of such notification. The person shall also obtain from the inmate the county of the inmate's residence upon release from jail.

(2) If an inmate convicted of a ~~((sexual))~~ sex offense or kidnapping offense will reside in a county other than the county of incarceration upon release, the chief law enforcement officer, or his or her designee, shall notify the sheriff of the county where the inmate will reside of the inmate's impending release. Notice shall be provided at least fourteen days prior to the inmate's release, or if the release date is not known at least fourteen days prior to release, notice shall be provided not later than the day after the inmate's release.

Sec. 8. RCW 72.09.330 and 1990 c 3 s 405 are each amended to read as follows:

(1) The department shall provide written notification to an inmate convicted of a sex offense or kidnapping offense of the registration requirements of RCW 9A.44.130 at the time of the inmate's release from confinement and shall receive and retain a signed acknowledgement of receipt.

(2) The department shall provide written notification to an individual convicted of a sex offense or kidnapping offense from another state of the registration requirements of RCW 9A.44.130 at the time the department accepts supervision and has legal authority of the individual under the terms and conditions of the interstate compact agreement under RCW 9.95.270.

Passed the Senate March 17, 1997.

Passed the House April 10, 1997.

Approved by the Governor April 21, 1997.

Filed in Office of Secretary of State April 21, 1997.

CHAPTER 114

[Senate Bill 5626]

TRANSPORT TAGS FOR GAME—REDUCTION IN COSTS

AN ACT Relating to transport tags for game; and amending RCW 77.32.320 and 77.32.340.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 77.32.320 and 1990 c 84 s 4 are each amended to read as follows:

(1) In addition to a basic hunting license, a separate transport tag is required to hunt deer, elk, black bear, cougar, sheep, mountain goat, moose, or wild turkey. However, a transport tag may not be required to hunt black bear or cougar when, under conditions set out under RCW 77.32.340, the commission determines that

for the purposes of achieving harvest management goals for black bear or cougar, that transport tags shall be available at no cost.

(2) A transport tag may only be obtained subsequent to the purchase of a valid hunting license and must have permanently affixed to it the hunting license number.

(3) Persons who kill deer, elk, bear, cougar, mountain goat, sheep, moose, or wild turkey shall immediately validate and attach their own transport tag to the carcass as provided by rule of the director.

(4) Transport tags required by this section expire on March 31st following the date of issuance.

Sec. 2. RCW 77.32.340 and 1991 sp.s. c 7 s 8 are each amended to read as follows:

Fees for transport tags shall be as follows:

(1) The fee for a resident deer tag is eighteen dollars. The fee for a nonresident deer tag is sixty dollars.

(2) The fee for a resident elk tag is twenty-four dollars. The fee for a nonresident elk tag is one hundred twenty dollars.

(3) The fee for a resident and nonresident bear tag ((~~is~~)) shall be established by the commission in an amount not to exceed eighteen dollars(~~(-The fee for a nonresident bear tag is))~~ and one hundred eighty dollars, respectively. Should the commission choose to make black bear transport tags available at no cost, then the commission may determine that for purposes of achieving species harvest management goals that a transport tag is not required to hunt black bear.

(4) The fee for a resident and nonresident cougar tag ((~~is~~)) shall be established by the commission in an amount not to exceed twenty-four dollars(~~(-The fee for a nonresident cougar tag is))~~ and three hundred sixty dollars, respectively. Should the commission choose to make cougar transport tags available at no cost, then the commission may determine that for purposes of achieving species harvest management goals that a transport tag is not required to hunt cougar.

(5) The fee for a mountain goat tag is sixty dollars for residents and one hundred eighty dollars for nonresidents. The fee shall be paid at the time of application. Applicants who are not selected for a mountain goat special season permit shall receive a refund of this fee, less five dollars.

(6) The fee for a sheep tag is ninety dollars for residents and three hundred sixty dollars for nonresidents and shall be paid at the time of application. Applicants who are not selected for a sheep special season permit shall receive a refund of this fee, less five dollars.

(7) The fee for a moose tag is one hundred eighty dollars for residents and three hundred sixty dollars for nonresidents and shall be paid at the time of application. Applicants who are not selected for a moose special season permit shall receive a refund of this fee, less five dollars.

(8) The fee for a wild turkey tag is eighteen dollars for residents and sixty dollars for nonresidents.

(9) The fee for a lynx tag is twenty-four dollars for residents and three hundred sixty dollars for nonresidents and shall be paid at the time of application. Applicants who are not selected for a lynx special season permit shall receive a refund of this fee, less five dollars.

Passed the Senate March 12, 1997.

Passed the House April 10, 1997.

Approved by the Governor April 21, 1997.

Filed in Office of Secretary of State April 21, 1997.

CHAPTER 115

[Senate Bill 5642]

PUGET SOUND DUNGENESS CRAB FISHING LICENSES—LIMITS ON RENEWALS

AN ACT Relating to limiting the number of fishers eligible to commercially fish for Puget Sound dungeness crab; and amending RCW 75.30.130.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 75.30.130 and 1993 c 340 s 34 are each amended to read as follows:

(1) It is unlawful to take dungeness crab (*Cancer magister*) in Puget Sound without first obtaining a dungeness crab—Puget Sound fishery license. As used in this section, "Puget Sound" has the meaning given in RCW 75.28.110(5)(a). A dungeness crab—Puget Sound fishery license is not required to take other species of crab, including red rock crab (*Cancer productus*).

(2) Except as provided in subsections (3) and (7) of this section, after January 1, 1982, the director shall issue no new dungeness crab—Puget Sound fishery licenses. Only a person who meets the following qualifications may renew an existing license:

(a) The person shall have held the dungeness crab—Puget Sound fishery license sought to be renewed during the previous year or acquired the license by transfer from someone who held it during the previous year, and shall not have subsequently transferred the license to another person; and

(b) The person shall document, by valid shellfish receiving tickets issued by the department, that one thousand pounds of dungeness crab were caught and sold during the previous two-year period ending on December 31st of an odd-numbered year:

(i) Under the license sought to be renewed; or

(ii) Under any combination of the following commercial fishery licenses that the person held when the crab were caught and sold: Crab pot—Non-Puget Sound, crab ring net—Non-Puget Sound, dungeness crab—Puget Sound. Sales under a license other than the one sought to be renewed may be used for the renewal of no more than one dungeness crab—Puget Sound fishery license.

(3) Where the person failed to obtain the license during the previous year because of a license suspension, the person may qualify for a license by

establishing that the person held such a license during the last year in which the license was not suspended.

(4) The director may reduce or waive the poundage requirement established under subsection (2)(b) of this section upon the recommendation of a review board established under RCW 75.30.050. The review board may recommend a reduction or waiver of the poundage requirement in individual cases if, in the board's judgment, extenuating circumstances prevent achievement of the poundage requirement. The director shall adopt rules governing the operation of the review boards and defining "extenuating circumstances."

(5) This section does not restrict the issuance of commercial crab licenses for areas other than Puget Sound or for species other than dungeness crab.

(6) ~~((Subject to the restrictions in section 11 of this act, dungeness crab—))~~ Puget Sound fishery licenses are transferable from one license holder to another.

(7) If fewer than ~~((two hundred))~~ one hundred twenty-five persons are eligible for dungeness crab—Puget Sound fishery licenses, the director may accept applications for new licenses. The director shall determine by random selection the successful applicants for the additional licenses. The number of additional licenses issued shall be sufficient to maintain ~~((two hundred))~~ one hundred twenty-five licenses in the Puget Sound dungeness crab fishery. The director shall adopt rules governing the application, selection, and issuance procedures for new dungeness crab—Puget Sound fishery licenses, based upon recommendations of a board of review established under RCW 75.30.050.

Passed the Senate March 11, 1997.

Passed the House April 10, 1997.

Approved by the Governor April 21, 1997.

Filed in Office of Secretary of State April 21, 1997.

CHAPTER 116

[Substitute Senate Bill 5653]

DIRECT SALE OF TIMBER FROM STATE-OWNED LAND—PROCEDURES

AN ACT Relating to the establishment of procedures for direct sale of timber from state-owned land; and amending RCW 79.01.132 and 79.01.184.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 79.01.132 and 1989 c 148 s 1 are each amended to read as follows:

When any timber, fallen timber, stone, gravel, or other valuable material on state lands is sold separate from the land, it may be sold as a lump sum sale or as a scale sale. Lump sum sales under five thousand dollars appraised value shall be paid for in cash. The initial deposits required in RCW 79.01.204, not to exceed twenty-five percent of the actual or projected purchase price, but in the case of lump sum sales over five thousand dollars not less than five thousand dollars, shall be made on the day of the sale, and in the case of those sales appraised below the

amount specified in RCW 79.01.200, the department of natural resources may require full cash payment on the day of sale. The purchaser shall notify the department of natural resources before any timber is cut and before removal or processing of any valuable materials on the sale area, at which time the department of natural resources may require, in the amount determined by the department, advance payment for the removal, processing, and/or cutting of timber or other valuable materials, or bank letters of credit, payment bonds, or assignments of savings accounts acceptable to the department as adequate security. The amount of such advance payments and/or security shall at all times equal or exceed the value of timber cut and other valuable materials processed or removed until paid for. The initial deposit shall be maintained until all contract obligations of the purchaser are satisfied: PROVIDED HOWEVER, That all or a portion of said initial deposit may be applied as the final payment for said materials in the event the department of natural resources determines that adequate security exists for the performance or fulfillment of any remaining obligations of the purchaser under the sale contract.

In all cases where timber, fallen timber, stone, gravel, or other valuable material is sold separate from the land, the same shall revert to the state if not removed from the land within the period specified in the sale contract. Said specified period shall not exceed five years from the date of the purchase thereof: PROVIDED, That the specified periods in the sale contract for stone, sand, fill material, or building stone shall not exceed twenty years: PROVIDED FURTHER, That in all cases where, in the judgment of the department of natural resources, the purchaser is acting in good faith and endeavoring to remove such materials, the department of natural resources may extend the time for the removal thereof for any period not exceeding twenty years from the date of purchase for the stone, sand, fill material or building stone or for a total of ten years beyond the normal termination date specified in the original sale contract for all other material, upon payment to the state of a sum to be fixed by the department of natural resources, based on the estimated loss of income per acre to the state resulting from the granting of the extension but in no event less than fifty dollars per extension, plus interest on the unpaid portion of the contract. The interest rate shall be fixed, from time to time, by rule adopted by the board of natural resources and shall not be less than six percent per annum. The applicable rate of interest as fixed at the date of sale and the maximum extension payment shall be set forth in the contract. The method for calculating the unpaid portion of the contract upon which such interest shall be paid by the purchaser shall be set forth in the contract. The department of natural resources shall pay into the state treasury all sums received for such extension and the same shall be credited to the fund to which was credited the original purchase price of the material so sold(~~(:—AND PROVIDED FURTHER, That any sale of valuable materials of an appraised value of one thousand dollars or less may be sold directly to the applicant for cash at full appraised value without notice or advertising)).~~ However, a direct sale of valuable

materials may be sold to the applicant for cash at full appraised value without notice or advertising. The board of natural resources shall, by resolution, establish the value amount of a direct sale not to exceed twenty thousand dollars in appraised sale value, and establish procedures to assure that competitive market prices and accountability will be guaranteed.

The provisions of this section apply unless otherwise provided by statute.

The board of natural resources shall establish procedures to protect against cedar theft and to ensure adequate notice is given for persons interested in purchasing cedar.

Sec. 2. RCW 79.01.184 and 1989 c 148 s 2 are each amended to read as follows:

When the department of natural resources shall have decided to sell any state lands or valuable materials thereon, or with the consent of the board of regents of the University of Washington, or by legislative directive, shall have decided to sell any lot, block, tract, or tracts of university lands, or the timber, fallen timber, stone, gravel, or other valuable material thereon it shall be the duty of the department to forthwith fix the date, place, and time of sale, and no sale shall be had on any day which is a legal holiday.

The department shall give notice of the sale by advertisement published not less than two times during a four week period prior to the time of sale in at least one newspaper of general circulation in the county in which the whole, or any part of any lot, block, or tract of land to be sold, or the material upon which is to be sold is situated, and by causing a copy of said notice to be posted in a conspicuous place in the department's Olympia office and the region headquarters administering such sale and in the office of the county auditor of such county, which notice shall specify the place and time of sale, the appraised value thereof, and describe with particularity each parcel of land to be sold, or from which valuable materials are to be sold, and in case of material sales the estimated volume thereof, and specify that the terms of sale will be posted in the region headquarters and the department's Olympia office(~~(- PROVIDED, That any sale of valuable materials of an appraised value of one thousand dollars or less may be sold directly to the applicant for cash at the full appraised value without notice or advertising)~~). However, a direct sale of valuable materials may be sold to the applicant for cash at full appraised value without notice or advertising. The board of natural resources shall, by resolution, establish the value amount of a direct sale not to exceed twenty thousand dollars in appraised sale value, and establish procedures to assure that competitive market prices and accountability will be guaranteed.

Passed the Senate March 14, 1997.

Passed the House April 10, 1997.

Approved by the Governor April 21, 1997.

Filed in Office of Secretary of State April 21, 1997.

CHAPTER 117

[Engrossed Senate Bill 5657]

LONG-TERM LEASES OF REAL ESTATE FOR STATE AGENCIES

AN ACT Relating to long-term leases of real estate on behalf of state agencies; and reenacting and amending RCW 43.82.010.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 43.82.010 and 1994 c 264 s 28 and 1994 c 219 s 7 are each reenacted and amended to read as follows:

(1) The director of general administration, on behalf of the agency involved, shall purchase, lease, lease purchase, rent, or otherwise acquire all real estate, improved or unimproved, as may be required by elected state officials, institutions, departments, commissions, boards, and other state agencies, or federal agencies where joint state and federal activities are undertaken and may grant easements and transfer, exchange, sell, lease, or sublease all or part of any surplus real estate for those state agencies which do not otherwise have the specific authority to dispose of real estate. This section does not transfer financial liability for the acquired property to the department of general administration.

(2) Except for real estate occupied by federal agencies, the director shall determine the location, size, and design of any real estate or improvements thereon acquired or held pursuant to subsection (1) of this section. Facilities acquired or held pursuant to this chapter, and any improvements thereon, shall conform to standards adopted by the director and approved by the office of financial management governing facility efficiency unless a specific exemption from such standards is provided by the director of general administration. The director of general administration shall report to the office of financial management annually on any exemptions granted pursuant to this subsection.

(3) The director of general administration may fix the terms and conditions of each lease entered into under this chapter, except that no lease shall extend greater than twenty years in duration. The director of general administration may enter into a long-term lease greater than ~~((five))~~ ten years in duration upon a determination by the director of the office of financial management that the long-term lease provides a more favorable rate than would otherwise be available, it appears to a substantial certainty that the facility is necessary for use by the state for the full length of the lease term, and the facility meets the standards adopted pursuant to subsection (2) of this section. The director of general administration may enter into a long-term lease greater than ten years in duration if an analysis shows that the life-cycle cost of leasing the facility is less than the life-cycle cost of purchasing or constructing a facility in lieu of leasing the facility.

(4) Except as permitted under chapter 39.94 RCW, no lease for or on behalf of any state agency may be used or referred to as collateral or security for the payment of securities offered for sale through a public offering. Except as permitted under chapter 39.94 RCW, no lease for or on behalf of any state agency

may be used or referred to as collateral or security for the payment of securities offered for sale through a private placement without the prior written approval of the state treasurer. However, this limitation shall not prevent a lessor from assigning or encumbering its interest in a lease as security for the repayment of a promissory note provided that the transaction would otherwise be an exempt transaction under RCW 21.20.320. The state treasurer shall adopt rules that establish the criteria under which any such approval may be granted. In establishing such criteria the state treasurer shall give primary consideration to the protection of the state's credit rating and the integrity of the state's debt management program. If it appears to the state treasurer that any lease has been used or referred to in violation of this subsection or rules adopted under this subsection, then he or she may recommend that the governor cause such lease to be terminated. The department of general administration shall promptly notify the state treasurer whenever it may appear to the department that any lease has been used or referred to in violation of this subsection or rules adopted under this subsection.

(5) It is the policy of the state to encourage the ~~((collocation))~~ colocation and consolidation of state services into single or adjacent facilities, whenever appropriate, to improve public service delivery, minimize duplication of facilities, increase efficiency of operations, and promote sound growth management planning.

~~((5))~~ (6) The director of general administration shall provide coordinated long-range planning services to identify and evaluate opportunities for ~~((collocating))~~ colocating and consolidating state facilities. Upon the renewal of any lease, the inception of a new lease, or the purchase of a facility, the director of general administration shall determine whether an opportunity exists for ~~((collocating))~~ colocating the agency or agencies in a single facility with other agencies located in the same geographic area. If a ~~((collocation))~~ colocation opportunity exists, the director of general administration shall consult with the affected state agencies and the office of financial management to evaluate the impact ~~((collocation))~~ colocation would have on the cost and delivery of agency programs, including whether program delivery would be enhanced due to the centralization of services. The director of general administration, in consultation with the office of financial management, shall develop procedures for implementing ~~((collocation))~~ colocation and consolidation of state facilities.

~~((6))~~ (7) The director of general administration is authorized to purchase, lease, rent, or otherwise acquire improved or unimproved real estate as owner or lessee and to lease or sublet all or a part of such real estate to state or federal agencies. The director of general administration shall charge each using agency its proportionate rental which shall include an amount sufficient to pay all costs, including, but not limited to, those for utilities, janitorial and accounting services, and sufficient to provide for contingencies; which shall not exceed five percent of

the average annual rental, to meet unforeseen expenses incident to management of the real estate.

~~((7))~~ (8) If the director of general administration determines that it is necessary or advisable to undertake any work, construction, alteration, repair, or improvement on any real estate acquired pursuant to subsection (1) or ~~((6))~~ (7) of this section, the director shall cause plans and specifications thereof and an estimate of the cost of such work to be made and filed in his or her office and the state agency benefiting thereby is hereby authorized to pay for such work out of any available funds: PROVIDED, That the cost of executing such work shall not exceed the sum of twenty-five thousand dollars. Work, construction, alteration, repair, or improvement in excess of twenty-five thousand dollars, other than that done by the owner of the property if other than the state, shall be performed in accordance with the public works law of this state.

~~((8))~~ (9) In order to obtain maximum utilization of space, the director of general administration shall make space utilization studies, and shall establish standards for use of space by state agencies. Such studies shall include the identification of opportunities for ~~(collocation)~~ colocation and consolidation of state agency office and support facilities.

~~((9))~~ (10) The director of general administration may construct new buildings on, or improve existing facilities, and furnish and equip, all real estate under his or her management. Prior to the construction of new buildings or major improvements to existing facilities or acquisition of facilities using a lease purchase contract, the director of general administration shall conduct an evaluation of the facility design and budget using life-cycle cost analysis, value-engineering, and other techniques to maximize the long-term effectiveness and efficiency of the facility or improvement.

~~((10))~~ (11) All conveyances and contracts to purchase, lease, rent, transfer, exchange, or sell real estate and to grant and accept easements shall be approved as to form by the attorney general, signed by the director of general administration or the director's designee, and recorded with the county auditor of the county in which the property is located.

~~((11))~~ (12) The director of general administration may delegate any or all of the functions specified in this section to any agency upon such terms and conditions as the director deems advisable.

~~((12))~~ (13) This section does not apply to the acquisition of real estate by:

- (a) The state college and universities for research or experimental purposes;
- (b) The state liquor control board for liquor stores and warehouses; and
- (c) The department of natural resources, the department of fish and wildlife, the department of transportation, and the state parks and recreation commission for purposes other than the leasing of offices, warehouses, and real estate for similar purposes.

~~((13))~~ (14) Notwithstanding any provision in this chapter to the contrary, the department of general administration may negotiate ground leases for public lands

on which property is to be acquired under a financing contract pursuant to chapter 39.94 RCW under terms approved by the state finance committee.

Passed the Senate March 18, 1997.

Passed the House April 10, 1997.

Approved by the Governor April 21, 1997.

Filed in Office of Secretary of State April 21, 1997.

CHAPTER 118

[Substitute Senate Bill 5560]

SOCIAL CARD GAMES—REGULATION

AN ACT Relating to social card games; amending RCW 9.46.0265; adding a new section to chapter 9.46 RCW; and repealing RCW 9.46.0281.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. Sec. 1. A new section is added to chapter 9.46 RCW to read as follows:

"Social card game" as used in this chapter means a card game that constitutes gambling and is authorized by the commission under RCW 9.46.070. Authorized card games may include a house-banked or a player-funded banked card game. No one may participate in the card game or have an interest in the proceeds of the card game who is not a player or a person licensed by the commission to participate in social card games. There shall be two or more participants in the card game who are players or persons licensed by the commission. The card game must be played in accordance with the rules adopted by the commission under RCW 9.46.070, which shall include but not be limited to rules for the collection of fees, limitation of wagers, and management of player funds. The number of tables authorized shall be set by the commission but shall not exceed a total of fifteen separate tables per establishment.

Sec. 2. RCW 9.46.0265 and 1991 c 261 s 2 are each amended to read as follows:

"Player," as used in this chapter, means a natural person who engages, on equal terms with the other participants, and solely as a contestant or bettor, in any form of gambling in which no person may receive or become entitled to receive any profit therefrom other than personal gambling winnings, and without otherwise rendering any material assistance to the establishment, conduct or operation of a particular gambling activity. A natural person who gambles at a social game of chance on equal terms with the other participants shall not be considered as rendering material assistance to the establishment, conduct or operation of the social game merely by performing, without fee or remuneration, acts directed toward the arrangement or facilitation of the game, such as inviting persons to play, permitting the use of premises for the game, or supplying cards or other equipment to be used in the games. A person who engages in "bookmaking" as defined in this chapter is not a "player." A person who pays a fee or "vigorish" enabling him or

her to place a wager with a bookmaker, or pays a fee other than as authorized by this chapter to participate in a card game, contest of chance, lottery, or gambling activity, is not a player.

NEW SECTION. Sec. 3. RCW 9.46.0281 and 1996 c 314 s 1, 1994 c 120 s 2, & 1987 c 4 s 21 are each repealed.

Passed the Senate March 18, 1997.

Passed the House April 9, 1997.

Approved by the Governor April 21, 1997.

Filed in Office of Secretary of State April 21, 1997.

CHAPTER 119

[Senate Bill 5603]

ACCESS TO STUDENT RECORDS

AN ACT Relating to student records; and adding a new section to chapter 28A.600 RCW.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. Sec. 1. A new section is added to chapter 28A.600 RCW to read as follows:

The parent or guardian of a student who is or has been in attendance at a school has the right to review all education records of the student. A school may not release the education records of a student without the written consent of the student's parent or guardian, except as authorized by RCW 28A.600.475 and the family educational and privacy rights act of 1974, 20 U.S.C. Sec. 1232g.

The board of directors of each school district shall establish a procedure for:

(1) Granting the request by a parent or guardian for access to the education records of his or her child; and

(2) Prohibiting the release of student information without the written consent of the student's parent or guardian, after the parent or guardian has been informed what information is being requested, who is requesting the information and why, and what will be done with the information.

The procedure adopted by the school district must be in compliance with the family educational and privacy rights act of 1974, 20 U.S.C. Sec. 1232g.

Passed the Senate March 12, 1997.

Passed the House April 10, 1997.

Approved by the Governor April 21, 1997.

Filed in Office of Secretary of State April 21, 1997.

CHAPTER 120

[Substitute House Bill 1069]

PROHIBITING THE MALICIOUS USE OF EXPLOSIVES

AN ACT Relating to malicious use of explosives; amending RCW 70.74.270 and 70.74.280; reenacting and amending RCW 9.94A.320; adding new sections to chapter 70.74 RCW; and prescribing penalties.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 70.74.270 and 1993 c 293 s 6 are each amended to read as follows:

~~((Every))~~ Δ person who maliciously places any explosive or improvised device in, upon, under, against, or near any building, car, vessel, railroad track, airplane, public utility transmission system, or structure, in such manner or under such circumstances as to destroy or injure it if exploded ~~((, shall be punished as follows))~~ is guilty of:

(1) Malicious placement of an explosive in the first degree if the offense is committed with intent to commit a terrorist act. Malicious placement of an explosive in the first degree is a class A felony;

(2) Malicious placement of an explosive in the second degree if the offense is committed under circumstances not amounting to malicious placement of an explosive in the first degree and if the circumstances and surroundings are such that the safety of any person might be endangered by the explosion ~~((, by imprisonment in a state correctional facility for not more than twenty years; — (2) In every other case by imprisonment in a state correctional facility for not more than five years))~~. Malicious placement of an explosive in the second degree is a class B felony;

(3) Malicious placement of an explosive in the third degree if the offense is committed under circumstances not amounting to malicious placement of an explosive in the first or second degree. Malicious placement of an explosive in the third degree is a class B felony.

NEW SECTION. Sec. 2. A new section is added to chapter 70.74 RCW to read as follows:

(1) A person who maliciously places any imitation device in, upon, under, against, or near any building, car, vessel, railroad track, airplane, public utility transmission system, or structure, with the intent to give the appearance or impression that the imitation device is an explosive or improvised device, is guilty of:

(a) Malicious placement of an imitation device in the first degree if the offense is committed with intent to commit a terrorist act. Malicious placement of an imitation device in the first degree is a class B felony;

(b) Malicious placement of an imitation device in the second degree if the offense is committed under circumstances not amounting to malicious placement

of an imitation device in the first degree. Malicious placement of an imitation device in the second degree is a class C felony.

(2) For purposes of this section, "imitation device" means a device or substance that is not an explosive or improvised device, but which by appearance or representation would lead a reasonable person to believe that the device or substance is an explosive or improvised device.

Sec. 3. RCW 70.74.280 and 1992 c 7 s 50 are each amended to read as follows:

~~((Every))~~ A person who ~~((shall))~~ maliciously, by the explosion of gunpowder or any other explosive substance or material, destroy or damage any building, car, airplane, vessel, common carrier, railroad track, or public utility transmission system or structure~~((, shall be punished as follows))~~ is guilty of:

(1) Malicious explosion of a substance in the first degree if the offense is committed with intent to commit a terrorist act. Malicious explosion of a substance in the first degree is a class A felony;

(2) Malicious explosion of a substance in the second degree if the offense is committed under circumstances not amounting to malicious explosion of a substance in the first degree and if thereby the life or safety of a human being is endangered~~((, by imprisonment in a state correctional facility for not more than twenty-five years;~~

~~— (2) In every other case by imprisonment in a state correctional facility for not more than five years)),~~ Malicious explosion of a substance in the second degree is a class A felony;

(3) Malicious explosion of a substance in the third degree if the offense is committed under circumstances not amounting to malicious explosion of a substance in the first or second degree. Malicious explosion of a substance in the third degree is a class B felony.

NEW SECTION. Sec. 4. A new section is added to chapter 70.74 RCW to read as follows:

For the purposes of sections 1 through 3 of this act "terrorist act" means an act that is intended to: (1) Intimidate or coerce a civilian population; (2) influence the policy of a branch or level of government by intimidation or coercion; (3) affect the conduct of a branch or level of government by intimidation or coercion; or (4) retaliate against a branch or level of government for a policy or conduct of the government.

Sec. 5. RCW 9.94A.320 and 1996 c 302 s 6, 1996 c 205 s 3, and 1996 c 36 s 2 are each reenacted and amended to read as follows:

TABLE 2

CRIMES INCLUDED WITHIN EACH SERIOUSNESS LEVEL

XV Aggravated Murder 1 (RCW 10.95.020)

- XIV Murder 1 (RCW 9A.32.030)
Homicide by abuse (RCW 9A.32.055)
Malicious explosion 1 (RCW 70.74.280(1))
- XIII Murder 2 (RCW 9A.32.050)
Malicious explosion 2 (RCW 70.74.280(2))
Malicious placement of an explosive 1 (RCW 70.74.270(1))
- XII Assault 1 (RCW 9A.36.011)
Assault of a Child 1 (RCW 9A.36.120)
Malicious placement of an imitation device 1 (section 2(1)(a) of this act)
- XI Rape 1 (RCW 9A.44.040)
Rape of a Child 1 (RCW 9A.44.073)
- X Kidnapping 1 (RCW 9A.40.020)
Rape 2 (RCW 9A.44.050)
Rape of a Child 2 (RCW 9A.44.076)
Child Molestation 1 (RCW 9A.44.083)
~~((Damaging building, etc., by explosion with threat to human being (RCW 70.74.280(1))))~~
Malicious explosion 3 (RCW 70.74.280(3))
Over 18 and deliver heroin or narcotic from Schedule I or II to someone under 18 (RCW 69.50.406)
Leading Organized Crime (RCW 9A.82.060(1)(a))
- IX Assault of a Child 2 (RCW 9A.36.130)
Robbery 1 (RCW 9A.56.200)
Manslaughter 1 (RCW 9A.32.060)
Explosive devices prohibited (RCW 70.74.180)
Indecent Liberties (with forcible compulsion) (RCW 9A.44.100(1)(a))
~~((Endangering life and property by explosives with threat to human being (RCW 70.74.270))))~~
Malicious placement of an explosive 2 (RCW 70.74.270(2))
Over 18 and deliver narcotic from Schedule III, IV, or V or a nonnarcotic from Schedule I-V to someone under 18 and 3 years junior (RCW 69.50.406)

- Controlled Substance Homicide (RCW 69.50.415)
 - Sexual Exploitation (RCW 9.68A.040)
 - Inciting Criminal Profiteering (RCW 9A.82.060(1)(b))
 - Vehicular Homicide, by being under the influence of intoxicating liquor or any drug (RCW 46.61.520)
- VIII
- Arson 1 (RCW 9A.48.020)
 - Promoting Prostitution 1 (RCW 9A.88.070)
 - Selling for profit (controlled or counterfeit) any controlled substance (RCW 69.50.410)
 - Manufacture, deliver, or possess with intent to deliver heroin or cocaine (RCW 69.50.401(a)(1)(i))
 - Manufacture, deliver, or possess with intent to deliver methamphetamine (RCW 69.50.401(a)(1)(ii))
 - Possession of ephedrine or pseudoephedrine with intent to manufacture methamphetamine (RCW 69.50.440)
 - Vehicular Homicide, by the operation of any vehicle in a reckless manner (RCW 46.61.520)
- VII
- Burglary 1 (RCW 9A.52.020)
 - Vehicular Homicide, by disregard for the safety of others (RCW 46.61.520)
 - Introducing Contraband 1 (RCW 9A.76.140)
 - Indecent Liberties (without forcible compulsion) (RCW 9A.44.100(1) (b) and (c))
 - Child Molestation 2 (RCW 9A.44.086)
 - Dealing in depictions of minor engaged in sexually explicit conduct (RCW 9.68A.050)
 - Sending, bringing into state depictions of minor engaged in sexually explicit conduct (RCW 9.68A.060)
 - Involving a minor in drug dealing (RCW 69.50.401(f))
 - Reckless Endangerment 1 (RCW 9A.36.045)

Unlawful Possession of a Firearm in the first degree (RCW 9A.10.040(1)(a))

Malicious placement of an explosive 3 (RCW 70.74.270(3))

- VI Bribery (RCW 9A.68.010)
- Manslaughter 2 (RCW 9A.32.070)
- Rape of a Child 3 (RCW 9A.44.079)
- Intimidating a Juror/Witness (RCW 9A.72.110, 9A.72.130)

~~((Damaging building, etc., by explosion with no threat to human being (RCW 70.74.280(2))~~

~~Endangering life and property by explosives with no threat to human being (RCW 70.74.270))~~

Malicious placement of an imitation device 2 (section 2(1)(b) of this act)

- Incest 1 (RCW 9A.64.020(1))
- Manufacture, deliver, or possess with intent to deliver narcotics from Schedule I or II (except heroin or cocaine) (RCW 69.50.401(a)(1)(i))
- Intimidating a Judge (RCW 9A.72.160)
- Bail Jumping with Murder 1 (RCW 9A.76.170(2)(a))
- Theft of a Firearm (RCW 9A.56.300)

- V Persistent prison misbehavior (RCW 9A.94.070)
- Criminal Mistreatment 1 (RCW 9A.42.020)
- Abandonment of dependent person 1 (RCW 9A.42.060)
- Rape 3 (RCW 9A.44.060)
- Sexual Misconduct with a Minor 1 (RCW 9A.44.093)
- Child Molestation 3 (RCW 9A.44.089)
- Kidnapping 2 (RCW 9A.40.030)
- Extortion 1 (RCW 9A.56.120)
- Incest 2 (RCW 9A.64.020(2))
- Perjury 1 (RCW 9A.72.020)
- Extortionate Extension of Credit (RCW 9A.82.020)
- Advancing money or property for extortionate extension of credit (RCW 9A.82.030)

Extortionate Means to Collect Extensions of
Credit (RCW 9A.82.040)
 Rendering Criminal Assistance 1 (RCW
9A.76.070)
 Bail Jumping with class A Felony (RCW
9A.76.170(2)(b))
 Sexually Violating Human Remains (RCW
9A.44.105)
 Delivery of imitation controlled substance by
person eighteen or over to person under
eighteen (RCW 69.52.030(2))
 Possession of a Stolen Firearm (RCW
9A.56.310)

IV

Residential Burglary (RCW 9A.52.025)
 Theft of Livestock I (RCW 9A.56.080)
 Robbery 2 (RCW 9A.56.210)
 Assault 2 (RCW 9A.36.021)
 Escape 1 (RCW 9A.76.110)
 Arson 2 (RCW 9A.48.030)
 Commercial Bribery (RCW 9A.68.060)
 Bribing a Witness/Bribe Received by Witness
(RCW 9A.72.090, 9A.72.100)
 Malicious Harassment (RCW 9A.36.080)
 Threats to Bomb (RCW 9.61.160)
 Willful Failure to Return from Furlough (RCW
72.66.060)
 Hit and Run — Injury Accident (RCW
46.52.020(4))
 Hit and Run with Vessel — Injury Accident
(RCW 88.12.155(3))
 Vehicular Assault (RCW 46.61.522)
 Manufacture, deliver, or possess with intent to
deliver narcotics from Schedule III, IV, or
V or nonnarcotics from Schedule I-V
(except marijuana or methamphetamines)
(RCW 69.50.401(a)(I) (iii) through (v))
 Influencing Outcome of Sporting Event (RCW
9A.82.070)
 Use of Proceeds of Criminal Profiteering (RCW
9A.82.080 (1) and (2))
 Knowingly Trafficking in Stolen Property
(RCW 9A.82.050(2))

III

- Criminal Mistreatment 2 (RCW 9A.42.030)
- Abandonment of dependent person 2 (RCW 9A.42.070)
- Extortion 2 (RCW 9A.56.130)
- Unlawful Imprisonment (RCW 9A.40.040)
- Assault 3 (RCW 9A.36.031)
- Assault of a Child 3 (RCW 9A.36.140)
- Custodial Assault (RCW 9A.36.100)
- Unlawful possession of firearm in the second degree (RCW 9.41.040(1)(b))
- Harassment (RCW 9A.46.020)
- Promoting Prostitution 2 (RCW 9A.88.080)
- Willful Failure to Return from Work Release (RCW 72.65.070)
- Burglary 2 (RCW 9A.52.030)
- Introducing Contraband 2 (RCW 9A.76.150)
- Communication with a Minor for Immoral Purposes (RCW 9.68A.090)
- Patronizing a Juvenile Prostitute (RCW 9.68A.100)
- Escape 2 (RCW 9A.76.120)
- Perjury 2 (RCW 9A.72.030)
- Bail Jumping with class B or C Felony (RCW 9A.76.170(2)(c))
- Intimidating a Public Servant (RCW 9A.76.180)
- Tampering with a Witness (RCW 9A.72.120)
- Manufacture, deliver, or possess with intent to deliver marijuana (RCW 69.50.401(a)(I)(iii))
- Delivery of a material in lieu of a controlled substance (RCW 69.50.401(c))
- Manufacture, distribute, or possess with intent to distribute an imitation controlled substance (RCW 69.52.030(I))
- Recklessly Trafficking in Stolen Property (RCW 9A.82.050(1))
- Theft of livestock 2 (RCW 9A.56.080)
- Securities Act violation (RCW 21.20.400)

- II
 - Unlawful Practice of Law (RCW 2.48.180)
 - Malicious Mischief 1 (RCW 9A.48.070)
 - Possession of Stolen Property I (RCW 9A.56.150)
 - Theft 1 (RCW 9A.56.030)
 - Trafficking in Insurance Claims (RCW 48.30A.015)
 - Unlicensed Practice of a Profession or Business (RCW 18.130.190(7))
 - Health Care False Claims (RCW 48.80.030)
 - Possession of controlled substance that is either heroin or narcotics from Schedule I or II (RCW 69.50.401(d))
 - Possession of phencyclidine (PCP) (RCW 69.50.401(d))
 - Create, deliver, or possess a counterfeit controlled substance (RCW 69.50.401(b))
 - Computer Trespass 1 (RCW 9A.52.110)
 - Escape from Community Custody (RCW 72.09.310)

- I
 - Theft 2 (RCW 9A.56.040)
 - Possession of Stolen Property 2 (RCW 9A.56.160)
 - Forgery (RCW 9A.60.020)
 - Taking Motor Vehicle Without Permission (RCW 9A.56.070)
 - Vehicle Prowl 1 (RCW 9A.52.095)
 - Attempting to Elude a Pursuing Police Vehicle (RCW 46.61.024)
 - Malicious Mischief 2 (RCW 9A.48.080)
 - Reckless Burning 1 (RCW 9A.48.040)
 - Unlawful Issuance of Checks or Drafts (RCW 9A.56.060)
 - Unlawful Use of Food Stamps (RCW 9.91.140 (2) and (3))
 - False Verification for Welfare (RCW 74.08.055)
 - Forged Prescription (RCW 69.41.020)
 - Forged Prescription for a Controlled Substance (RCW 69.50.403)
 - Possess Controlled Substance that is a Narcotic from Schedule III, IV, or V or Non-

narcotic from Schedule I-V (except
phencyclidine) (RCW 69.50.401(d))

Passed the House February 21, 1997.

Passed the Senate April 10, 1997.

Approved by the Governor April 22, 1997.

Filed in Office of Secretary of State April 22, 1997.

CHAPTER 121

[Engrossed House Bill 1096]

PAYMENT OF OBLIGATIONS IMPOSED BY JUDGMENTS

AN ACT Relating to the payment of fees; amending RCW 6.17.020, 9.94A.140, 9.94A.145, 13.40.145, 13.40.080, and 13.40.190; reenacting and amending RCW 9.94A.120 and 9.94A.142; and adding a new section to chapter 13.40 RCW.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 6.17.020 and 1995 c 231 s 4 are each amended to read as follows:

(1) Except as provided in subsections (2), (3), and (4) of this section, the party in whose favor a judgment of a court of record of this state or a district court of this state has been or may be rendered, or the assignee, may have an execution issued for the collection or enforcement of the judgment at any time within ten years from entry of the judgment.

(2) After July 23, 1989, a party who obtains a judgment or order of a court of record of any state, or an administrative order entered as defined in RCW 74.20A.020(6) for accrued child support, may have an execution issued upon that judgment or order at any time within ten years of the eighteenth birthday of the youngest child named in the order for whom support is ordered.

(3) After June 9, 1994, a party in whose favor a judgment has been rendered pursuant to subsection (1) or (4) of this section may, within ninety days before the expiration of the original ten-year period, apply to the court that rendered the judgment for an order granting an additional ten years during which an execution may be issued. The petitioner shall pay to the court a filing fee equal to the filing fee for filing the first or initial paper in a civil action in the court. When application is made to the court to grant an additional ten years, the application shall be accompanied by a current and updated judgment summary as outlined in RCW 4.64.030. The filing fee required under this subsection shall be included in the judgment summary and shall be a recoverable cost.

(4) A party who obtains a judgment or order for restitution (~~(or)~~ crime victims' assessment, or other court-ordered legal financial obligations pursuant to a criminal judgment and sentence may execute the judgment or order any time within ten years subsequent to the entry of the judgment and sentence or ten years following the offender's release from total confinement as provided in chapter 9.94A RCW. The clerk of superior court may seek extension under subsection (3) of this section for purposes of collection as allowed under RCW 36.18.190.

Sec. 2. RCW 9.94A.120 and 1996 c 275 s 2, 1996 c 215 s 5, 1996 c 199 s 1, and 1996 c 93 s 1 are each reenacted and amended to read as follows:

When a person is convicted of a felony, the court shall impose punishment as provided in this section.

(1) Except as authorized in subsections (2), (4), (5), (6), and (8) of this section, the court shall impose a sentence within the sentence range for the offense.

(2) The court may impose a sentence outside the standard sentence range for that offense if it finds, considering the purpose of this chapter, that there are substantial and compelling reasons justifying an exceptional sentence.

(3) Whenever a sentence outside the standard range is imposed, the court shall set forth the reasons for its decision in written findings of fact and conclusions of law. A sentence outside the standard range shall be a determinate sentence.

(4) A persistent offender shall be sentenced to a term of total confinement for life without the possibility of parole or, when authorized by RCW 10.95.030 for the crime of aggravated murder in the first degree, sentenced to death, notwithstanding the maximum sentence under any other law. An offender convicted of the crime of murder in the first degree shall be sentenced to a term of total confinement not less than twenty years. An offender convicted of the crime of assault in the first degree or assault of a child in the first degree where the offender used force or means likely to result in death or intended to kill the victim shall be sentenced to a term of total confinement not less than five years. An offender convicted of the crime of rape in the first degree shall be sentenced to a term of total confinement not less than five years. The foregoing minimum terms of total confinement are mandatory and shall not be varied or modified as provided in subsection (2) of this section. In addition, all offenders subject to the provisions of this subsection shall not be eligible for community custody, earned early release time, furlough, home detention, partial confinement, work crew, work release, or any other form of early release as defined under RCW 9.94A.150 (1), (2), (3), (5), (7), or (8), or any other form of authorized leave of absence from the correctional facility while not in the direct custody of a corrections officer or officers during such minimum terms of total confinement except in the case of an offender in need of emergency medical treatment or for the purpose of commitment to an inpatient treatment facility in the case of an offender convicted of the crime of rape in the first degree.

(5) In sentencing a first-time offender the court may waive the imposition of a sentence within the sentence range and impose a sentence which may include up to ninety days of confinement in a facility operated or utilized under contract by the county and a requirement that the offender refrain from committing new offenses. The sentence may also include up to two years of community supervision, which, in addition to crime-related prohibitions, may include requirements that the offender perform any one or more of the following:

(a) Devote time to a specific employment or occupation;

(b) Undergo available outpatient treatment for up to two years, or inpatient treatment not to exceed the standard range of confinement for that offense;

(c) Pursue a prescribed, secular course of study or vocational training;

(d) Remain within prescribed geographical boundaries and notify the court or the community corrections officer prior to any change in the offender's address or employment;

(e) Report as directed to the court and a community corrections officer; or

(f) Pay all court-ordered legal financial obligations as provided in RCW 9.94A.030 and/or perform community service work.

(6)(a) An offender is eligible for the special drug offender sentencing alternative if:

(i) The offender is convicted of the manufacture, delivery, or possession with intent to manufacture or deliver a controlled substance classified in Schedule I or II that is a narcotic drug or a felony that is, under chapter 9A.28 RCW or RCW 69.50.407, a criminal attempt, criminal solicitation, or criminal conspiracy to commit such crimes, and the violation does not involve a sentence enhancement under RCW 9.94A.310 (3) or (4);

(ii) The offender has no prior convictions for a felony in this state, another state, or the United States; and

(iii) The offense involved only a small quantity of the particular controlled substance as determined by the judge upon consideration of such factors as the weight, purity, packaging, sale price, and street value of the controlled substance.

(b) If the midpoint of the standard range is greater than one year and the sentencing judge determines that the offender is eligible for this option and that the offender and the community will benefit from the use of the special drug offender sentencing alternative, the judge may waive imposition of a sentence within the standard range and impose a sentence that must include a period of total confinement in a state facility for one-half of the midpoint of the standard range. During incarceration in the state facility, offenders sentenced under this subsection shall undergo a comprehensive substance abuse assessment and receive, within available resources, treatment services appropriate for the offender. The treatment services shall be designed by the division of alcohol and substance abuse of the department of social and health services, in cooperation with the department of corrections. If the midpoint of the standard range is twenty-four months or less, no more than three months of the sentence may be served in a work release status. The court shall also impose one year of concurrent community custody and community supervision that must include appropriate outpatient substance abuse treatment, crime-related prohibitions including a condition not to use illegal controlled substances, and a requirement to submit to urinalysis or other testing to monitor that status. The court may require that the monitoring for controlled substances be conducted by the department or by a treatment alternatives to street crime program or a comparable court or agency-referred program. The offender may be required to pay thirty dollars per month while on community custody to

offset the cost of monitoring. In addition, the court shall impose three or more of the following conditions:

(i) Devote time to a specific employment or training;

(ii) Remain within prescribed geographical boundaries and notify the court or the community corrections officer before any change in the offender's address or employment;

(iii) Report as directed to a community corrections officer;

(iv) Pay all court-ordered legal financial obligations;

(v) Perform community service work;

(vi) Stay out of areas designated by the sentencing judge.

(c) If the offender violates any of the sentence conditions in (b) of this subsection, the department shall impose sanctions administratively, with notice to the prosecuting attorney and the sentencing court. Upon motion of the court or the prosecuting attorney, a violation hearing shall be held by the court. If the court finds that conditions have been willfully violated, the court may impose confinement consisting of up to the remaining one-half of the midpoint of the standard range. All total confinement served during the period of community custody shall be credited to the offender, regardless of whether the total confinement is served as a result of the original sentence, as a result of a sanction imposed by the department, or as a result of a violation found by the court. The term of community supervision shall be tolled by any period of time served in total confinement as a result of a violation found by the court.

(d) The department shall determine the rules for calculating the value of a day fine based on the offender's income and reasonable obligations which the offender has for the support of the offender and any dependents. These rules shall be developed in consultation with the administrator for the courts, the office of financial management, and the commission.

(7) If a sentence range has not been established for the defendant's crime, the court shall impose a determinate sentence which may include not more than one year of confinement, community service work, a term of community supervision not to exceed one year, and/or other legal financial obligations. The court may impose a sentence which provides more than one year of confinement if the court finds, considering the purpose of this chapter, that there are substantial and compelling reasons justifying an exceptional sentence.

(8)(a)(i) When an offender is convicted of a sex offense other than a violation of RCW 9A.44.050 or a sex offense that is also a serious violent offense and has no prior convictions for a sex offense or any other felony sex offenses in this or any other state, the sentencing court, on its own motion or the motion of the state or the defendant, may order an examination to determine whether the defendant is amenable to treatment.

The report of the examination shall include at a minimum the following: The defendant's version of the facts and the official version of the facts, the defendant's offense history, an assessment of problems in addition to alleged deviant behaviors,

the offender's social and employment situation, and other evaluation measures used. The report shall set forth the sources of the evaluator's information.

The examiner shall assess and report regarding the defendant's amenability to treatment and relative risk to the community. A proposed treatment plan shall be provided and shall include, at a minimum:

- (A) Frequency and type of contact between offender and therapist;
- (B) Specific issues to be addressed in the treatment and description of planned treatment modalities;
- (C) Monitoring plans, including any requirements regarding living conditions, lifestyle requirements, and monitoring by family members and others;
- (D) Anticipated length of treatment; and
- (E) Recommended crime-related prohibitions.

The court on its own motion may order, or on a motion by the state shall order, a second examination regarding the offender's amenability to treatment. The evaluator shall be selected by the party making the motion. The defendant shall pay the cost of any second examination ordered unless the court finds the defendant to be indigent in which case the state shall pay the cost.

(ii) After receipt of the reports, the court shall consider whether the offender and the community will benefit from use of this special sexual offender sentencing alternative and consider the victim's opinion whether the offender should receive a treatment disposition under this subsection. If the court determines that this special sex offender sentencing alternative is appropriate, the court shall then impose a sentence within the sentence range. If this sentence is less than eight years of confinement, the court may suspend the execution of the sentence and impose the following conditions of suspension:

(A) The court shall place the defendant on community custody for the length of the suspended sentence or three years, whichever is greater, and require the offender to comply with any conditions imposed by the department of corrections under subsection (14) of this section; and

(B) The court shall order treatment for any period up to three years in duration. The court in its discretion shall order outpatient sex offender treatment or inpatient sex offender treatment, if available. A community mental health center may not be used for such treatment unless it has an appropriate program designed for sex offender treatment. The offender shall not change sex offender treatment providers or treatment conditions without first notifying the prosecutor, the community corrections officer, and the court, and shall not change providers without court approval after a hearing if the prosecutor or community corrections officer object to the change. In addition, as conditions of the suspended sentence, the court may impose other sentence conditions including up to six months of confinement, not to exceed the sentence range of confinement for that offense, crime-related prohibitions, and requirements that the offender perform any one or more of the following:

- (I) Devote time to a specific employment or occupation;

(II) Remain within prescribed geographical boundaries and notify the court or the community corrections officer prior to any change in the offender's address or employment;

(III) Report as directed to the court and a community corrections officer;

(IV) Pay all court-ordered legal financial obligations as provided in RCW 9.94A.030, perform community service work, or any combination thereof; or

(V) Make recoupment to the victim for the cost of any counseling required as a result of the offender's crime.

(iii) The sex offender therapist shall submit quarterly reports on the defendant's progress in treatment to the court and the parties. The report shall reference the treatment plan and include at a minimum the following: Dates of attendance, defendant's compliance with requirements, treatment activities, the defendant's relative progress in treatment, and any other material as specified by the court at sentencing.

(iv) At the time of sentencing, the court shall set a treatment termination hearing for three months prior to the anticipated date for completion of treatment. Prior to the treatment termination hearing, the treatment professional and community corrections officer shall submit written reports to the court and parties regarding the defendant's compliance with treatment and monitoring requirements, and recommendations regarding termination from treatment, including proposed community supervision conditions. Either party may request and the court may order another evaluation regarding the advisability of termination from treatment. The defendant shall pay the cost of any additional evaluation ordered unless the court finds the defendant to be indigent in which case the state shall pay the cost. At the treatment termination hearing the court may: (A) Modify conditions of community custody, and either (B) terminate treatment, or (C) extend treatment for up to the remaining period of community custody.

(v) If a violation of conditions occurs during community custody, the department shall either impose sanctions as provided for in RCW 9.94A.205(2)(a) or refer the violation to the court and recommend revocation of the suspended sentence as provided for in (a)(vi) of this subsection.

(vi) The court may revoke the suspended sentence at any time during the period of community custody and order execution of the sentence if: (A) The defendant violates the conditions of the suspended sentence, or (B) the court finds that the defendant is failing to make satisfactory progress in treatment. All confinement time served during the period of community custody shall be credited to the offender if the suspended sentence is revoked.

(vii) Except as provided in (a) (viii) of this subsection, after July 1, 1991, examinations and treatment ordered pursuant to this subsection shall only be conducted by sex offender treatment providers certified by the department of health pursuant to chapter 18.155 RCW.

(viii) A sex offender therapist who examines or treats a sex offender pursuant to this subsection (8) does not have to be certified by the department of health

pursuant to chapter 18.155 RCW if the court finds that: (A) The offender has already moved to another state or plans to move to another state for reasons other than circumventing the certification requirements; (B) no certified providers are available for treatment within a reasonable geographical distance of the offender's home; and (C) the evaluation and treatment plan comply with this subsection (8) and the rules adopted by the department of health.

For purposes of this subsection, "victim" means any person who has sustained emotional, psychological, physical, or financial injury to person or property as a result of the crime charged. "Victim" also means a parent or guardian of a victim who is a minor child unless the parent or guardian is the perpetrator of the offense.

(b) When an offender commits any felony sex offense on or after July 1, 1987, and is sentenced to a term of confinement of more than one year but less than six years, the sentencing court may, on its own motion or on the motion of the offender or the state, request the department of corrections to evaluate whether the offender is amenable to treatment and the department may place the offender in a treatment program within a correctional facility operated by the department.

Except for an offender who has been convicted of a violation of RCW 9A.44.040 or 9A.44.050, if the offender completes the treatment program before the expiration of his or her term of confinement, the department of corrections may request the court to convert the balance of confinement to community supervision and to place conditions on the offender including crime-related prohibitions and requirements that the offender perform any one or more of the following:

- (i) Devote time to a specific employment or occupation;
- (ii) Remain within prescribed geographical boundaries and notify the court or the community corrections officer prior to any change in the offender's address or employment;
- (iii) Report as directed to the court and a community corrections officer;
- (iv) Undergo available outpatient treatment.

If the offender violates any of the terms of his or her community supervision, the court may order the offender to serve out the balance of his or her community supervision term in confinement in the custody of the department of corrections.

Nothing in this subsection (8)(b) shall confer eligibility for such programs for offenders convicted and sentenced for a sex offense committed prior to July 1, 1987. This subsection (8)(b) does not apply to any crime committed after July 1, 1990.

(c) Offenders convicted and sentenced for a sex offense committed prior to July 1, 1987, may, subject to available funds, request an evaluation by the department of corrections to determine whether they are amenable to treatment. If the offender is determined to be amenable to treatment, the offender may request placement in a treatment program within a correctional facility operated by the department. Placement in such treatment program is subject to available funds.

(9)(a) When a court sentences a person to a term of total confinement to the custody of the department of corrections for an offense categorized as a sex offense

or a serious violent offense committed after July 1, 1988, but before July 1, 1990, assault in the second degree, assault of a child in the second degree, any crime against a person where it is determined in accordance with RCW 9.94A.125 that the defendant or an accomplice was armed with a deadly weapon at the time of commission, or any felony offense under chapter 69.50 or 69.52 RCW not sentenced under subsection (6) of this section, committed on or after July 1, 1988, the court shall in addition to the other terms of the sentence, sentence the offender to a one-year term of community placement beginning either upon completion of the term of confinement or at such time as the offender is transferred to community custody in lieu of earned early release in accordance with RCW 9.94A.150 (1) and (2). When the court sentences an offender under this subsection to the statutory maximum period of confinement then the community placement portion of the sentence shall consist entirely of such community custody to which the offender may become eligible, in accordance with RCW 9.94A.150 (1) and (2). Any period of community custody actually served shall be credited against the community placement portion of the sentence.

(b) When a court sentences a person to a term of total confinement to the custody of the department of corrections for an offense categorized as a sex offense committed on or after July 1, 1990, but before June 6, 1996, a serious violent offense, vehicular homicide, or vehicular assault, committed on or after July 1, 1990, the court shall in addition to other terms of the sentence, sentence the offender to community placement for two years or up to the period of earned early release awarded pursuant to RCW 9.94A.150 (1) and (2), whichever is longer. The community placement shall begin either upon completion of the term of confinement or at such time as the offender is transferred to community custody in lieu of earned early release in accordance with RCW 9.94A.150 (1) and (2). When the court sentences an offender under this subsection to the statutory maximum period of confinement then the community placement portion of the sentence shall consist entirely of the community custody to which the offender may become eligible, in accordance with RCW 9.94A.150 (1) and (2). Any period of community custody actually served shall be credited against the community placement portion of the sentence. Unless a condition is waived by the court, the terms of community placement for offenders sentenced pursuant to this section shall include the following conditions:

(i) The offender shall report to and be available for contact with the assigned community corrections officer as directed;

(ii) The offender shall work at department of corrections-approved education, employment, and/or community service;

(iii) The offender shall not consume controlled substances except pursuant to lawfully issued prescriptions;

(iv) An offender in community custody shall not unlawfully possess controlled substances;

(v) The offender shall pay supervision fees as determined by the department of corrections; and

(vi) The residence location and living arrangements are subject to the prior approval of the department of corrections during the period of community placement.

(c) As a part of any sentence imposed under (a) or (b) of this subsection, the court may also order any of the following special conditions:

(i) The offender shall remain within, or outside of, a specified geographical boundary;

(ii) The offender shall not have direct or indirect contact with the victim of the crime or a specified class of individuals;

(iii) The offender shall participate in crime-related treatment or counseling services;

(iv) The offender shall not consume alcohol;

(v) The offender shall comply with any crime-related prohibitions; or

(vi) For an offender convicted of a felony sex offense against a minor victim after June 6, 1996, the offender shall comply with any terms and conditions of community placement imposed by the department of corrections relating to contact between the sex offender and a minor victim or a child of similar age or circumstance as a previous victim.

(d) Prior to transfer to, or during, community placement, any conditions of community placement may be removed or modified so as not to be more restrictive by the sentencing court, upon recommendation of the department of corrections.

(10)(a) When a court sentences a person to the custody of the department of corrections for an offense categorized as a sex offense committed on or after June 6, 1996, the court shall, in addition to other terms of the sentence, sentence the offender to community custody for three years or up to the period of earned early release awarded pursuant to RCW 9.94A.150 (1) and (2), whichever is longer. The community custody shall begin either upon completion of the term of confinement or at such time as the offender is transferred to community custody in lieu of earned early release in accordance with RCW 9.94A.150 (1) and (2).

(b) Unless a condition is waived by the court, the terms of community custody shall be the same as those provided for in subsection (9)(b) of this section and may include those provided for in subsection (9)(c) of this section. As part of any sentence that includes a term of community custody imposed under this subsection, the court shall also require the offender to comply with any conditions imposed by the department of corrections under subsection (14) of this section.

(c) At any time prior to the completion of a sex offender's term of community custody, if the court finds that public safety would be enhanced, the court may impose and enforce an order extending any or all of the conditions imposed pursuant to this section for a period up to the maximum allowable sentence for the crime as it is classified in chapter 9A.20 RCW, regardless of the expiration of the offender's term of community custody. If a violation of a condition extended under

this subsection occurs after the expiration of the offender's term of community custody, it shall be deemed a violation of the sentence for the purposes of RCW 9.94A.195 and may be punishable as contempt of court as provided for in RCW 7.21.040.

(11) If the court imposes a sentence requiring confinement of thirty days or less, the court may, in its discretion, specify that the sentence be served on consecutive or intermittent days. A sentence requiring more than thirty days of confinement shall be served on consecutive days. Local jail administrators may schedule court-ordered intermittent sentences as space permits.

(12) If a sentence imposed includes payment of a legal financial obligation, the sentence shall specify the total amount of the legal financial obligation owed, and shall require the offender to pay a specified monthly sum toward that legal financial obligation. Restitution to victims shall be paid prior to any other payments of monetary obligations. Any legal financial obligation that is imposed by the court may be collected by the department, which shall deliver the amount paid to the county clerk for credit. The offender's compliance with payment of legal financial obligations shall be supervised by the department for ten years following the entry of the judgment and sentence or ten years following the offender's release from total confinement. All monetary payments ordered shall be paid no later than ten years after the last date of release from confinement pursuant to a felony conviction or the date the sentence was entered unless the superior court extends the criminal judgment an additional ten years. If the legal financial obligations including crime victims' assessments are not paid during the initial ten-year period, the superior court may extend jurisdiction under the criminal judgment an additional ten years as provided in RCW 9.94A.140, 9.94A.142, and 9.94A.145. If jurisdiction under the criminal judgment is extended, the department is not responsible for supervision of the offender during the subsequent period. Independent of the department, the party or entity to whom the legal financial obligation is owed shall have the authority to utilize any other remedies available to the party or entity to collect the legal financial obligation. Nothing in this section makes the department, the state, or any of its employees, agents, or other persons acting on their behalf liable under any circumstances for the payment of these legal financial obligations. If an order includes restitution as one of the monetary assessments, the county clerk shall make disbursements to victims named in the order.

(13) Except as provided under RCW 9.94A.140(1) and 9.94A.142(1), a court may not impose a sentence providing for a term of confinement or community supervision or community placement which exceeds the statutory maximum for the crime as provided in chapter 9A.20 RCW.

(14) All offenders sentenced to terms involving community supervision, community service, community placement, or legal financial obligation shall be under the supervision of the department of corrections and shall follow explicitly the instructions and conditions of the department of corrections.

(a) The instructions shall include, at a minimum, reporting as directed to a community corrections officer, remaining within prescribed geographical boundaries, notifying the community corrections officer of any change in the offender's address or employment, and paying the supervision fee assessment.

(b) For sex offenders sentenced to terms involving community custody for crimes committed on or after June 6, 1996, the department may include, in addition to the instructions in (a) of this subsection, any appropriate conditions of supervision, including but not limited to, prohibiting the offender from having contact with any other specified individuals or specific class of individuals. The conditions authorized under this subsection (14)(b) may be imposed by the department prior to or during a sex offender's community custody term. If a violation of conditions imposed by the court or the department pursuant to subsection (10) of this section occurs during community custody, it shall be deemed a violation of community placement for the purposes of RCW 9.94A.207 and shall authorize the department to transfer an offender to a more restrictive confinement status as provided in RCW 9.94A.205. At any time prior to the completion of a sex offender's term of community custody, the department may recommend to the court that any or all of the conditions imposed by the court or the department pursuant to subsection (10) of this section be continued beyond the expiration of the offender's term of community custody as authorized in subsection (10)(c) of this section.

The department may require offenders to pay for special services rendered on or after July 25, 1993, including electronic monitoring, day reporting, and telephone reporting, dependent upon the offender's ability to pay. The department may pay for these services for offenders who are not able to pay.

(15) All offenders sentenced to terms involving community supervision, community service, or community placement under the supervision of the department of corrections shall not own, use, or possess firearms or ammunition. Offenders who own, use, or are found to be in actual or constructive possession of firearms or ammunition shall be subject to the appropriate violation process and sanctions. "Constructive possession" as used in this subsection means the power and intent to control the firearm or ammunition. "Firearm" as used in this subsection means a weapon or device from which a projectile may be fired by an explosive such as gunpowder.

(16) The sentencing court shall give the offender credit for all confinement time served before the sentencing if that confinement was solely in regard to the offense for which the offender is being sentenced.

(17) A departure from the standards in RCW 9.94A.400 (1) and (2) governing whether sentences are to be served consecutively or concurrently is an exceptional sentence subject to the limitations in subsections (2) and (3) of this section, and may be appealed by the defendant or the state as set forth in RCW 9.94A.210 (2) through (6).

(18) The court shall order restitution whenever the offender is convicted of a felony that results in injury to any person or damage to or loss of property, whether the offender is sentenced to confinement or placed under community supervision, unless extraordinary circumstances exist that make restitution inappropriate in the court's judgment. The court shall set forth the extraordinary circumstances in the record if it does not order restitution.

(19) As a part of any sentence, the court may impose and enforce an order that relates directly to the circumstances of the crime for which the offender has been convicted, prohibiting the offender from having any contact with other specified individuals or a specific class of individuals for a period not to exceed the maximum allowable sentence for the crime, regardless of the expiration of the offender's term of community supervision or community placement.

(20) In any sentence of partial confinement, the court may require the defendant to serve the partial confinement in work release, in a program of home detention, on work crew, or in a combined program of work crew and home detention.

(21) All court-ordered legal financial obligations collected by the department and remitted to the county clerk shall be credited and paid where restitution is ordered. Restitution shall be paid prior to any other payments of monetary obligations.

Sec. 3. RCW 9.94A.140 and 1995 c 231 s 1 are each amended to read as follows:

(1) If restitution is ordered, the court shall determine the amount of restitution due at the sentencing hearing or within one hundred eighty days. The court may continue the hearing beyond the one hundred eighty days for good cause. The court shall then set a minimum monthly payment that the offender is required to make towards the restitution that is ordered. The court should take into consideration the total amount of the restitution owed, the offender's present, past, and future ability to pay, as well as any assets that the offender may have. During the period of supervision, the community corrections officer may examine the offender to determine if there has been a change in circumstances that warrants an amendment of the monthly payment schedule. The community corrections officer may recommend a change to the schedule of payment and shall inform the court of the recommended change and the reasons for the change. The sentencing court may then reset the monthly minimum payments based on the report from the community corrections officer of the change in circumstances. Restitution ordered by a court pursuant to a criminal conviction shall be based on easily ascertainable damages for injury to or loss of property, actual expenses incurred for treatment for injury to persons, and lost wages resulting from injury. Restitution shall not include reimbursement for damages for mental anguish, pain and suffering, or other intangible losses, but may include the costs of counseling reasonably related to the offense. The amount of restitution shall not exceed double the amount of the offender's gain or the victim's loss from the commission of the crime. For the

purposes of this section, the offender shall remain under the court's jurisdiction for a ((maximum)) term of ten years following the offender's release from total confinement or ten years subsequent to the entry of the judgment and sentence, whichever period is longer. Prior to the expiration of the initial ten-year period, the superior court may extend jurisdiction under the criminal judgment an additional ten years for payment of restitution. If jurisdiction under the criminal judgment is extended, the department is not responsible for supervision of the offender during the subsequent period. The portion of the sentence concerning restitution may be modified as to amount, terms and conditions during either the initial ten-year period or subsequent ten-year period if the criminal judgment is extended, regardless of the expiration of the offender's term of community supervision and regardless of the statutory maximum for the crime. The court may not reduce the total amount of restitution ordered because the offender may lack the ability to pay the total amount. The offender's compliance with the restitution shall be supervised by the department.

(2) Restitution may be ordered whenever the offender is convicted of an offense which results in injury to any person or damage to or loss of property. In addition, restitution may be ordered to pay for an injury, loss, or damage if the offender pleads guilty to a lesser offense or fewer offenses and agrees with the prosecutor's recommendation that the offender be required to pay restitution to a victim of an offense or offenses which are not prosecuted pursuant to a plea agreement.

(3) In addition to any sentence that may be imposed, a defendant who has been found guilty of an offense involving fraud or other deceptive practice or an organization which has been found guilty of any such offense may be ordered by the sentencing court to give notice of the conviction to the class of persons or to the sector of the public affected by the conviction or financially interested in the subject matter of the offense by mail, by advertising in designated areas or through designated media, or by other appropriate means.

(4) This section does not limit civil remedies or defenses available to the victim or defendant. The court shall identify in the judgment and sentence the victim or victims entitled to restitution and what amount is due each victim. The state or victim may enforce the court-ordered restitution in the same manner as a judgment in a civil action. Restitution collected through civil enforcement must be paid through the registry of the court and must be distributed proportionately according to each victim's loss when there is more than one victim.

Sec. 4. RCW 9.94A.142 and 1995 c 231 s 2 and 1995 c 33 s 4 are each reenacted and amended to read as follows:

(1) When restitution is ordered, the court shall determine the amount of restitution due at the sentencing hearing or within one hundred eighty days except as provided in subsection (3) of this section. The court may continue the hearing beyond the one hundred eighty days for good cause. The court shall then set a minimum monthly payment that the offender is required to make towards the

restitution that is ordered. The court should take into consideration the total amount of the restitution owed, the offender's present, past, and future ability to pay, as well as any assets that the offender may have. During the period of supervision, the community corrections officer may examine the offender to determine if there has been a change in circumstances that warrants an amendment of the monthly payment schedule. The community corrections officer may recommend a change to the schedule of payment and shall inform the court of the recommended change and the reasons for the change. The sentencing court may then reset the monthly minimum payments based on the report from the community corrections officer of the change in circumstances. Restitution ordered by a court pursuant to a criminal conviction shall be based on easily ascertainable damages for injury to or loss of property, actual expenses incurred for treatment for injury to persons, and lost wages resulting from injury. Restitution shall not include reimbursement for damages for mental anguish, pain and suffering, or other intangible losses, but may include the costs of counseling reasonably related to the offense. The amount of restitution shall not exceed double the amount of the offender's gain or the victim's loss from the commission of the crime. For the purposes of this section, the offender shall remain under the court's jurisdiction for a ~~((maximum))~~ term of ten years following the offender's release from total confinement or ten years subsequent to the entry of the judgment and sentence, whichever period is longer. Prior to the expiration of the initial ten-year period, the superior court may extend jurisdiction under the criminal judgment an additional ten years for payment of restitution. The portion of the sentence concerning restitution may be modified as to amount, terms and conditions during either the initial ten-year period or subsequent ten-year period if the criminal judgment is extended, regardless of the expiration of the offender's term of community supervision and regardless of the statutory maximum for the crime. The court may not reduce the total amount of restitution ordered because the offender may lack the ability to pay the total amount. The offender's compliance with the restitution shall be supervised by the department for ten years following the entry of the judgment and sentence or ten years following the offender's release from total confinement. If jurisdiction under the criminal judgment is extended, the department is not responsible for supervision of the offender during the subsequent period.

(2) Restitution shall be ordered whenever the offender is convicted of an offense which results in injury to any person or damage to or loss of property unless extraordinary circumstances exist which make restitution inappropriate in the court's judgment and the court sets forth such circumstances in the record. In addition, restitution shall be ordered to pay for an injury, loss, or damage if the offender pleads guilty to a lesser offense or fewer offenses and agrees with the prosecutor's recommendation that the offender be required to pay restitution to a victim of an offense or offenses which are not prosecuted pursuant to a plea agreement.

(3) Regardless of the provisions of subsections (1) and (2) of this section, the court shall order restitution in all cases where the victim is entitled to benefits under the crime victims' compensation act, chapter 7.68 RCW. If the court does not order restitution and the victim of the crime has been determined to be entitled to benefits under the crime victims' compensation act, the department of labor and industries, as administrator of the crime victims' compensation program, may petition the court within one year of entry of the judgment and sentence for entry of a restitution order. Upon receipt of a petition from the department of labor and industries, the court shall hold a restitution hearing and shall enter a restitution order.

(4) In addition to any sentence that may be imposed, a defendant who has been found guilty of an offense involving fraud or other deceptive practice or an organization which has been found guilty of any such offense may be ordered by the sentencing court to give notice of the conviction to the class of persons or to the sector of the public affected by the conviction or financially interested in the subject matter of the offense by mail, by advertising in designated areas or through designated media, or by other appropriate means.

(5) This section does not limit civil remedies or defenses available to the victim, survivors of the victim, or defendant. The court shall identify in the judgment and sentence the victim or victims entitled to restitution and what amount is due each victim. The state or victim may enforce the court-ordered restitution in the same manner as a judgment in a civil action. Restitution collected through civil enforcement must be paid through the registry of the court and must be distributed proportionately according to each victim's loss when there is more than one victim.

(6) This section shall apply to offenses committed after July 1, 1985.

Sec. 5. RCW 9.94A.145 and 1995 c 231 s 3 are each amended to read as follows:

(1) Whenever a person is convicted of a felony, the court may order the payment of a legal financial obligation as part of the sentence. The court must on either the judgment and sentence or on a subsequent order to pay, designate the total amount of a legal financial obligation and segregate this amount among the separate assessments made for restitution, costs, fines, and other assessments required by law. On the same order, the court is also to set a sum that the offender is required to pay on a monthly basis towards satisfying the legal financial obligation. If the court fails to set the offender monthly payment amount, the department shall set the amount. Upon receipt of an offender's monthly payment, after restitution is satisfied, the county clerk shall distribute the payment proportionally among all other fines, costs, and assessments imposed, unless otherwise ordered by the court.

(2) If the court determines that the offender, at the time of sentencing, has the means to pay for the cost of incarceration, the court may require the offender to pay for the cost of incarceration at a rate of fifty dollars per day of incarceration.

Payment of other court-ordered financial obligations, including all legal financial obligations and costs of supervision shall take precedence over the payment of the cost of incarceration ordered by the court. All funds recovered from offenders for the cost of incarceration in the county jail shall be remitted to the county and the costs of incarceration in a prison shall be remitted to the department of corrections.

(3) The court may add to the judgment and sentence or subsequent order to pay a statement that a notice of payroll deduction is to be immediately issued. If the court chooses not to order the immediate issuance of a notice of payroll deduction at sentencing, the court shall add to the judgment and sentence or subsequent order to pay a statement that a notice of payroll deduction may be issued or other income-withholding action may be taken, without further notice to the offender if a monthly court-ordered legal financial obligation payment is not paid when due, and an amount equal to or greater than the amount payable for one month is owed.

If a judgment and sentence or subsequent order to pay does not include the statement that a notice of payroll deduction may be issued or other income-withholding action may be taken if a monthly legal financial obligation payment is past due, the department may serve a notice on the offender stating such requirements and authorizations. Service shall be by personal service or any form of mail requiring a return receipt.

(4) All legal financial obligations that are ordered as a result of a conviction for a felony, may also be enforced in the same manner as a judgment in a civil action by the party or entity to whom the legal financial obligation is owed. Restitution collected through civil enforcement must be paid through the registry of the court and must be distributed proportionately according to each victim's loss when there is more than one victim. The judgment and sentence shall identify the party or entity to whom restitution is owed so that the state, party, or entity may enforce the judgment. These obligations may be enforced at any time during the ten-year period following the offender's release from total confinement or within ten years of entry of the judgment and sentence, whichever period is longer. Prior to the expiration of the initial ten-year period, the superior court may extend the criminal judgment an additional ten years for payment of legal financial obligations including crime victims' assessments. If jurisdiction under the criminal judgment is extended, the department is not responsible for supervision of the offender during the subsequent period. Independent of the department, the party or entity to whom the legal financial obligation is owed shall have the authority to utilize any other remedies available to the party or entity to collect the legal financial obligation.

(5) In order to assist the court in setting a monthly sum that the offender must pay during the period of supervision, the offender is required to report to the department for purposes of preparing a recommendation to the court. When reporting, the offender is required, under oath, to truthfully and honestly respond to all questions concerning present, past, and future earning capabilities and the

location and nature of all property or financial assets. The offender is further required to bring any and all documents as requested by the department.

(6) After completing the investigation, the department shall make a report to the court on the amount of the monthly payment that the offender should be required to make towards a satisfied legal financial obligation.

(7) During the period of supervision, the department may make a recommendation to the court that the offender's monthly payment schedule be modified so as to reflect a change in financial circumstances. If the department sets the monthly payment amount, the department may modify the monthly payment amount without the matter being returned to the court. Also, during the period of supervision, the offender may be required at the request of the department to report to the department for the purposes of reviewing the appropriateness of the collection schedule for the legal financial obligation. During this reporting, the offender is required under oath to truthfully and honestly respond to all questions concerning earning capabilities and the location and nature of all property or financial assets. Also, the offender is required to bring any and all documents as requested by the department in order to prepare the collection schedule.

(8) After the judgment and sentence or payment order is entered, the department shall for any period of supervision be authorized to collect the legal financial obligation from the offender. Any amount collected by the department shall be remitted daily to the county clerk for the purposes of disbursements. The department is authorized to accept credit cards as payment for a legal financial obligation, and any costs incurred related to accepting credit card payments shall be the responsibility of the offender.

(9) The department or any obligee of the legal financial obligation may seek a mandatory wage assignment for the purposes of obtaining satisfaction for the legal financial obligation pursuant to RCW 9.94A.2001.

(10) The requirement that the offender pay a monthly sum towards a legal financial obligation constitutes a condition or requirement of a sentence and the offender is subject to the penalties as provided in RCW 9.94A.200 for noncompliance.

(11) The county clerk shall provide the department with individualized monthly billings for each offender with an unsatisfied legal financial obligation and shall provide the department with notice of payments by such offenders no less frequently than weekly.

Sec. 6. RCW 13.40.145 and 1995 c 275 s 4 are each amended to read as follows:

Upon disposition or at the time of a modification or at the time an appellate court remands the case to the trial court following a ruling in favor of the state the court may order the juvenile or a parent or another person legally obligated to support the juvenile to appear, and the court may inquire into the ability of those persons to pay a reasonable sum representing in whole or in part the fees for legal services provided by publicly funded counsel and the costs incurred by the public

in producing a verbatim report of proceedings and clerk's papers for use in the appellate courts.

If, after hearing, the court finds the juvenile, parent, or other legally obligated person able to pay part or all of the attorney's fees and costs incurred on appeal, the court may enter such order or decree as is equitable and may enforce the order or decree by execution, or in any way in which a court of equity may enforce its decrees.

In no event may the court order an amount to be paid for attorneys' fees that exceeds the average per case fee allocation for juvenile proceedings in the county where the services have been provided or the average per case fee allocation for juvenile appeals established by the Washington supreme court.

In any case in which there is no compliance with an order or decree of the court requiring a juvenile, parent, or other person legally obligated to support the juvenile to pay for legal services provided by publicly funded counsel, the court may, upon such person or persons being properly summoned or voluntarily appearing, proceed to inquire into the amount due upon the order or decree and enter judgment for that amount against the defaulting party or parties. Judgment shall be docketed in the same manner as are other judgments for the payment of money.

The county in which such judgments are entered shall be denominated the judgment creditor, and the judgments may be enforced by the prosecuting attorney of that county. Any moneys recovered thereon shall be paid into the registry of the court and shall be disbursed to such person, persons, agency, or governmental entity as the court finds entitled thereto.

Such judgments shall remain valid and enforceable for a period of ten years subsequent to entry.

When the juvenile reaches the age of eighteen or at the conclusion of juvenile court jurisdiction, whichever occurs later, the superior court clerk must docket the remaining balance of the juvenile's legal financial obligations in the same manner as other judgments for the payment of money. The judgment remains valid and enforceable until ten years from the date of its imposition. The clerk of superior court may seek extension of the judgment for legal financial obligations, including crime victims' assessments, in the same manner as RCW 6.17.020 for purposes of collection as allowed under RCW 36.18.190.

NEW SECTION. Sec. 7. A new section is added to chapter 13.40 RCW to read as follows:

If a juvenile is ordered to pay legal financial obligations, including fines, penalty assessments, attorneys' fees, court costs, and restitution, the money judgment remains enforceable for a period of ten years. When the juvenile reaches the age of eighteen years or at the conclusion of juvenile court jurisdiction, whichever occurs later, the superior court clerk must docket the remaining balance of the juvenile's legal financial obligations in the same manner as other judgments for the payment of money. The judgment remains valid and enforceable until ten

years from the date of its imposition. The clerk of the superior court may seek extension of the judgment for legal financial obligations, including crime victims' assessments, in the same manner as RCW 6.17.020 for purposes of collection as allowed under RCW 36.18.190.

Sec. 8. RCW 13.40.080 and 1996 c 124 s 1 are each amended to read as follows:

(1) A diversion agreement shall be a contract between a juvenile accused of an offense and a diversionary unit whereby the juvenile agrees to fulfill certain conditions in lieu of prosecution. Such agreements may be entered into only after the prosecutor, or probation counselor pursuant to this chapter, has determined that probable cause exists to believe that a crime has been committed and that the juvenile committed it. Such agreements shall be entered into as expeditiously as possible.

(2) A diversion agreement shall be limited to one or more of the following:

(a) Community service not to exceed one hundred fifty hours, not to be performed during school hours if the juvenile is attending school;

(b) Restitution limited to the amount of actual loss incurred by the victim;

(c) Attendance at up to ten hours of counseling and/or up to twenty hours of educational or informational sessions at a community agency. The educational or informational sessions may include sessions relating to respect for self, others, and authority; victim awareness; accountability; self-worth; responsibility; work ethics; good citizenship; and life skills. For purposes of this section, "community agency" may also mean a community-based nonprofit organization, if approved by the diversion unit. The state shall not be liable for costs resulting from the diversionary unit exercising the option to permit diversion agreements to mandate attendance at up to ten hours of counseling and/or up to twenty hours of educational or informational sessions;

(d) A fine, not to exceed one hundred dollars. In determining the amount of the fine, the diversion unit shall consider only the juvenile's financial resources and whether the juvenile has the means to pay the fine. The diversion unit shall not consider the financial resources of the juvenile's parents, guardian, or custodian in determining the fine to be imposed; and

(e) Requirements to remain during specified hours at home, school, or work, and restrictions on leaving or entering specified geographical areas.

(3) In assessing periods of community service to be performed and restitution to be paid by a juvenile who has entered into a diversion agreement, the court officer to whom this task is assigned shall consult with the juvenile's custodial parent or parents or guardian and victims who have contacted the diversionary unit and, to the extent possible, involve members of the community. Such members of the community shall meet with the juvenile and advise the court officer as to the terms of the diversion agreement and shall supervise the juvenile in carrying out its terms.

(4)(a) A diversion agreement may not exceed a period of six months and may include a period extending beyond the eighteenth birthday of the divertee.

(b) If additional time is necessary for the juvenile to complete restitution to the victim, the time period limitations of this subsection may be extended by an additional six months.

(c) If the juvenile has not paid the full amount of restitution by the end of the additional six-month period, then the juvenile shall be referred to the juvenile court for entry of an order establishing the amount of restitution still owed to the victim. In this order, the court shall also determine the terms and conditions of the restitution, including a payment plan extending up to ten years if the court determines that the juvenile does not have the means to make full restitution over a shorter period. For the purposes of this subsection (4)(c), the juvenile shall remain under the court's jurisdiction for a maximum term of ten years after the juvenile's eighteenth birthday. Prior to the expiration of the initial ten-year period, the juvenile court may extend the judgment for restitution an additional ten years. The court may not require the juvenile to pay full or partial restitution if the juvenile reasonably satisfies the court that he or she does not have the means to make full or partial restitution and could not reasonably acquire the means to pay the restitution over a ten-year period. The county clerk shall make disbursements to victims named in the order. The restitution to victims named in the order shall be paid prior to any payment for other penalties or monetary assessments. A juvenile under obligation to pay restitution may petition the court for modification of the restitution order.

(5) The juvenile shall retain the right to be referred to the court at any time prior to the signing of the diversion agreement.

(6) Divertees and potential divertees shall be afforded due process in all contacts with a diversionary unit regardless of whether the juveniles are accepted for diversion or whether the diversion program is successfully completed. Such due process shall include, but not be limited to, the following:

(a) A written diversion agreement shall be executed stating all conditions in clearly understandable language;

(b) Violation of the terms of the agreement shall be the only grounds for termination;

(c) No divertee may be terminated from a diversion program without being given a court hearing, which hearing shall be preceded by:

(i) Written notice of alleged violations of the conditions of the diversion program; and

(ii) Disclosure of all evidence to be offered against the divertee;

(d) The hearing shall be conducted by the juvenile court and shall include:

(i) Opportunity to be heard in person and to present evidence;

(ii) The right to confront and cross-examine all adverse witnesses;

(iii) A written statement by the court as to the evidence relied on and the reasons for termination, should that be the decision; and

(iv) Demonstration by evidence that the divertee has substantially violated the terms of his or her diversion agreement.

(e) The prosecutor may file an information on the offense for which the divertee was diverted:

(i) In juvenile court if the divertee is under eighteen years of age; or

(ii) In superior court or the appropriate court of limited jurisdiction if the divertee is eighteen years of age or older.

(7) The diversion unit shall, subject to available funds, be responsible for providing interpreters when juveniles need interpreters to effectively communicate during diversion unit hearings or negotiations.

(8) The diversion unit shall be responsible for advising a divertee of his or her rights as provided in this chapter.

(9) The diversion unit may refer a juvenile to community-based counseling or treatment programs.

(10) The right to counsel shall inure prior to the initial interview for purposes of advising the juvenile as to whether he or she desires to participate in the diversion process or to appear in the juvenile court. The juvenile may be represented by counsel at any critical stage of the diversion process, including intake interviews and termination hearings. The juvenile shall be fully advised at the intake of his or her right to an attorney and of the relevant services an attorney can provide. For the purpose of this section, intake interviews mean all interviews regarding the diversion agreement process.

The juvenile shall be advised that a diversion agreement shall constitute a part of the juvenile's criminal history as defined by RCW 13.40.020(9). A signed acknowledgment of such advisement shall be obtained from the juvenile, and the document shall be maintained by the diversionary unit together with the diversion agreement, and a copy of both documents shall be delivered to the prosecutor if requested by the prosecutor. The supreme court shall promulgate rules setting forth the content of such advisement in simple language.

(11) When a juvenile enters into a diversion agreement, the juvenile court may receive only the following information for dispositional purposes:

(a) The fact that a charge or charges were made;

(b) The fact that a diversion agreement was entered into;

(c) The juvenile's obligations under such agreement;

(d) Whether the alleged offender performed his or her obligations under such agreement; and

(e) The facts of the alleged offense.

(12) A diversionary unit may refuse to enter into a diversion agreement with a juvenile. When a diversionary unit refuses to enter a diversion agreement with a juvenile, it shall immediately refer such juvenile to the court for action and shall forward to the court the criminal complaint and a detailed statement of its reasons for refusing to enter into a diversion agreement. The diversionary unit shall also

immediately refer the case to the prosecuting attorney for action if such juvenile violates the terms of the diversion agreement.

(13) A diversionary unit may, in instances where it determines that the act or omission of an act for which a juvenile has been referred to it involved no victim, or where it determines that the juvenile referred to it has no prior criminal history and is alleged to have committed an illegal act involving no threat of or instance of actual physical harm and involving not more than fifty dollars in property loss or damage and that there is no loss outstanding to the person or firm suffering such damage or loss, counsel and release or release such a juvenile without entering into a diversion agreement. A diversion unit's authority to counsel and release a juvenile under this subsection shall include the authority to refer the juvenile to community-based counseling or treatment programs. Any juvenile released under this subsection shall be advised that the act or omission of any act for which he or she had been referred shall constitute a part of the juvenile's criminal history as defined by RCW 13.40.020(9). A signed acknowledgment of such advisement shall be obtained from the juvenile, and the document shall be maintained by the unit, and a copy of the document shall be delivered to the prosecutor if requested by the prosecutor. The supreme court shall promulgate rules setting forth the content of such advisement in simple language. A juvenile determined to be eligible by a diversionary unit for release as provided in this subsection shall retain the same right to counsel and right to have his or her case referred to the court for formal action as any other juvenile referred to the unit.

(14) A diversion unit may supervise the fulfillment of a diversion agreement entered into before the juvenile's eighteenth birthday and which includes a period extending beyond the divertee's eighteenth birthday.

(15) If a fine required by a diversion agreement cannot reasonably be paid due to a change of circumstance, the diversion agreement may be modified at the request of the divertee and with the concurrence of the diversion unit to convert an unpaid fine into community service. The modification of the diversion agreement shall be in writing and signed by the divertee and the diversion unit. The number of hours of community service in lieu of a monetary penalty shall be converted at the rate of the prevailing state minimum wage per hour.

(16) Fines imposed under this section shall be collected and paid into the county general fund in accordance with procedures established by the juvenile court administrator under RCW 13.04.040 and may be used only for juvenile services. In the expenditure of funds for juvenile services, there shall be a maintenance of effort whereby counties exhaust existing resources before using amounts collected under this section.

Sec. 9. RCW 13.40.190 and 1996 c 124 s 2 are each amended to read as follows:

(1) In its dispositional order, the court shall require the respondent to make restitution to any persons who have suffered loss or damage as a result of the offense committed by the respondent. In addition, restitution may be ordered for

loss or damage if the offender pleads guilty to a lesser offense or fewer offenses and agrees with the prosecutor's recommendation that the offender be required to pay restitution to a victim of an offense or offenses which, pursuant to a plea agreement, are not prosecuted. The payment of restitution shall be in addition to any punishment which is imposed pursuant to the other provisions of this chapter. The court may determine the amount, terms, and conditions of the restitution including a payment plan extending up to ten years if the court determines that the respondent does not have the means to make full restitution over a shorter period. Restitution may include the costs of counseling reasonably related to the offense. If the respondent participated in the crime with another person or other persons, all such participants shall be jointly and severally responsible for the payment of restitution. For the purposes of this section, the respondent shall remain under the court's jurisdiction for a maximum term of ten years after the respondent's eighteenth birthday. Prior to the expiration of the ten-year period, the juvenile court may extend the judgment for the payment of restitution for an additional ten years. The court may not require the respondent to pay full or partial restitution if the respondent reasonably satisfies the court that he or she does not have the means to make full or partial restitution and could not reasonably acquire the means to pay such restitution over a ten-year period.

(2) Regardless of the provisions of subsection (1) of this section, the court shall order restitution in all cases where the victim is entitled to benefits under the crime victims' compensation act, chapter 7.68 RCW. If the court does not order restitution and the victim of the crime has been determined to be entitled to benefits under the crime victims' compensation act, the department of labor and industries, as administrator of the crime victims' compensation program, may petition the court within one year of entry of the disposition order for entry of a restitution order. Upon receipt of a petition from the department of labor and industries, the court shall hold a restitution hearing and shall enter a restitution order.

(3) If an order includes restitution as one of the monetary assessments, the county clerk shall make disbursements to victims named in the order. The restitution to victims named in the order shall be paid prior to any payment for other penalties or monetary assessments.

(4) A respondent under obligation to pay restitution may petition the court for modification of the restitution order.

Passed the House February 19, 1997.

Passed the Senate April 10, 1997.

Approved by the Governor April 22, 1997.

Filed in Office of Secretary of State April 22, 1997.

CHAPTER 122

[House Bill 1099]

**TRANSFER OF SERVICE IN LAW ENFORCEMENT OFFICERS' AND FIRE FIGHTERS'
PENSION SYSTEM PLAN I**

AN ACT Relating to transferring prior service in the law enforcement officers' and fire fighters' pension system plan I; and adding a new section to chapter 41.26 RCW.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. Sec. 1. A new section is added to chapter 41.26 RCW under the subchapter heading "plan I" to read as follows:

Any member of the teachers' retirement system plans I, II, or III, the public employees' retirement system plans I or II, or the Washington state patrol retirement system who has previously established service credit in the law enforcement officers' and fire fighters' retirement system plan I may make an irrevocable election to have such service transferred to their current retirement system and plan subject to the following conditions:

(1) If the individual is employed by an employer in an eligible position, as of July 1, 1997, the election to transfer service must be filed in writing with the department no later than July 1, 1998. If the individual is not employed by an employer in an eligible position, as of July 1, 1997, the election to transfer service must be filed in writing with the department no later than one year from the date they are employed by an employer in an eligible position.

(2) An individual transferring service under this section forfeits the rights to all benefits as a member of the law enforcement officers' and fire fighters' retirement system plan I and will be permanently excluded from membership.

(3) Any individual choosing to transfer service under this section will have transferred to their current retirement system and plan: (a) All the individual's accumulated contributions; (b) an amount sufficient to ensure that the employer contribution rate in the individual's current system and plan will not increase due to the transfer; and (c) all applicable months of service, as defined in RCW 41.26.030(14)(a).

(4) If an individual has withdrawn contributions from the law enforcement officers' and fire fighters' retirement system plan I, the individual may restore the contributions, together with interest as determined by the director, and recover the service represented by the contributions for the sole purpose of transferring service under this section. The contributions must be restored before the transfer can occur and the restoration must be completed within the time limitations specified in subsection (1) of this section.

(5) Any service transferred under this section does not apply to the eligibility requirements for military service credit as defined in RCW 41.40.170(3) or 43.43.260(3).

(6) If an individual does not meet the time limitations of subsection (1) of this section, the individual may elect to restore any withdrawn contributions and transfer service under this section by paying the amount required under subsection (3)(b) of this section less any employee contributions transferred.

Passed the House February 28, 1997.
Passed the Senate April 10, 1997.
Approved by the Governor April 22, 1997.
Filed in Office of Secretary of State April 22, 1997.

CHAPTER 123

[Substitute House Bill 1105]

RETIREMENT CREDIT FOR LEAVE FOR LEGISLATIVE SERVICE FOR PUBLIC EMPLOYEES

AN ACT Relating to retirement credit for leave for legislative service; adding a new section to chapter 43.43 RCW; and adding a new section to chapter 28B.10 RCW.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. Sec. 1. A new section is added to chapter 43.43 RCW to read as follows:

Any member of the retirement system who, on or after January 1, 1995, is on leave of absence for the purpose of serving as a state legislator, may elect to continue to be a member of this retirement system. The member shall continue to receive service credit subject to the following:

- (1) The member will not receive more than one month's service credit in a calendar month;
- (2) Employer contributions shall be paid by the legislature;
- (3) Contributions shall be based on the regular compensation which the member would have received had such a member not served in the legislature;
- (4) The service and compensation credit under this section shall be granted only for periods during which the legislature is in session; and
- (5) No service credit for service as a legislator will be allowed after a member separates from employment with the Washington state patrol.

NEW SECTION. Sec. 2. A new section is added to chapter 28B.10 RCW to read as follows:

(1) On or after January 1, 1997, any employee who is on leave of absence from an institution in order to serve as a state legislator may elect to continue to participate in any annuity or retirement plan authorized under RCW 28B.10.400 during the period of such leave.

(2) The institution shall pay the employee's salary attributable to legislative service and shall match the employee's retirement plan contributions based on the salary for the leave period. The state legislature shall reimburse the institution for the salary and employer contributions covering the leave period.

(3) "Institution" for purposes of this section means any institution or entity authorized to provide retirement benefits under RCW 28B.10.400.

Passed the House March 3, 1997.

Passed the Senate April 10, 1997.

Approved by the Governor April 22, 1997.

Filed in Office of Secretary of State April 22, 1997.

CHAPTER 124

[House Bill 1196]

CHARITABLE TRUSTS—REGISTRATION—EXEMPTION FROM PUBLIC INSPECTION

AN ACT Relating to charitable trusts; amending RCW 11.110.060, 11.110.070, and 11.110.075; adding a new section to chapter 11.110 RCW; and repealing RCW 11.110.050, 11.110.073, and 11.110.080.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. Sec. 1. A new section is added to chapter 11.110 RCW to read as follows:

(1) Except as provided in subsection (2) of this section, a trustee, as defined by RCW 11.110.020, must register with the secretary of state if, as to a particular charitable trust:

(a) The trustee holds assets in trust, invested for income-producing purposes, exceeding a value established by the secretary of state by rule;

(b) Under the terms of the trust all or part of the principal or income of the trust can or must currently be expended for charitable purposes; and

(c) The trust instrument does not require the distribution of the entire trust corpus within a period of one year or less.

(2) A trustee of a trust, in which the only charitable interest is in the nature of a remainder, is not required to register during any life estate or other term that precedes the charitable interest. This exclusion from registration applies to trusts which have more than one noncharitable life income beneficiary, even if the death of one such beneficiary obligates the trustee to distribute a remainder interest to charity.

(3) A trustee of a charitable trust that is not required to register pursuant to this section is subject to all requirements of this chapter other than those governing registration and reporting to the secretary of state.

Sec. 2. RCW 11.110.060 and 1993 c 471 s 28 are each amended to read as follows:

(1) Every trustee required to file under section 1 of this act shall file with the secretary of state within ~~((two))~~ four months after receiving possession or control of the trust corpus, or after the trust becomes a trust described by section 1(1) of this act:

(a) A copy of the instrument establishing his or her title, powers, or duties ~~((; and))~~;

(b) An inventory of the assets of such charitable trust ~~((; In addition, trustees exempt from the provisions of RCW 11.110.070 by RCW 11.110.073 shall file with the secretary of state a copy of the declaration of the tax-exempt status or~~

other basis of the claim for such exemption; a copy of the instrument establishing the trustee's title, powers or duties; an inventory of the assets of such trust; and, annually, a copy of each publicly available United States tax or information return or report of the trust which the trustee files with the internal revenue service. The trustees of charitable trusts existing at the time this chapter takes effect or on August 9, 1971, shall comply with this section within six months thereafter); and

(c) A registration form setting forth the trustee's name, mailing address, physical address if different, and additional identifying information required by the secretary by rule.

(2) A successor trustee to a previously registered trust shall file a registration form and inventory of assets within four months after receiving possession or control of the trust corpus.

(3) A trustee required to register shall file with the secretary of state copies of all amendments to the trust instrument within four months of the making of the amendment.

Sec. 3. RCW 11.110.070 and 1993 c 471 s 29 are each amended to read as follows:

~~((Except as otherwise provided))~~ Every trustee ~~((subject to this chapter shall file with the secretary of state annual reports, under oath, setting forth information as to the nature of the assets held for charitable purposes and the administration thereof by the trustee, in accordance with rules of the secretary of state.~~

~~—The secretary of state shall make rules as to the time for filing reports, the contents thereof, and the manner of executing and filing them. The secretary of state may classify trusts and other relationships concerning property held for a charitable purpose as to purpose, nature of assets, duration of the trust or other relationship, amount of assets, amounts to be devoted to charitable purposes, nature of trustee, or otherwise, and may establish different rules for the different classes as to time and nature of the reports required, to the ends (1) that the secretary of state shall receive reasonably current, periodic reports as to all charitable trusts or other relationships of a similar nature which will enable the secretary of state to ascertain whether they are being properly administered, and (2) that periodic reports shall not unreasonably add to the expense of the administration of charitable trusts and similar relationships. The secretary of state may suspend the filing of reports as to a particular charitable trust or relationship for a reasonable, specifically designated time upon written application of the trustee filed with the secretary of state after the secretary of state has filed in the register of charitable trusts a written statement that the interests of the beneficiaries will not be prejudiced thereby and that periodic reports are not required for proper supervision by the secretary of state's office.~~

~~—A copy of an account filed by the trustee in any court having jurisdiction of the trust or other relationship, if the account substantially complies with the rules of the secretary of state, may be filed as a report required by this section.~~

~~— The first report for a trust or similar relationship hereafter established, unless the filing thereof is suspended as herein provided, shall be filed not later than one year after any part of the income or principal is authorized or required to be applied to a charitable purpose. If any part of the income or principal of a trust previously established is authorized or required to be applied to a charitable purpose at the time this act takes effect, the first report, unless the filing thereof is suspended, shall be filed within six months after July 30, 1967)) required to register under section 1 of this act shall file with the secretary of state a copy of each publicly available United States tax or information return or report of the trust at the time that the trustee files with the internal revenue service. The secretary may provide by rule for the exemption from reporting under this section by some or all trusts not required to file a federal tax or information return, and for a substitute form containing similar information to be used by any trusts not so exempted.~~

Sec. 4. RCW 11.110.075 and 1993 c 471 s 30 are each amended to read as follows:

A trust is not exclusively for charitable purposes, within the meaning of RCW 11.110.040, when the instrument creating it contains a trust for several or mixed purposes, and any one or more of such purposes is not charitable within the meaning of RCW 11.110.020, as enacted or hereafter amended. Such instrument shall be withheld from public inspection by the secretary of state and no information as to such noncharitable purpose shall be made public. The attorney general shall have free access to such information.

~~((Annual reporting of such trusts to the secretary of state, as required by RCW 11.110.060 or 11.110.070, shall commence within one year after trust income or principal is authorized or required to be used for a charitable purpose:~~

~~— When a trust consists of a vested charitable remainder preceded by a life estate, a copy of the instrument shall be filed by the trustee or by the life tenant, within two months after commencement of the life estate:~~

~~— If the trust instrument contains only contingent gifts or remainders to charitable purposes, no charitable trust shall be deemed created until a charitable gift or remainder is legally vested. The first registration or report of such trust shall be filed within two months after trust income or principal is authorized or required to be used for a charitable purpose:))~~

NEW SECTION. Sec. 5. The following acts or parts of acts are each repealed:

- (1) RCW 11.110.050 and 1993 c 471 s 27 & 1985 c 30 s 116;
- (2) RCW 11.110.073 and 1994 c 92 s 2 & 1985 c 30 s 119; and
- (3) RCW 11.110.080 and 1993 c 471 s 31 & 1985 c 30 s 121.

Passed the House February 28, 1997.

Passed the Senate April 10, 1997.

Approved by the Governor April 22, 1997.

Filed in Office of Secretary of State April 22, 1997.

CHAPTER 125

[Substitute House Bill 1314]

STATUTORY COMPUTATION OF TIME

AN ACT Relating to computing the time within which an act is to be done; and amending RCW 1.12.040 and 43.21B.230.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 1.12.040 and 1887 c 20 s 1 are each amended to read as follows:

The time within which an act is to be done, as herein provided, shall be computed by excluding the first day, and including the last, unless the last day is a holiday, Saturday, or Sunday, and then it is also excluded.

Sec. 2. RCW 43.21B.230 and 1994 c 253 s 8 are each amended to read as follows:

Any person having received notice of a denial of a petition, a notice of determination, notice of or an order made by the department may appeal to the hearings board, within thirty days from the date ~~((ef))~~ the notice of such denial, order, or determination ~~((to the hearings board))~~ is posted in the United States mail, properly addressed, postage prepaid, to the appealing party. The appeal shall be perfected by serving a copy of the notice of appeal upon the department or air pollution authority established pursuant to chapter 70.94 RCW, as the case may be, within the time specified herein and by filing the original thereof with proof of service with the clerk of the hearings board.

Passed the House March 7, 1997.

Passed the Senate April 10, 1997.

Approved by the Governor April 22, 1997.

Filed in Office of Secretary of State April 22, 1997.

CHAPTER 126

[Substitute House Bill 1323]

AGENCY RULES—ELECTRONIC DISTRIBUTION

AN ACT Relating to the distribution of rules notices; amending RCW 34.05.010; and creating a new section.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. **Sec. 1.** (1) In order to provide the greatest possible access to agency documents to the most people, agencies are encouraged to make their rule, interpretive, and policy information available through electronic distribution as well as through the regular mail. Agencies that have the capacity to transmit electronically may ask persons who are on mailing lists or rosters for copies of interpretive statements, policy statements, preproposal statements of inquiry, and other similar notices whether they would like to receive the notices electronically.

(2) Electronic distribution to persons who request it may substitute for mailed copies related to rule making or policy or interpretive statements. If a notice is

distributed electronically, the agency is not required to transmit the actual notice form but must send all the information contained in the notice.

(3) Agencies which maintain mailing lists or rosters for any notices relating to rule making or policy or interpretive statements may establish different rosters or lists by general subject area.

Sec. 2. RCW 34.05.010 and 1992 c 44 s 10 are each amended to read as follows:

The definitions set forth in this section shall apply throughout this chapter, unless the context clearly requires otherwise.

(1) "Adjudicative proceeding" means a proceeding before an agency in which an opportunity for hearing before that agency is required by statute or constitutional right before or after the entry of an order by the agency. Adjudicative proceedings also include all cases of licensing and rate making in which an application for a license or rate change is denied except as limited by RCW 66.08.150, or a license is revoked, suspended, or modified, or in which the granting of an application is contested by a person having standing to contest under the law.

(2) "Agency" means any state board, commission, department, institution of higher education, or officer, authorized by law to make rules or to conduct adjudicative proceedings, except those in the legislative or judicial branches, the governor, or the attorney general except to the extent otherwise required by law and any local governmental entity that may request the appointment of an administrative law judge under chapter 42.41 RCW.

(3) "Agency action" means licensing, the implementation or enforcement of a statute, the adoption or application of an agency rule or order, the imposition of sanctions, or the granting or withholding of benefits.

Agency action does not include an agency decision regarding (a) contracting or procurement of goods, services, public works, and the purchase, lease, or acquisition by any other means, including eminent domain, of real estate, as well as all activities necessarily related to those functions, or (b) determinations as to the sufficiency of a showing of interest filed in support of a representation petition, or mediation or conciliation of labor disputes or arbitration of labor disputes under a collective bargaining law or similar statute, or (c) any sale, lease, contract, or other proprietary decision in the management of public lands or real property interests, or (d) the granting of a license, franchise, or permission for the use of trademarks, symbols, and similar property owned or controlled by the agency.

(4) "Agency head" means the individual or body of individuals in whom the ultimate legal authority of the agency is vested by any provision of law. If the agency head is a body of individuals, a majority of those individuals constitutes the agency head.

(5) "Entry" of an order means the signing of the order by all persons who are to sign the order, as an official act indicating that the order is to be effective.

(6) "Filing" of a document that is required to be filed with an agency means delivery of the document to a place designated by the agency by rule for receipt of official documents, or in the absence of such designation, at the office of the agency head.

(7) "Institutions of higher education" are the University of Washington, Washington State University, Central Washington University, Eastern Washington University, Western Washington University, The Evergreen State College, the various community colleges, and the governing boards of each of the above, and the various colleges, divisions, departments, or offices authorized by the governing board of the institution involved to act for the institution, all of which are sometimes referred to in this chapter as "institutions."

(8) "Interpretive statement" means a written expression of the opinion of an agency, entitled an interpretive statement by the agency head or its designee, as to the meaning of a statute or other provision of law, of a court decision, or of an agency order.

(9)(a) "License" means a franchise, permit, certification, approval, registration, charter, or similar form of authorization required by law, but does not include (i) a license required solely for revenue purposes, or (ii) a certification of an exclusive bargaining representative, or similar status, under a collective bargaining law or similar statute, or (iii) a license, franchise, or permission for use of trademarks, symbols, and similar property owned or controlled by the agency.

(b) "Licensing" includes the agency process respecting the issuance, denial, revocation, suspension, or modification of a license.

(10) "Mail" or "send," for purposes of any notice relating to rule making or policy or interpretive statements, means regular mail or electronic distribution, as provided in section 1 of this act. "Electronic distribution" or "electronically" means distribution by electronic mail or facsimile mail.

(11)(a) "Order," without further qualification, means a written statement of particular applicability that finally determines the legal rights, duties, privileges, immunities, or other legal interests of a specific person or persons.

(b) "Order of adoption" means the official written statement by which an agency adopts, amends, or repeals a rule.

~~((11))~~ (12) "Party to agency proceedings," or "party" in a context so indicating, means:

(a) A person to whom the agency action is specifically directed; or

(b) A person named as a party to the agency proceeding or allowed to intervene or participate as a party in the agency proceeding.

~~((12))~~ (13) "Party to judicial review or civil enforcement proceedings," or "party" in a context so indicating, means:

(a) A person who files a petition for a judicial review or civil enforcement proceeding; or

(b) A person named as a party in a judicial review or civil enforcement proceeding, or allowed to participate as a party in a judicial review or civil enforcement proceeding.

~~((13))~~ (14) "Person" means any individual, partnership, corporation, association, governmental subdivision or unit thereof, or public or private organization or entity of any character, and includes another agency.

~~((14))~~ (15) "Policy statement" means a written description of the current approach of an agency, entitled a policy statement by the agency head or its designee, to implementation of a statute or other provision of law, of a court decision, or of an agency order, including where appropriate the agency's current practice, procedure, or method of action based upon that approach.

~~((15))~~ (16) "Rule" means any agency order, directive, or regulation of general applicability (a) the violation of which subjects a person to a penalty or administrative sanction; (b) which establishes, alters, or revokes any procedure, practice, or requirement relating to agency hearings; (c) which establishes, alters, or revokes any qualification or requirement relating to the enjoyment of benefits or privileges conferred by law; (d) which establishes, alters, or revokes any qualifications or standards for the issuance, suspension, or revocation of licenses to pursue any commercial activity, trade, or profession; or (e) which establishes, alters, or revokes any mandatory standards for any product or material which must be met before distribution or sale. The term includes the amendment or repeal of a prior rule, but does not include (i) statements concerning only the internal management of an agency and not affecting private rights or procedures available to the public, (ii) declaratory rulings issued pursuant to RCW 34.05.240, (iii) traffic restrictions for motor vehicles, bicyclists, and pedestrians established by the secretary of transportation or his designee where notice of such restrictions is given by official traffic control devices, or (iv) rules of institutions of higher education involving standards of admission, academic advancement, academic credit, graduation and the granting of degrees, employment relationships, or fiscal processes.

~~((16))~~ (17) "Rules review committee" or "committee" means the joint administrative rules review committee created pursuant to RCW 34.05.610 for the purpose of selectively reviewing existing and proposed rules of state agencies.

~~((17))~~ (18) "Rule making" means the process for formulation and adoption of a rule.

~~((18))~~ (19) "Service," except as otherwise provided in this chapter, means posting in the United States mail, properly addressed, postage prepaid, or personal service. Service by mail is complete upon deposit in the United States mail. Agencies may, by rule, authorize service by electronic telefacsimile transmission, where copies are mailed simultaneously, or by commercial parcel delivery company.

Passed the House March 12, 1997.
Passed the Senate April 10, 1997.
Approved by the Governor April 22, 1997.
Filed in Office of Secretary of State April 22, 1997.

CHAPTER 127

[Substitute House Bill 1358]

MATERIALS TO IMPROVE WILDLIFE HABITAT OR FORAGE—TAX EXEMPTIONS FOR FARMERS

AN ACT Relating to the taxation of materials purchased by farmers to improve wildlife habitat or forage; reenacting and amending RCW 82.04.050; providing an effective date; and declaring an emergency.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 82.04.050 and 1996 c 148 s 1 and 1996 c 112 s 1 are each reenacted and amended to read as follows:

(1) "Sale at retail" or "retail sale" means every sale of tangible personal property (including articles produced, fabricated, or imprinted) to all persons irrespective of the nature of their business and including, among others, without limiting the scope hereof, persons who install, repair, clean, alter, improve, construct, or decorate real or personal property of or for consumers other than a sale to a person who presents a resale certificate under RCW 82.04.470 and who:

(a) Purchases for the purpose of resale as tangible personal property in the regular course of business without intervening use by such person; or

(b) Installs, repairs, cleans, alters, imprints, improves, constructs, or decorates real or personal property of or for consumers, if such tangible personal property becomes an ingredient or component of such real or personal property without intervening use by such person; or

(c) Purchases for the purpose of consuming the property purchased in producing for sale a new article of tangible personal property or substance, of which such property becomes an ingredient or component or is a chemical used in processing, when the primary purpose of such chemical is to create a chemical reaction directly through contact with an ingredient of a new article being produced for sale; or

(d) Purchases for the purpose of consuming the property purchased in producing ferrosilicon which is subsequently used in producing magnesium for sale, if the primary purpose of such property is to create a chemical reaction directly through contact with an ingredient of ferrosilicon; or

(e) Purchases for the purpose of providing the property to consumers as part of competitive telephone service, as defined in RCW 82.04.065. The term shall include every sale of tangible personal property which is used or consumed or to be used or consumed in the performance of any activity classified as a "sale at retail" or "retail sale" even though such property is resold or utilized as provided in (a), (b), (c), (d), or (e) of this subsection following such use. The term also

means every sale of tangible personal property to persons engaged in any business which is taxable under RCW 82.04.280 (2) and (7) and 82.04.290.

(2) The term "sale at retail" or "retail sale" shall include the sale of or charge made for tangible personal property consumed and/or for labor and services rendered in respect to the following:

(a) The installing, repairing, cleaning, altering, imprinting, or improving of tangible personal property of or for consumers, including charges made for the mere use of facilities in respect thereto, but excluding sales of laundry service to members by nonprofit associations composed exclusively of nonprofit hospitals, and excluding services rendered in respect to live animals, birds and insects;

(b) The constructing, repairing, decorating, or improving of new or existing buildings or other structures under, upon, or above real property of or for consumers, including the installing or attaching of any article of tangible personal property therein or thereto, whether or not such personal property becomes a part of the realty by virtue of installation, and shall also include the sale of services or charges made for the clearing of land and the moving of earth excepting the mere leveling of land used in commercial farming or agriculture;

(c) The charge for labor and services rendered in respect to constructing, repairing, or improving any structure upon, above, or under any real property owned by an owner who conveys the property by title, possession, or any other means to the person performing such construction, repair, or improvement for the purpose of performing such construction, repair, or improvement and the property is then reconveyed by title, possession, or any other means to the original owner;

(d) The sale of or charge made for labor and services rendered in respect to the cleaning, fumigating, razing or moving of existing buildings or structures, but shall not include the charge made for janitorial services; and for purposes of this section the term "janitorial services" shall mean those cleaning and caretaking services ordinarily performed by commercial janitor service businesses including, but not limited to, wall and window washing, floor cleaning and waxing, and the cleaning in place of rugs, drapes and upholstery. The term "janitorial services" does not include painting, papering, repairing, furnace or septic tank cleaning, snow removal or sandblasting;

(e) The sale of or charge made for labor and services rendered in respect to automobile towing and similar automotive transportation services, but not in respect to those required to report and pay taxes under chapter 82.16 RCW;

(f) The sale of and charge made for the furnishing of lodging and all other services by a hotel, rooming house, tourist court, motel, trailer camp, and the granting of any similar license to use real property, as distinguished from the renting or leasing of real property, and it shall be presumed that the occupancy of real property for a continuous period of one month or more constitutes a rental or lease of real property and not a mere license to use or enjoy the same;

(g) The sale of or charge made for tangible personal property, labor and services to persons taxable under (a), (b), (c), (d), (e), and (f) of this subsection

when such sales or charges are for property, labor and services which are used or consumed in whole or in part by such persons in the performance of any activity defined as a "sale at retail" or "retail sale" even though such property, labor and services may be resold after such use or consumption. Nothing contained in this subsection shall be construed to modify subsection (1) of this section and nothing contained in subsection (1) of this section shall be construed to modify this subsection.

(3) The term "sale at retail" or "retail sale" shall include the sale of or charge made for personal, business, or professional services including amounts designated as interest, rents, fees, admission, and other service emoluments however designated, received by persons engaging in the following business activities:

(a) Amusement and recreation services including but not limited to golf, pool, billiards, skating, bowling, ski lifts and tows, day trips for sightseeing purposes, and others, when provided to consumers;

(b) Abstract, title insurance, and escrow services;

(c) Credit bureau services;

(d) Automobile parking and storage garage services;

(e) Landscape maintenance and horticultural services but excluding (i) horticultural services provided to farmers and (ii) pruning, trimming, repairing, removing, and clearing of trees and brush near electric transmission or distribution lines or equipment, if performed by or at the direction of an electric utility;

(f) Service charges associated with tickets to professional sporting events; and

(g) The following personal services: Physical fitness services, tanning salon services, tattoo parlor services, steam bath services, turkish bath services, escort services, and dating services.

(4) The term shall also include the renting or leasing of tangible personal property to consumers and the rental of equipment with an operator.

(5) The term shall also include the providing of telephone service, as defined in RCW 82.04.065, to consumers.

(6) The term shall not include the sale of or charge made for labor and services rendered in respect to the building, repairing, or improving of any street, place, road, highway, easement, right of way, mass public transportation terminal or parking facility, bridge, tunnel, or trestle which is owned by a municipal corporation or political subdivision of the state or by the United States and which is used or to be used primarily for foot or vehicular traffic including mass transportation vehicles of any kind.

(7) The term shall also not include sales of chemical sprays or washes to persons for the purpose of postharvest treatment of fruit for the prevention of scald, fungus, mold, or decay, nor shall it include sales of feed, seed, seedlings, fertilizer, agents for enhanced pollination including insects such as bees, and spray materials ~~((to persons who participate in the federal conservation reserve program or its successor administered by the United States department of agriculture, or to farmers for the purpose of producing for sale any agricultural product, nor shall it~~

~~include sales of chemical sprays or washes to persons for the purpose of post-harvest treatment of fruit for the prevention of scald, fungus, mold, or decay)) to:~~
(a) Persons who participate in the federal conservation reserve program, the environmental quality incentives program, the wetlands reserve program, and the wildlife habitat incentives program, or their successors administered by the United States department of agriculture; (b) farmers for the purpose of producing for sale any agricultural product; and (c) farmers acting under cooperative habitat development or access contracts with an organization exempt from federal income tax under 26 U.S.C. Sec. 501(c)(3) or the Washington state department of fish and wildlife to produce or improve wildlife habitat on land that the farmer owns or leases.

(8) The term shall not include the sale of or charge made for labor and services rendered in respect to the constructing, repairing, decorating, or improving of new or existing buildings or other structures under, upon, or above real property of or for the United States, any instrumentality thereof, or a county or city housing authority created pursuant to chapter 35.82 RCW, including the installing, or attaching of any article of tangible personal property therein or thereto, whether or not such personal property becomes a part of the realty by virtue of installation. Nor shall the term include the sale of services or charges made for the clearing of land and the moving of earth of or for the United States, any instrumentality thereof, or a county or city housing authority. Nor shall the term include the sale of services or charges made for cleaning up for the United States, or its instrumentalities, radioactive waste and other byproducts of weapons production and nuclear research and development.

NEW SECTION. Sec. 2. This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect July 1, 1997.

Passed the House March 19, 1997.

Passed the Senate April 10, 1997.

Approved by the Governor April 22, 1997.

Filed in Office of Secretary of State April 22, 1997.

CHAPTER 128

[Substitute House Bill 1364]

SEIZURE AND FORFEITURE OF GAMBLING-RELATED PROPERTY

AN ACT Relating to the seizure and forfeiture of gambling-related property; and amending RCW 9.46.231.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 9.46.231 and 1994 c 218 s 7 are each amended to read as follows:

(1) The following are subject to seizure and forfeiture and no property right exists in them:

- (a) All gambling devices as defined in this chapter;
- (b) All furnishings, fixtures, equipment, and stock, including without limitation furnishings and fixtures adaptable to nongambling uses and equipment and stock for printing, recording, computing, transporting, or safekeeping, used in connection with professional gambling or maintaining a gambling premises;
- (c) All conveyances, including aircraft, vehicles, or vessels, that are used, or intended for use, in any manner to facilitate the sale, delivery, receipt, or operation of any gambling device, or the promotion or operation of a professional gambling activity, except that:
 - (i) A conveyance used by any person as a common carrier in the transaction of business as a common carrier is not subject to forfeiture under this section unless it appears that the owner or other person in charge of the conveyance is a consenting party or privy to a violation of this chapter;
 - (ii) A conveyance is not subject to forfeiture under this section by reason of any act or omission established by the owner thereof to have been committed or omitted without the owner's knowledge or consent;
 - (iii) A forfeiture of a conveyance encumbered by a bona fide security interest is subject to the interest of the secured party if the secured party neither had knowledge of nor consented to the act or omission; and
 - (iv) If the owner of a conveyance has been arrested under this chapter the conveyance in which the person is arrested may not be subject to forfeiture unless it is seized or process is issued for its seizure within ten days of the owner's arrest;
- (d) All books, records, and research products and materials, including formulas, microfilm, tapes, and electronic data that are used, or intended for use, in violation of this chapter;
- (e) All moneys, negotiable instruments, securities, or other tangible or intangible property of value at stake or displayed in or in connection with professional gambling activity or furnished or intended to be furnished by any person to facilitate the promotion or operation of a professional gambling activity;
- (f) All tangible or intangible personal property, proceeds, or assets acquired in whole or in part with proceeds traceable to professional gambling activity and all moneys, negotiable instruments, and securities used or intended to be used to facilitate any violation of this chapter. A forfeiture of money, negotiable instruments, securities, or other tangible or intangible property encumbered by a bona fide security interest is subject to the interest of the secured party if, at the time the security interest was created, the secured party neither had knowledge of nor consented to the act or omission. Personal property may not be forfeited under this subsection (1)(f), to the extent of the interest of an owner, by reason of any act or omission that that owner establishes was committed or omitted without the owner's knowledge or consent; and
- (g) All real property, including any right, title, and interest in the whole of any lot or tract of land, and any appurtenances or improvements that:

(i) Have been used with the knowledge of the owner for the manufacturing, processing, delivery, importing, or exporting of any illegal gambling equipment, or operation of a professional gambling activity that would constitute a felony violation of this chapter; or

(ii) Have been acquired in whole or in part with proceeds traceable to a professional gambling activity, if the activity is not less than a class C felony.

Real property forfeited under this chapter that is encumbered by a bona fide security interest remains subject to the interest of the secured party if the secured party, at the time the security interest was created, neither had knowledge of nor consented to the act or omission. Property may not be forfeited under this subsection, to the extent of the interest of an owner, by reason of any act or omission committed or omitted without the owner's knowledge or consent.

(2)(a) A law enforcement officer of this state may seize real or personal property subject to forfeiture under this chapter upon process issued by any superior court having jurisdiction over the property. Seizure of real property includes the filing of a lis pendens by the seizing agency. Real property seized under this section may not be transferred or otherwise conveyed until ninety days after seizure or until a judgment of forfeiture is entered, whichever is later, but real property seized under this section may be transferred or conveyed to any person or entity who acquires title by foreclosure or deed in lieu of foreclosure of a bona fide security interest.

(b) Seizure of personal property without process may be made if:

(i) The seizure is incident to an arrest or a search under a search warrant or an inspection under an administrative inspection warrant;

(ii) The property subject to seizure has been the subject of a prior judgment in favor of the state in a criminal injunction or forfeiture proceeding based upon this chapter;

(iii) A law enforcement officer has probable cause to believe that the property is directly or indirectly dangerous to health or safety; or

(iv) The law enforcement officer has probable cause to believe that the property was used or is intended to be used in violation of this chapter.

(3) In the event of seizure under subsection (2) of this section, proceedings for forfeiture are deemed commenced by the seizure. The law enforcement agency under whose authority the seizure was made shall cause notice to be served within fifteen days following the seizure on the owner of the property seized and the person in charge thereof and any person having any known right or interest therein, including any community property interest, of the seizure and intended forfeiture of the seized property. Service of notice of seizure of real property must be made according to the rules of civil procedure. However, the state may not obtain a default judgment with respect to real property against a party who is served by substituted service absent an affidavit stating that a good faith effort has been made to ascertain if the defaulted party is incarcerated within the state, and that there is no present basis to believe that the party is incarcerated within the state. Notice of

seizure in the case of property subject to a security interest that has been perfected by filing a financing statement in accordance with chapter 62A.9 RCW, or a certificate of title, must be made by service upon the secured party or the secured party's assignee at the address shown on the financing statement or the certificate of title. The notice of seizure in other cases may be served by any method authorized by law or court rule including but not limited to service by certified mail with return receipt requested. Service by mail is deemed complete upon mailing within the fifteen-day period following the seizure.

(4) If no person notifies the seizing law enforcement agency in writing of the person's claim of ownership or right to possession of items specified in subsection (1) (~~((e), (e), (f), or (g))~~) of this section within forty-five days of the seizure in the case of personal property and ninety days in the case of real property, the item seized is deemed forfeited. The community property interest in real property of a person whose spouse committed a violation giving rise to seizure of the real property may not be forfeited if the person did not participate in the violation.

(5) If any person notifies the seizing law enforcement agency in writing of the person's claim of ownership or right to possession of items specified in subsection (1) (~~((b), (e), (d), (e), (f), or (g))~~) of this section within forty-five days of the seizure in the case of personal property and ninety days in the case of real property, the person or persons must be afforded a reasonable opportunity to be heard as to the claim or right. The hearing must be before the chief law enforcement officer of the seizing agency or the chief law enforcement officer's designee, except if the seizing agency is a state agency as defined in RCW 34.12.020(4), the hearing must be before the chief law enforcement officer of the seizing agency or an administrative law judge appointed under chapter 34.12 RCW, except that any person asserting a claim or right may remove the matter to a court of competent jurisdiction. Removal of any matter involving personal property may only be accomplished according to the rules of civil procedure. The person seeking removal of the matter must serve process against the state, county, political subdivision, or municipality that operates the seizing agency, and any other party of interest, in accordance with RCW 4.28.080 or 4.92.020, within forty-five days after the person seeking removal has notified the seizing law enforcement agency of the person's claim of ownership or right to possession. The court to which the matter is to be removed must be the district court if the aggregate value of personal property is within the jurisdictional limit set forth in RCW 3.66.020. A hearing before the seizing agency and any appeal therefrom must be under Title 34 RCW. In a court hearing between two or more claimants to the article or articles involved, the prevailing party is entitled to a judgment for costs and reasonable attorneys' fees. In cases involving personal property, the burden of producing evidence is upon the person claiming to be the lawful owner or the person claiming to have the lawful right to possession of the property. In cases involving property seized under subsection (1)(a) of this section, the only issues to be determined by the tribunal are whether the item seized is a gambling device, and whether the device is an

antique device as defined by RCW 9.46.235. In cases involving real property, the burden of producing evidence is upon the law enforcement agency. The burden of proof that the seized real property is subject to forfeiture is upon the law enforcement agency. The seizing law enforcement agency shall promptly return the article or articles to the claimant upon a final determination by the administrative law judge or court that the claimant is the present lawful owner or is lawfully entitled to possession thereof of items specified in subsection (1) ~~((b); (c), (d), (e), (f), or (g))~~ of this section.

(6) If property is forfeited under this chapter the seizing law enforcement agency may:

(a) Retain it for official use or upon application by any law enforcement agency of this state release the property to the agency for training or use in enforcing this chapter;

(b) Sell that which is not required to be destroyed by law and which is not harmful to the public; or

(c) Destroy any articles that may not be lawfully possessed within the state of Washington, or that have a fair market value of less than one hundred dollars.

(7)(a) If property is forfeited, the seizing agency shall keep a record indicating the identity of the prior owner, if known, a description of the property, the disposition of the property, the value of the property at the time of seizure, and the amount of proceeds realized from disposition of the property. The net proceeds of forfeited property is the value of the forfeitable interest in the property after deducting the cost of satisfying any bona fide security interest to which the property is subject at the time of seizure, and in the case of sold property, after deducting the cost of sale, including reasonable fees or commissions paid to independent selling agents.

(b) Each seizing agency shall retain records of forfeited property for at least seven years.

~~(((c) Each seizing agency shall file a report including a copy of the records of forfeited property with the state treasurer the calendar quarter after the end of the fiscal year.~~

~~—(d) The annual report need not include a record of forfeited property that is still being held for use as evidence during the investigation or prosecution of a case or during the appeal from a conviction.)~~

(8) The seizing law enforcement agency shall retain forfeited property and net proceeds exclusively for the expansion and improvement of gambling-related law enforcement activity. Money retained under this section may not be used to supplant preexisting funding sources.

(9) Gambling devices that are possessed, transferred, sold, or offered for sale in violation of this chapter are contraband and must be seized and summarily forfeited to the state. Gambling equipment that is seized or comes into the possession of a law enforcement agency, the owners of which are unknown, are contraband and must be summarily forfeited to the state.

(10) Upon the entry of an order of forfeiture of real property, the court shall forward a copy of the order to the assessor of the county in which the property is located. The superior court shall enter orders for the forfeiture of real property, subject to court rules. The seizing agency shall file such an order in the county auditor's records in the county in which the real property is located.

(11)(a) A landlord may assert a claim against proceeds from the sale of assets seized and forfeited under subsection (6)(b) of this section, only if:

(i) A law enforcement officer, while acting in his or her official capacity, directly caused damage to the complaining landlord's property while executing a search of a tenant's residence; and

(ii) The landlord has applied any funds remaining in the tenant's deposit, to which the landlord has a right under chapter 59.18 RCW, to cover the damage directly caused by a law enforcement officer before asserting a claim under this section.

(A) Only if the funds applied under (a)(ii) of this subsection are insufficient to satisfy the damage directly caused by a law enforcement officer, may the landlord seek compensation for the damage by filing a claim against the governmental entity under whose authority the law enforcement agency operates within thirty days after the search; and

(B) Only if the governmental entity denies or fails to respond to the landlord's claim within sixty days of the date of filing, may the landlord collect damages under this subsection by filing within thirty days of denial or the expiration of the sixty-day period, whichever occurs first, a claim with the seizing law enforcement agency. The seizing law enforcement agency shall notify the landlord of the status of the claim by the end of the thirty-day period. This section does not require the claim to be paid by the end of the sixty-day or thirty-day period.

(b) For any claim filed under (a)(ii) of this subsection, the law enforcement agency shall pay the claim unless the agency provides substantial proof that the landlord either:

(i) Knew or consented to actions of the tenant in violation of this chapter; or

(ii) Failed to respond to a notification of the illegal activity, provided by a law enforcement agency within seven days of receipt of notification of the illegal activity.

(12) The landlord's claim for damages under subsection (11) of this section may not include a claim for loss of business and is limited to:

(a) Damage to tangible property and clean-up costs;

(b) The lesser of the cost of repair or fair market value of the damage directly caused by a law enforcement officer;

(c) The proceeds from the sale of the specific tenant's property seized and forfeited under subsection (6)(b) of this section; and

(d) The proceeds available after the seizing law enforcement agency satisfies any bona fide security interest in the tenant's property and costs related to sale of the tenant's property as provided by subsection (7)(a) of this section.

(13) Subsections (11) and (12) of this section do not limit any other rights a landlord may have against a tenant to collect for damages. However, if a law enforcement agency satisfies a landlord's claim under subsection (11) of this section, the rights the landlord has against the tenant for damages directly caused by a law enforcement officer under the terms of the landlord and tenant's contract are subrogated to the law enforcement agency.

(14) Liability is not imposed by this section upon any authorized state, county, or municipal officer, including a commission special agent, in the lawful performance of his or her duties.

Passed the House February 21, 1997.

Passed the Senate April 10, 1997.

Approved by the Governor April 22, 1997.

Filed in Office of Secretary of State April 22, 1997.

CHAPTER 129

[House Bill 1424]

KIDNEY DIALYSIS CENTERS—DEREGULATION

AN ACT Relating to kidney dialysis centers; and amending RCW 18.64.011.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 18.64.011 and 1995 c 319 s 2 are each amended to read as follows:

Unless the context clearly requires otherwise, definitions of terms shall be as indicated when used in this chapter.

(1) "Person" means an individual, corporation, government, governmental subdivision or agency, business trust, estate, trust, partnership or association, or any other legal entity.

(2) "Board" means the Washington state board of pharmacy.

(3) "Drugs" means:

(a) Articles recognized in the official United States pharmacopoeia or the official homeopathic pharmacopoeia of the United States;

(b) Substances intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in man or other animals;

(c) Substances (other than food) intended to affect the structure or any function of the body of man or other animals; or

(d) Substances intended for use as a component of any substances specified in (a), (b), or (c) of this subsection, but not including devices or their component parts or accessories.

(4) "Device" means instruments, apparatus, and contrivances, including their components, parts, and accessories, intended (a) for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in man or other animals, or (b) to affect the structure or any function of the body of man or other animals.

(5) "Nonlegend" or "nonprescription" drugs means any drugs which may be lawfully sold without a prescription.

(6) "Legend drugs" means any drugs which are required by any applicable federal or state law or regulation to be dispensed on prescription only or are restricted to use by practitioners only.

(7) "Controlled substance" means a drug or substance, or an immediate precursor of such drug or substance, so designated under or pursuant to the provisions of chapter 69.50 RCW.

(8) "Prescription" means an order for drugs or devices issued by a practitioner duly authorized by law or rule in the state of Washington to prescribe drugs or devices in the course of his or her professional practice for a legitimate medical purpose.

(9) "Practitioner" means a physician, dentist, veterinarian, nurse, or other person duly authorized by law or rule in the state of Washington to prescribe drugs.

(10) "Pharmacist" means a person duly licensed by the Washington state board of pharmacy to engage in the practice of pharmacy.

(11) "Practice of pharmacy" includes the practice of and responsibility for: Interpreting prescription orders; the compounding, dispensing, labeling, administering, and distributing of drugs and devices; the monitoring of drug therapy and use; the initiating or modifying of drug therapy in accordance with written guidelines or protocols previously established and approved for his or her practice by a practitioner authorized to prescribe drugs; the participating in drug utilization reviews and drug product selection; the proper and safe storing and distributing of drugs and devices and maintenance of proper records thereof; the providing of information on legend drugs which may include, but is not limited to, the advising of therapeutic values, hazards, and the uses of drugs and devices.

(12) "Pharmacy" means every place properly licensed by the board of pharmacy where the practice of pharmacy is conducted.

(13) The words "drug" and "devices" shall not include surgical or dental instruments or laboratory materials, gas and oxygen, therapy equipment, X-ray apparatus or therapeutic equipment, their component parts or accessories, or equipment, instruments, apparatus, or contrivances used to render such articles effective in medical, surgical, or dental treatment, or for use or consumption in or for mechanical, industrial, manufacturing, or scientific applications or purposes, nor shall the word "drug" include any article or mixture covered by the Washington pesticide control act (chapter 15.58 RCW), as enacted or hereafter amended, nor medicated feed intended for and used exclusively as a feed for animals other than man.

(14) The word "poison" shall not include any article or mixture covered by the Washington pesticide control act (chapter 15.58 RCW), as enacted or hereafter amended.

(15) "Deliver" or "delivery" means the actual, constructive, or attempted transfer from one person to another of a drug or device, whether or not there is an agency relationship.

(16) "Dispense" means the interpretation of a prescription or order for a drug, biological, or device and, pursuant to that prescription or order, the proper selection, measuring, compounding, labeling, or packaging necessary to prepare that prescription or order for delivery.

(17) "Distribute" means the delivery of a drug or device other than by administering or dispensing.

(18) "Compounding" shall be the act of combining two or more ingredients in the preparation of a prescription.

(19) "Wholesaler" shall mean a corporation, individual, or other entity which buys drugs or devices for resale and distribution to corporations, individuals, or entities other than consumers.

(20) "Manufacture" means the production, preparation, propagation, compounding, or processing of a drug or other substance or device or the packaging or repackaging of such substance or device, or the labeling or relabeling of the commercial container of such substance or device, but does not include the activities of a practitioner who, as an incident to his or her administration or dispensing such substance or device in the course of his or her professional practice, prepares, compounds, packages, or labels such substance or device.

(21) "Manufacturer" shall mean a person, corporation, or other entity engaged in the manufacture of drugs or devices.

(22) "Labeling" shall mean the process of preparing and affixing a label to any drug or device container. The label must include all information required by current federal and state law and pharmacy rules.

(23) "Administer" means the direct application of a drug or device, whether by injection, inhalation, ingestion, or any other means, to the body of a patient or research subject.

(24) "Master license system" means the mechanism established by chapter 19.02 RCW by which master licenses, endorsed for individual state-issued licenses, are issued and renewed utilizing a master application and a master license expiration date common to each renewable license endorsement.

(25) "Department" means the department of health.

(26) "Secretary" means the secretary of health or the secretary's designee.

(27) "Health care entity" means an organization that provides health care services in a setting that is not otherwise licensed by the state. Health care entity includes a free-standing outpatient surgery center(;) or a free-standing cardiac care center(, or a kidney dialysis center). It does not include an individual practitioner's office or a multipractitioner clinic.

Passed the House March 7, 1997.
 Passed the Senate April 10, 1997.
 Approved by the Governor April 22, 1997.
 Filed in Office of Secretary of State April 22, 1997.

CHAPTER 130

[Substitute House Bill 1426]

LIENS FILED BY THE DEPARTMENT OF SOCIAL AND HEALTH SERVICES

AN ACT Relating to liens filed by the department of social and health services; amending RCW 43.20B.720, 43.20B.730, 43.20B.735, 43.20B.740, 43.20B.030, 74.20A.070, and 74.20A.080; and repealing RCW 43.20B.725.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 43.20B.720 and 1985 c 245 s 7 are each amended to read as follows:

~~((By accepting))~~ (1) To avoid a duplicate payment of benefits, a recipient of public assistance from the department of social and health services~~((the recipient thereof shall be))~~ is deemed to have subrogated ~~((said))~~ the department to the recipient's right to recover ~~((time loss))~~ temporary total disability compensation due to ~~((such))~~ the recipient and ~~((his or her))~~ the recipient's dependents ~~((pursuant to the provisions of))~~ under Title 51 RCW, to the extent of such assistance or compensation, whichever is less~~((, furnished to the recipient and his or her dependents for or during the period for which time loss compensation is payable; PROVIDED, That))~~. However, the amount to be repaid to the department of social and health services shall bear its proportionate share of attorney's fees and costs, if any, incurred under Title 51 RCW by the ~~((injured worker))~~ recipient or the ~~((worker's))~~ recipient's dependents.

(2) The department of social and health services may assert and enforce a lien and notice to withhold and deliver ~~((as hereinafter provided))~~ to secure reimbursement ~~((of any public assistance paid for or during the period and for the purposes expressed in this section)).~~ The department shall identify in the lien and notice to withhold and deliver the recipient of public assistance and temporary total disability compensation and the amount claimed by the department.

Sec. 2. RCW 43.20B.730 and 1987 c 75 s 34 are each amended to read as follows:

The effective date of the ~~((statement of))~~ lien and notice to withhold and deliver provided in RCW ~~((43.20B.725, shall be))~~ 43.20B.720 is the day that it is received by the ~~((director of the))~~ department of labor and industries~~((, an employee of the director's office of suitable discretion,))~~ or a self-insurer as defined in chapter 51.08 RCW~~((, PROVIDED, That))~~. Service of ~~((such statement of))~~ the lien and notice to withhold and deliver may be made personally ~~((or))~~, by regular mail ~~((;))~~ with postage prepaid~~((, PROVIDED, FURTHER, That a copy of the))~~, or by electronic means. A statement of lien and notice to withhold and deliver shall be mailed to the recipient at the recipient's last known address by certified

mail, return receipt requested, no later than ~~((the next))~~ two business days after ~~((such statement of))~~ the department mails, delivers, or transmits the lien and notice to withhold and deliver ~~((has been mailed or delivered))~~ to the department of labor and industries or ~~((to))~~ a self-insurer ~~((as defined in chapter 51.08 RCW)).~~

Sec. 3. RCW 43.20B.735 and 1973 1st ex.s. c 102 s 4 are each amended to read as follows:

The director of ~~((the department of))~~ labor and industries or the director's designee, or a self-insurer as defined in chapter 51.08 RCW, following receipt of the ~~((statement of))~~ lien and notice to withhold and deliver, shall deliver to the secretary of ~~((the department of))~~ social and health services or ~~((his))~~ the secretary's designee any ((funds)) temporary total disability compensation payable to the recipient named in the lien and notice to withhold and deliver up to the amount claimed ((he may hold, or which may at any time come into his possession;)), The director of labor and industries or self-insurer shall withhold and deliver from funds currently in the director's or self-insurer's possession or from any funds that may at any time come into the director's or self-insurer's possession on account of ((time loss)) temporary total disability compensation payable to ((said)) the recipient ((for or during the period stated, immediately upon a final determination of the recipient's entitlement to the time loss compensation in accordance with the provisions of Title 51 RCW)) named in the lien and notice to withhold and deliver.

Sec. 4. RCW 43.20B.740 and 1989 c 175 s 101 are each amended to read as follows:

~~((Any person))~~ A recipient feeling aggrieved by the action of the department of social and health services in ~~((impounding))~~ recovering his or her ~~((time loss))~~ temporary total disability compensation as provided in RCW 43.20B.720 through 43.20B.745 shall have the right to an adjudicative proceeding.

~~((Any such person who desires a hearing shall;))~~ A recipient seeking an adjudicative proceeding shall file an application with the secretary within twenty-eight days after the statement of lien and notice to withhold and deliver ((has been)) was mailed to ((or served upon the director of the department of labor and industries and said appellant, file with the secretary an application for an adjudicative proceeding)) the recipient. If the recipient files an application more than twenty-eight days after, but within one year of, the date the statement of lien and notice to withhold and deliver was mailed, the recipient is entitled to a hearing if the recipient shows good cause for the recipient's failure to file a timely application. The filing of a late application does not affect prior collection action pending the final adjudicative order. Until good cause for failure to file a timely application is decided, the department may continue to collect under the lien and notice to withhold and deliver.

The proceeding shall be governed by chapter 34.05 RCW, the Administrative Procedure Act.

Sec. 5. RCW 43.20B.030 and 1989 c 78 s 4 are each amended to read as follows:

(1) Except as otherwise provided by law, there will be no collection of overpayments and other debts due the department after the expiration of six years from the date of notice of such overpayment or other debt unless the department has commenced recovery action in a court of law or unless an administrative remedy authorized by statute is in place. However, any amount due in a case thus extended shall cease to be a debt due the department at the expiration of ten years from the date of the notice of the overpayment or other debt unless a court-ordered remedy would be in effect for a longer period.

(2)(a) The department, at any time, may accept offers of compromise of disputed claims or may grant partial or total write-off of any debt due the department if it is no longer cost-effective to pursue. The department shall adopt rules establishing the considerations to be made in the granting or denial of a partial or total write-off of debts.

(b) Beginning December 1, 1997, the department shall report by December 1 each year to the commerce and labor committees of the senate and house of representatives, the senate ways and means committee, and the house appropriations committee, or successor committees, the following information:

(i) The cumulative amount of debt due the department;

(ii) The cumulative amount of debt that has been written off by the department as no longer cost-effective to pursue;

(iii) The amount of debt due the department that has accrued in each of the previous five fiscal years; and

(iv) The amount of debt that has been written off in each of the previous five fiscal years as no longer cost-effective to pursue.

Sec. 6. RCW 74.20A.070 and 1973 1st ex.s. c 183 s 8 are each amended to read as follows:

(1) The secretary may at any time after filing of a support lien serve a copy of ~~((said))~~ the lien upon any person, firm, corporation, association, political subdivision, or department of the state in possession of earnings, or deposits or balances held in any bank account of any nature which are due, owing, or belonging to said debtor. ~~((Said))~~

(2) The support lien shall be served upon the person, firm, corporation, association, political subdivision, or department of the state ~~((either))~~;

(a) In the manner prescribed for the service of summons in a civil action ((or));

(b) By certified mail, return receipt requested; or

(c) By electronic means if there is an agreement between the secretary and the person, firm, corporation, association, political subdivision, or department of the state to accept service by electronic means.

(3) No lien filed under RCW 74.20A.060 shall have any effect against earnings or bank deposits or balances unless it states the amount of the support debt accrued and unless service upon ~~((said))~~ the person, firm, corporation,

association, political subdivision, or department of the state in possession of earnings or bank accounts, deposits or balances is accomplished pursuant to this section.

Sec. 7. RCW 74.20A.080 and 1994 c 230 s 20 are each amended to read as follows:

(1) The secretary may issue to any person, firm, corporation, association, political subdivision, department of the state, or agency, subdivision, or instrumentality of the United States, an order to withhold and deliver property of any kind, including but not restricted to earnings which are or might become due, owing, or belonging to the debtor, when the secretary has reason to believe that there is in the possession of such person, firm, corporation, association, political subdivision, department of the state, or agency, subdivision, or instrumentality of the United States property which is or might become due, owing, or belonging to said debtor. Such order to withhold and deliver may be issued:

(a) When a support payment is past due, if a responsible parent's support order:

(I) Contains language directing the parent to make support payments to the Washington state support registry; and

(ii) Includes a statement that other income-withholding action under this chapter may be taken without further notice to the responsible parent, as provided for in RCW 26.23.050(1);

(b) Twenty-one days after service of a notice of support debt under RCW 74.20A.040;

(c) Twenty-one days after service of a notice and finding of parental responsibility under RCW 74.20A.056;

(d) Twenty-one days after service of a notice of support owed under RCW 26.23.110;

(e) Twenty-one days after service of a notice and finding of financial responsibility under RCW 74.20A.055; or

(f) When appropriate under RCW 74.20A.270.

(2) The order to withhold and deliver shall:

(a) State the amount of the support debt accrued;

(b) State in summary the terms of RCW 74.20A.090 and 74.20A.100;

(c) Be served;

(1) In the manner prescribed for the service of a summons in a civil action ((or));

(ii) By certified mail, return receipt requested; or

(iii) By electronic means if there is an agreement between the secretary and the person, firm, corporation, association, political subdivision, department of the state, or agency, subdivision, or instrumentality of the United States to accept service by electronic means.

(3) Any person, firm, corporation, association, political subdivision, department of the state, or agency, subdivision, or instrumentality of the United States upon whom service has been made is hereby required to:

(a) Answer said order to withhold and deliver within twenty days, exclusive of the day of service, under oath and in writing, and shall make true answers to the matters inquired of therein; and

(b) Provide further and additional answers when requested by the secretary.

(4) Any such person, firm, corporation, association, political subdivision, department of the state, or agency, subdivision, or instrumentality of the United States in possession of any property which may be subject to the claim of the department of social and health services shall:

(a)(I) Immediately withhold such property upon receipt of the order to withhold and deliver; and

(ii) Deliver the property to the secretary as soon as the twenty-day answer period expires;

(iii) Continue to withhold earnings payable to the debtor at each succeeding disbursement interval as provided for in RCW 74.20A.090, and deliver amounts withheld from earnings to the secretary on the date earnings are payable to the debtor;

(iv) Inform the secretary of the date the amounts were withheld as requested under this section; or

(b) Furnish to the secretary a good and sufficient bond, satisfactory to the secretary, conditioned upon final determination of liability.

(5) An order to withhold and deliver served under this section shall not expire until:

(a) Released in writing by the office of support enforcement;

(b) Terminated by court order; or

(c) The person or entity receiving the order to withhold and deliver does not possess property of or owe money to the debtor for any period of twelve consecutive months following the date of service of the order to withhold and deliver.

(6) Where money is due and owing under any contract of employment, express or implied, or is held by any person, firm, corporation, or association, political subdivision, or department of the state, or agency, subdivision, or instrumentality of the United States subject to withdrawal by the debtor, such money shall be delivered by remittance payable to the order of the secretary.

(7) Delivery to the secretary of the money or other property held or claimed shall satisfy the requirement and serve as full acquittance of the order to withhold and deliver.

(8) A person, firm, corporation, or association, political subdivision, department of the state, or agency, subdivision, or instrumentality of the United States that complies with the order to withhold and deliver under this chapter is not

civily liable to the debtor for complying with the order to withhold and deliver under this chapter.

(9) The secretary may hold the money or property delivered under this section in trust for application on the indebtedness involved or for return, without interest, in accordance with final determination of liability or nonliability.

(10) Exemptions contained in RCW 74.20A.090 apply to orders to withhold and deliver issued under this section.

(11) The secretary shall also, on or before the date of service of the order to withhold and deliver, mail or cause to be mailed a copy of the order to withhold and deliver to the debtor at the debtor's last known post office address, or, in the alternative, a copy of the order to withhold and deliver shall be served on the debtor in the same manner as a summons in a civil action on or before the date of service of the order or within two days thereafter. The copy of the order shall be mailed or served together with a concise explanation of the right to petition for judicial review. This requirement is not jurisdictional, but, if the copy is not mailed or served as in this section provided, or if any irregularity appears with respect to the mailing or service, the superior court, in its discretion on motion of the debtor promptly made and supported by affidavit showing that the debtor has suffered substantial injury due to the failure to mail the copy, may set aside the order to withhold and deliver and award to the debtor an amount equal to the damages resulting from the secretary's failure to serve on or mail to the debtor the copy.

(12) An order to withhold and deliver issued in accordance with this section has priority over any other wage assignment, garnishment, attachment, or other legal process, except for another wage assignment, garnishment, attachment, or other legal process for child support.

(13) The office of support enforcement shall notify any person, firm, corporation, association, or political subdivision, department of the state, or agency, subdivision, or instrumentality of the United States required to withhold and deliver the earnings of a debtor under this action that they may deduct a processing fee from the remainder of the debtor's earnings, even if the remainder would otherwise be exempt under RCW 74.20A.090. The processing fee shall not exceed ten dollars for the first disbursement to the department and one dollar for each subsequent disbursement under the order to withhold and deliver.

NEW SECTION. Sec. 8. RCW 43.20B.725 and 1987 c 75 s 33, 1985 c 245 s 8, & 1973 1st ex.s. c 102 s 2 are each repealed.

Passed the House March 11, 1997.

Passed the Senate April 10, 1997.

Approved by the Governor April 22, 1997.

Filed in Office of Secretary of State April 22, 1997.

CHAPTER 131

[Second Substitute House Bill 1432]

ADOPTION SUPPORT RECONSIDERATION PROGRAM—ELIGIBILITY—REVIEW OF
MEDICAL NEEDS

AN ACT Relating to modification of the adoption support reconsideration program; and amending RCW 74.13.150.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 74.13.150 and 1990 c 285 s 5 are each amended to read as follows:

(1) The department of social and health services shall establish, within funds appropriated for the purpose, a reconsideration program to provide medical and counseling services through the adoption support program for children of families who apply for services after the adoption is final. Families requesting services through the program shall provide any information requested by the department for the purpose of processing the family's application for services.

(2) A child meeting the eligibility criteria for registration with the program is one who:

(a) Was residing in a preadoptive placement funded by the department or in foster care funded by the department immediately prior to the adoptive placement;

(b) Had a physical or mental handicap or emotional disturbance that existed and was documented prior to the adoption or was at high risk of future physical or mental handicap or emotional disturbance as a result of conditions exposed to prior to the adoption; and

(c) Resides in the state of Washington with an adoptive parent who lacks the necessary financial means to care for the child's special need.

(3) If a family is accepted for registration and meets the criteria in subsection (2) of this section, the department may enter into an agreement for services. Prior to entering into an agreement for services through the program, the medical needs of the child must be reviewed and approved by the department ~~((s office of personal health services))~~.

(4) Any services provided pursuant to an agreement between a family and the department shall be met from the department's medical program. Such services shall be limited to:

(a) Services provided after finalization of an agreement between a family and the department pursuant to this section;

(b) Services not covered by the family's insurance or other available assistance; and

(c) Services related to the eligible child's identified physical or mental handicap or emotional disturbance that existed prior to the adoption.

(5) Any payment by the department for services provided pursuant to an agreement shall be made directly to the physician or provider of services according to the department's established procedures.

(6) The total costs payable by the department for services provided pursuant to an agreement shall not exceed twenty thousand dollars per child.

Passed the House March 14, 1997.

Passed the Senate April 10, 1997.

Approved by the Governor April 22, 1997.

Filed in Office of Secretary of State April 22, 1997.

CHAPTER 132

[Engrossed House Bill 1496]

NEGLIGENT TREATMENT OR MALTREATMENT OF A CHILD—DEFINITION REVISION

AN ACT Relating to the definition of negligent treatment of a child; amending RCW 26.44.020; and creating a new section.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. Sec. 1. The legislature finds that housing is frequently influenced by the economic situation faced by the family. This may include siblings sharing a bedroom. The legislature also finds that the family living situation due to economic circumstances in and of itself is not sufficient to justify a finding of child abuse, negligent treatment, or maltreatment.

Sec. 2. RCW 26.44.020 and 1996 c 178 s 10 are each amended to read as follows:

For the purpose of and as used in this chapter:

(1) "Court" means the superior court of the state of Washington, juvenile department.

(2) "Law enforcement agency" means the police department, the prosecuting attorney, the state patrol, the director of public safety, or the office of the sheriff.

(3) "Practitioner of the healing arts" or "practitioner" means a person licensed by this state to practice pediatric medicine and surgery, optometry, chiropractic, nursing, dentistry, osteopathic medicine and surgery, or medicine and surgery or to provide other health services. The term "practitioner" shall include a duly accredited Christian Science practitioner: PROVIDED, HOWEVER, That a person who is being furnished Christian Science treatment by a duly accredited Christian Science practitioner shall not be considered, for that reason alone, a neglected person for the purposes of this chapter.

(4) "Institution" means a private or public hospital or any other facility providing medical diagnosis, treatment or care.

(5) "Department" means the state department of social and health services.

(6) "Child" or "children" means any person under the age of eighteen years of age.

(7) "Professional school personnel" shall include, but not be limited to, teachers, counselors, administrators, child care facility personnel, and school nurses.

(8) "Social service counselor" shall mean anyone engaged in a professional capacity during the regular course of employment in encouraging or promoting the health, welfare, support or education of children, or providing social services to

adults or families, including mental health, drug and alcohol treatment, and domestic violence programs, whether in an individual capacity, or as an employee or agent of any public or private organization or institution.

(9) "Psychologist" shall mean any person licensed to practice psychology under chapter 18.83 RCW, whether acting in an individual capacity or as an employee or agent of any public or private organization or institution.

(10) "Pharmacist" shall mean any registered pharmacist under the provisions of chapter 18.64 RCW, whether acting in an individual capacity or as an employee or agent of any public or private organization or institution.

(11) "Clergy" shall mean any regularly licensed or ordained minister, priest or rabbi of any church or religious denomination, whether acting in an individual capacity or as an employee or agent of any public or private organization or institution.

(12) "Abuse or neglect" shall mean the injury, sexual abuse, sexual exploitation, negligent treatment, or maltreatment of a child, adult dependent, or developmentally disabled person by any person under circumstances which indicate that the child's or adult's health, welfare, and safety is harmed. An abused child is a child who has been subjected to child abuse or neglect as defined herein.

(13) "Child protective services section" shall mean the child protective services section of the department.

(14) "Adult dependent persons" shall be defined as those persons over the age of eighteen years who have been found to be legally incompetent or disabled pursuant to chapter 11.88 RCW.

(15) "Sexual exploitation" includes: (a) Allowing, permitting, or encouraging a child to engage in prostitution by any person; or (b) allowing, permitting, encouraging, or engaging in the obscene or pornographic photographing, filming, or depicting of a child by any person.

(16) "Negligent treatment or maltreatment" means an act or omission which evidences a serious disregard of consequences of such magnitude as to constitute a clear and present danger to the child's health, welfare, and safety. The fact that siblings share a bedroom is not, in and of itself, "negligent treatment or maltreatment."

(17) "Developmentally disabled person" means a person who has a disability defined in RCW 71A.10.020.

(18) "Child protective services" means those services provided by the department designed to protect children from child abuse and neglect and safeguard the general welfare of such children and shall include investigations of child abuse and neglect reports, including reports regarding child care centers and family child care homes, and the development, management, and provision of or referral to services to ameliorate conditions which endanger the welfare of children, the coordination of necessary programs and services relevant to the prevention, intervention, and treatment of child abuse and neglect, and services to children to ensure that each child has a permanent home. In determining whether

protective services should be provided, the department shall not decline to provide such services solely because of the child's unwillingness or developmental inability to describe the nature and severity of the abuse or neglect.

(19) "Malice" or "maliciously" means an evil intent, wish, or design to vex, annoy, or injure another person. Such malice may be inferred from an act done in wilful disregard of the rights of another, or an act wrongfully done without just cause or excuse, or an act or omission of duty betraying a wilful disregard of social duty.

(20) "Sexually aggressive youth" means a child who is defined in RCW 74.13.075(1)(b) as being a "sexually aggressive youth."

Passed the House March 12, 1997.

Passed the Senate April 10, 1997.

Approved by the Governor April 22, 1997.

Filed in Office of Secretary of State April 22, 1997.

CHAPTER 133

[Substitute House Bill 1535]

NATUROPATHIC HEALTH CARE PRACTITIONERS—CERTIFICATION OF HEALTH CARE ASSISTANTS

AN ACT Relating to naturopathic health care practitioners; and reenacting and amending RCW 18.135.020.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 18.135.020 and 1994 sp.s. c 9 s 719 and 1994 c 76 s 1 are each reenacted and amended to read as follows:

As used in this chapter:

(1) "Secretary" means the secretary of health.

(2) "Health care assistant" means an unlicensed person who assists a licensed health care practitioner in providing health care to patients pursuant to this chapter. However persons trained by a federally approved end-stage renal disease facility who perform end-stage renal dialysis are exempt from certification under this chapter.

(3) "Health care practitioner" means:

(a) A physician licensed under chapter 18.71 RCW;

(b) An osteopathic physician or surgeon licensed under chapter 18.57 RCW;

or

(c) Acting within the scope of their respective licensure, a podiatric physician and surgeon licensed under chapter 18.22 RCW ((or)), a registered nurse or advanced registered nurse practitioner licensed under chapter 18.79 RCW, or a naturopath licensed under chapter 18.36A RCW.

(4) "Supervision" means supervision of procedures permitted pursuant to this chapter by a health care practitioner who is physically present and is immediately available in the facility during the administration of injections, as defined in this chapter, but need not be present during procedures to withdraw blood.

(5) "Health care facility" means any hospital, hospice care center, licensed or certified health care facility, health maintenance organization regulated under chapter 48.46 RCW, federally qualified health maintenance organization, renal dialysis center or facility federally approved under 42 C.F.R. 405.2100, blood bank federally licensed under 21 C.F.R. 607, or clinical laboratory certified under 20 C.F.R. 405.1301-16.

(6) "Delegation" means direct authorization granted by a licensed health care practitioner to a health care assistant to perform the functions authorized in this chapter which fall within the scope of practice of the delegator and which are not within the scope of practice of the delegatee.

Passed the House March 6, 1997.

Passed the Senate April 10, 1997.

Approved by the Governor April 12, 1997.

Filed in Office of Secretary of State April 22, 1997.

CHAPTER 134

[Substitute Senate Bill 5056]

PROPERTY ASSESSMENTS—LIMIT TO PERMITTED LAND USE

AN ACT Relating to limiting property assessments to permitted land use; and amending RCW 84.40.030.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 84.40.030 and 1994 c 124 s 20 are each amended to read as follows:

All property shall be valued at one hundred percent of its true and fair value in money and assessed on the same basis unless specifically provided otherwise by law.

Taxable leasehold estates shall be valued at such price as they would bring at a fair, voluntary sale for cash without any deductions for any indebtedness owed including rentals to be paid.

The true and fair value of real property for taxation purposes (including property upon which there is a coal or other mine, or stone or other quarry) shall be based upon the following criteria:

(1) Any sales of the property being appraised or similar properties with respect to sales made within the past five years. The appraisal shall be consistent with the comprehensive land use plan, development regulations under chapter 36.70A RCW, zoning, and any other governmental policies or practices in effect at the time of appraisal that affect the use of property, as well as physical and environmental influences. An assessment may not be determined by a method that assumes a land usage not permitted, for that property being appraised, under existing zoning or land use planning ordinances or statutes. The appraisal shall also take into account:

(a) In the use of sales by real estate contract as similar sales, the extent, if any, to which the stated selling price has been increased by reason of the down payment,

interest rate, or other financing terms; and (b) the extent to which the sale of a similar property actually represents the general effective market demand for property of such type, in the geographical area in which such property is located. Sales involving deed releases or similar seller-developer financing arrangements shall not be used as sales of similar property.

(2) In addition to sales as defined in subsection (1), consideration may be given to cost, cost less depreciation, reconstruction cost less depreciation, or capitalization of income that would be derived from prudent use of the property. In the case of property of a complex nature, or being used under terms of a franchise from a public agency, or operating as a public utility, or property not having a record of sale within five years and not having a significant number of sales of similar property in the general area, the provisions of this subsection (2) shall be the dominant factors in valuation. When provisions of this subsection (2) are relied upon for establishing values the property owner shall be advised upon request of the factors used in arriving at such value.

(3) In valuing any tract or parcel of real property, the value of the land, exclusive of structures thereon shall be determined; also the value of structures thereon, but the valuation shall not exceed the value of the total property as it exists. In valuing agricultural land, growing crops shall be excluded.

Passed the Senate February 26, 1997.

Passed the House April 10, 1997.

Approved by the Governor April 22, 1997.

Filed in Office of Secretary of State April 22, 1997.

CHAPTER 135

[Senate Bill 5111]

MAPS BY COUNTY ASSESSORS FOR LISTING OF REAL ESTATE

AN ACT Relating to the preparation of maps by county assessors for listing of real estate; and amending RCW 84.40.160.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 84.40.160 and 1961 c 15 s 84.40.160 are each amended to read as follows:

The assessor shall list all real property according to the largest legal subdivision as near as practicable. The assessor shall make out in the plat and description book in numerical order a complete list of all lands or lots subject to taxation, showing the names and owners, if to him known and if unknown, so stated; the number of acres and lots or parts of lots included in each description of property and the value per acre or lot: PROVIDED, That the assessor shall give to each tract of land where described by metes and bounds a number, to be designated as Tax No. . . . , which said number shall be placed on the tax rolls to indicate that certain piece of real property bearing such number, and described by

metes and bounds in the plat and description book herein mentioned, and it shall not be necessary to enter a description by metes and bounds on the tax roll of the county, and the assessor's plat and description book shall be kept as a part of the tax collector's records: AND PROVIDED, FURTHER, That the board of county commissioners of any county may by order direct that the property be listed numerically according to lots and blocks or section, township and range, in the smallest platted or government subdivision, and when so listed the value of each block, lot or tract, the value of the improvements thereon and the total value thereof, including improvements thereon, shall be extended after the description of each lot, block or tract, which last extension shall be in the column headed "Total value of each tract, lot or block of land assessed with improvements as returned by the assessor." In carrying the values of said property into the column representing the equalized value thereof, the county assessor shall include and carry over in one item the equalized valuation of all lots in one block, or land in one section, listed consecutively, which belong to any one person, firm or corporation, and are situated within the same taxing district, and in the assessed value of which the county board of equalization has made no change. Where assessed valuations are changed, the equalized valuation must be extended and shown by item.

The assessor shall prepare and possess a complete set of maps drawn to indicate parcel configuration for lands in the county. The assessor shall continually update the maps to reflect transfers, conveyances, acquisitions, or any other transaction or event that changes the boundaries of any parcel and shall renumber the parcels or prepare new map pages for any portion of the maps to show combinations or divisions of parcels.

Passed the Senate March 10, 1997.

Passed the House April 10, 1997.

Approved by the Governor April 22, 1997.

Filed in Office of Secretary of State April 22, 1997.

CHAPTER 136

[Substitute Senate Bill 5121]

ESTATE TAXES—WAIVER OR CANCELLATION OF INTEREST OR PENALTIES ON EXCUSED RETURNS

AN ACT Relating to the waiver or cancellation of interest or penalties for certain estate tax returns; and amending RCW 83.100.070.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 83.100.070 and 1996 c 149 s 13 are each amended to read as follows:

(1) Any tax due under this chapter which is not paid by the due date under RCW 83.100.060(1) shall bear interest at the rate of twelve percent per annum from the date the tax is due until the date of payment.

(2) Interest imposed under this section for periods after January 1, 1997, shall be computed at the rate as computed under RCW 82.32.050(2). The rate so computed shall be adjusted on the first day of January of each year.

(3) If the Washington return is not filed when due under RCW 83.100.050, then the person required to file the federal return shall pay, in addition to interest, a penalty equal to five percent of the tax due for each month after the date the return is due until filed. No penalty may exceed twenty-five percent of the tax due. If the department finds that a return due under this chapter has not been filed by the due date, and the delinquency was the result of circumstances beyond the control of the responsible person, the department shall waive or cancel any penalties imposed under this chapter with respect to the filing of such a tax return. The department shall adopt rules for the waiver or cancellation of the penalties imposed by this section.

Passed the Senate March 11, 1997.

Passed the House April 10, 1997.

Approved by the Governor April 22, 1997.

Filed in Office of Secretary of State April 22, 1997.

CHAPTER 137

[Senate Bill 5139]

PARKS RENEWAL AND STEWARDSHIP ACCOUNT

AN ACT Relating to the state parks and recreation commission fiscal matters; amending RCW 43.51.050, 43.51.052, 43.51.090, 43.51.685, and 70.88.070; providing an effective date; and declaring an emergency.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 43.51.050 and 1987 c 225 s 1 are each amended to read as follows:

The commission may:

(1) Study and appraise parks and recreational needs of the state and assemble and disseminate information relative to parks and recreation;

(2) Make provisions for the publication and sale (~~(in-state parks facilities)~~) of interpretive, recreational, and historical materials and literature. Proceeds from such sales shall be directed to the parks improvement account; and

(3) Coordinate the parks and recreational functions of the various state departments, and cooperate with state and federal agencies in the promotion of parks and recreational opportunities.

Sec. 2. RCW 43.51.052 and 1987 c 225 s 2 are each amended to read as follows:

The parks improvement account is hereby established in the state treasury. The parks and recreation commission shall deposit all moneys received from the sale of interpretive, recreational, and historical literature and materials in this account. Moneys in the account may be spent only for development, production,

and distribution costs associated with literature and materials(~~(, and for enhancements to park facilities that are supplementary to those improvements approved through the appropriation process)~~). Disbursements from the account shall be on the authority of the director of the parks and recreation commission, or the director's designee. The account is subject to the allotment procedure provided under chapter 43.88 RCW. No appropriation is required for disbursement of moneys to be used for support of further production of materials provided for in RCW 43.51.050(2) (~~but any moneys to be used for other capital or operating purposes must be appropriated~~). The director may transfer a portion of the moneys in this account to the state parks renewal and stewardship account and may expend moneys so transferred for any purpose provided for in RCW 43.51.275.

Sec. 3. RCW 43.51.090 and 1969 c 99 s 2 are each amended to read as follows:

The commission may receive in trust any money donated or bequeathed to it, and carry out the terms of such donation or bequest, or, in the absence of such terms, expend the same as it may deem advisable for park or parkway purposes.

Money so received shall be deposited in the state (~~general fund~~) parks renewal and stewardship account.

Sec. 4. RCW 43.51.685 and 1995 c 203 s 1 are each amended to read as follows:

Lands within the Seashore Conservation Area shall not be sold, leased, or otherwise disposed of, except as herein provided. The commission may, under authority granted in RCW 43.51.210 and 43.51.215, exchange state park lands in the Seashore Conservation Area for lands of equal value to be managed by the commission consistent with this chapter. Only state park lands lying east of the Seashore Conservation Line, as it is located at the time of exchange, may be so exchanged. The department of natural resources may lease the lands within the Washington State Seashore Conservation Area as well as the accreted lands along the ocean in state ownership for the exploration and production of oil and gas: PROVIDED, That oil drilling rigs and equipment will not be placed on the Seashore Conservation Area or state-owned accreted lands.

Sale of sand from accretions shall be made to supply the needs of cranberry growers for cranberry bogs in the vicinity and shall not be prohibited if found by the commission to be reasonable, and not generally harmful or destructive to the character of the land: PROVIDED, That the commission may grant leases and permits for the removal of sands for construction purposes from any lands within the Seashore Conservation Area if found by the commission to be reasonable and not generally harmful or destructive to the character of the land: PROVIDED FURTHER, That net income from such leases shall be deposited in the (~~general fund~~) state parks renewal and stewardship account.

Sec. 5. RCW 70.88.070 and 1990 c 136 s 1 are each amended to read as follows:

The expenses incurred in connection with making inspections under this chapter shall be paid by the owner or operator of such recreational devices either by reimbursing the commission for the costs incurred or by paying directly such individuals or firms that may be engaged by the commission to accomplish the inspection service. Payment shall be made only upon notification by the commission of the amount due. The commission shall maintain accurate and complete records of the costs incurred for each inspection and plan review for construction approval and shall assess the respective owners or operators of said recreational devices only for the actual costs incurred by the commission for such safety inspections and plan review for construction approval. The costs as assessed by the commission shall be a lien on the equipment of the owner or operator of the recreational devices so inspected. Such moneys collected by the commission ~~((hereunder))~~ under this section shall be paid into the state parks renewal and ~~((parkways))~~ stewardship account ~~((of the general fund))~~.

NEW SECTION. Sec. 6. This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect July 1, 1997.

Passed the Senate March 6, 1997.

Passed the House April 10, 1997.

Approved by the Governor April 22, 1997.

Filed in Office of Secretary of State April 22, 1997.

CHAPTER 138

[Senate Bill 5181]

CONSUMER SECURITY AGREEMENTS—LIABILITY FOR DEFICIENCY AFTER DEFAULT

AN ACT Relating to a debtor's liability for a deficiency after default under a security agreement; and amending RCW 62A.9-501.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 62A.9-501 and 1981 c 41 s 34 are each amended to read as follows:

(1) When a debtor is in default under a security agreement, a secured party has the rights and remedies provided in this Part and except as limited by subsection (3) of this section those provided in the security agreement. He or she may reduce his or her claim to judgment, foreclose or otherwise enforce the security interest by any available judicial procedure. If the collateral is documents the secured party may proceed either as to the documents or as to the goods covered thereby. A secured party in possession has the rights, remedies and duties provided in RCW 62A.9-207. The rights and remedies referred to in this subsection are cumulative.

~~((Notwithstanding any other provision of this Code, in the case of a purchase money security interest in consumer goods taken or retained by the seller of such collateral to secure all or part of its price, the debtor shall not be liable for any deficiency after the secured party has disposed of such collateral under RCW~~

~~62A.9-504 or has retained such collateral in satisfaction of the debt under subsection (2) of RCW 62A.9-505.)~~

(2) After default, the debtor has the rights and remedies provided in this Part, those provided in the security agreement and those provided in RCW 62A.9-207.

(3) To the extent that they give rights to the debtor and impose duties on the secured party, the rules stated in the subsections referred to ~~((below))~~ in (a) through (e) of this subsection may not be waived or varied except as provided with respect to compulsory disposition of collateral (subsection (3) of RCW 62A.9-504 and RCW 62A.9-505) and with respect to redemption of collateral (RCW 62A.9-506) but the parties may by agreement determine the standards by which the fulfillment of these rights and duties is to be measured if such standards are not manifestly unreasonable:

(a) subsection (2) of RCW 62A.9-502 and subsection (2) of RCW 62A.9-504 insofar as they require accounting for surplus proceeds of collateral;

(b) subsection (3) of RCW 62A.9-504 and subsection (1) of RCW 62A.9-505 which deal with disposition of collateral;

(c) subsection (2) of RCW 62A.9-505 which deals with acceptance of collateral as discharge of obligation;

(d) RCW 62A.9-506 which deals with redemption of collateral; and

(e) subsection (1) of RCW 62A.9-507 which deals with the secured party's liability for failure to comply with this Part.

(4) If the security agreement covers both real and personal property, the secured party may proceed under this Part as to the personal property or he or she may proceed as to both the real and the personal property in accordance with his or her rights and remedies in respect of the real property in which case the provisions of this Part do not apply.

(5) When a secured party has reduced his or her claim to judgment the lien of any levy which may be made upon his or her collateral by virtue of any execution based upon the judgment shall relate back to the date of the perfection of the security interest in such collateral. A judicial sale, pursuant to such execution, is a foreclosure of the security interest by judicial procedure within the meaning of this section, and the secured party may purchase at the sale and thereafter hold the collateral free of any other requirements of this Article.

Passed the Senate March 13, 1997.

Passed the House April 10, 1997.

Approved by the Governor April 22, 1997.

Filed in Office of Secretary of State April 22, 1997.

CHAPTER 139

[Senate Bill 5383]

COLLECTION OF SALES TAX ON MANUFACTURED HOUSING—ADMINISTRATION

AN ACT Relating to the collection of sales tax on manufactured housing; creating a new section; repealing RCW 82.08.065; providing an effective date; and declaring an emergency.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. Sec. 1. RCW 82.08.065 was adopted to facilitate the prompt collection of sales tax on mobile homes by the county auditors contemporaneous with issuance of title. Subsequent legislation rendered the statute ineffective for accomplishing the purpose and has in fact unnecessarily contributed to delay in both titling and tax collection, thereby having a negative impact on consumers, the manufactured housing industry, and the state. Therefore, the legislature finds that the situation will be resolved by returning to the tax collection system in place before the enactment of RCW 82.08.065.

NEW SECTION. Sec. 2. RCW 82.08.065 and 1991 c 327 s 5, 1990 c 171 s 8, & 1987 c 89 s 1 are each repealed.

NEW SECTION. Sec. 3. This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect July 1, 1997.

Passed the Senate March 17, 1997.

Passed the House April 10, 1997.

Approved by the Governor April 22, 1997.

Filed in Office of Secretary of State April 22, 1997.

CHAPTER 140

[Second Substitute Senate Bill 5313]

ENVIRONMENTAL MITIGATION REVOLVING FUND

AN ACT Relating to environmental mitigation projects; amending RCW 43.79A.040; adding new sections to chapter 47.12 RCW; and creating a new section.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. Sec. 1. It is the intent of this act to provide environmental mitigation in advance of the construction of programmed projects where desirable and feasible, will provide a more efficient and predictable environmental permit process, increased benefits to environmental resources, and a key tool in using the watershed approach for environmental impact mitigation. The legislative transportation committee, through its adoption of the December 1994 report "Environmental Cost Savings and Permit Coordination Study," encourages state agencies to use a watershed approach based on a water resource inventory area in an improved environmental mitigation and permitting process. Establishment of an advanced transportation environmental mitigation revolving account would help the state to improve permit processes and environmental protection when providing transportation services.

NEW SECTION. Sec. 2. A new section is added to chapter 47.12 RCW to read as follows:

For the purpose of environmental mitigation of transportation projects, the department may acquire or develop, or both acquire and develop, environmental

mitigation sites in advance of the construction of programmed projects. The term "advanced environmental mitigation" means mitigation of adverse impacts upon the environment from transportation projects before their design and construction. Advanced environmental mitigation consists of the acquisition of property; the acquisition of property, water, or air rights; the development of property for the purposes of improved environmental management; engineering costs necessary for such purchase and development; and the use of advanced environmental mitigation sites to fulfill project environmental permit requirements. Advanced environmental mitigation must be conducted in a manner that is consistent with the definition of mitigation found in the council of environmental quality regulations (40 C.F.R. Sec. 1508.20) and the governor's executive order on wetlands (EO 90-04). Advanced environmental mitigation is for projects approved by the transportation commission as part of the state's six-year plan or included in the state highway system plan. Advanced environmental mitigation may also be conducted in partnership with federal, state, or local government agencies, tribal governments, interest groups, or private parties. Partnership arrangements may include joint acquisition and development of mitigation sites, purchasing and selling mitigation bank credits among participants, and transfer of mitigation site title from one party to another. Specific conditions of partnership arrangements will be developed in written agreements for each applicable environmental mitigation site.

NEW SECTION. Sec. 3. A new section is added to chapter 47.12 RCW to read as follows:

The advanced environmental mitigation revolving account is created in the custody of the treasurer, into which the department shall deposit directly and may expend without appropriation:

- (1) An initial appropriation included in the department of transportation's 1997-99 budget, and deposits from other identified sources;
- (2) All moneys received by the department from internal and external sources for the purposes of conducting advanced environmental mitigation; and
- (3) Interest gained from the management of the advanced environmental mitigation revolving account.

NEW SECTION. Sec. 4. A new section is added to chapter 47.12 RCW to read as follows:

(1) After advanced environmental mitigation is conducted from funds in the advanced environmental mitigation revolving account, the advanced environmental mitigation sites must be managed in accordance with any permits, agreements, or other legal documents under which the subject advanced environmental mitigation is conducted.

(2) When the department or any of its transportation partners proceeds with the construction of a transportation project that will use advanced environmental mitigation sites to meet the environmental mitigation needs of a project, the advanced environmental mitigation revolving account shall be reimbursed from

those transportation project funds appropriated for the use of the advanced environmental mitigation sites. Reimbursements to the advanced environmental mitigation revolving account must be paid at a rate that captures:

- (a) Projected land acquisition costs for environmental mitigation for the subject transportation project;
- (b) Advanced environmental mitigation site development costs;
- (c) Advanced environmental mitigation site operational costs (e.g., site monitoring);
- (d) Administrative costs for the management of the advanced environmental revolving account.

These costs must be adjusted based on inflation, as appropriate.

When only a portion of an advanced environmental mitigation site is used, the reimbursement rate charged to the purchasing party will be prorated for the portion used.

NEW SECTION. Sec. 5. A new section is added to chapter 47.12 RCW to read as follows:

By January 1st of each odd-numbered year, the department shall report to the legislative transportation committee and the office of financial management:

- (1) Which properties were purchased and why;
- (2) Expenditures for the acquired parcels; and
- (3) Estimated savings from these actions.

Sec. 6. RCW 43.79A.040 and 1996 c 253 s 409 are each amended to read as follows:

(1) Money in the treasurer's trust fund may be deposited, invested, and reinvested by the state treasurer in accordance with RCW 43.84.080 in the same manner and to the same extent as if the money were in the state treasury.

(2) All income received from investment of the treasurer's trust fund shall be set aside in an account in the treasury trust fund to be known as the investment income account.

(3) The investment income account may be utilized for the payment of purchased banking services on behalf of treasurer's trust funds including, but not limited to, depository, safekeeping, and disbursement functions for the state treasurer or affected state agencies. The investment income account is subject in all respects to chapter 43.88 RCW, but no appropriation is required for payments to financial institutions. Payments shall occur prior to distribution of earnings set forth in subsection (4) of this section.

(4)(a) Monthly, the state treasurer shall distribute the earnings credited to the investment income account to the state general fund except under (b) and (c) of this subsection.

(b) The following accounts and funds shall receive their proportionate share of earnings based upon each account's or fund's average daily balance for the period: The agricultural local fund, the American Indian scholarship endowment fund, the Washington international exchange scholarship endowment fund, the

energy account, the fair fund, the game farm alternative account, the grain inspection revolving fund, the rural rehabilitation account, and the self-insurance revolving fund. However, the earnings to be distributed shall first be reduced by the allocation to the state treasurer's service fund pursuant to RCW 43.08.190.

(c) The following accounts and funds shall receive eighty percent of their proportionate share of earnings based upon each account's or fund's average daily balance for the period: The advanced right of way revolving fund, the advanced environmental mitigation revolving account, the federal narcotics asset forfeitures account, the high occupancy vehicle account, and the local rail service assistance account.

(5) In conformance with Article II, section 37 of the state Constitution, no trust accounts or funds shall be allocated earnings without the specific affirmative directive of this section.

Passed the Senate March 14, 1997.

Passed the House April 10, 1997.

Approved by the Governor April 22, 1997.

Filed in Office of Secretary of State April 22, 1997.

CHAPTER 141

[Senate Bill 5395]

DETERMINATION OF SALARIES OF CERTIFICATED INSTRUCTIONAL STAFF IN BASIC EDUCATION AND SPECIAL EDUCATION PROGRAMS

AN ACT Relating to the formula for determining certificated instructional staff salaries in basic education and special education programs; and amending RCW 28A.150.410 and 28A.400.200.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 28A.150.410 and 1990 c 33 s 118 are each amended to read as follows:

(1) The legislature shall establish for each school year in the appropriations act a state-wide salary allocation schedule, for allocation purposes only, to be used to distribute funds for basic education certificated instructional staff salaries under RCW 28A.150.260.

(2) The superintendent of public instruction shall calculate salary allocations for state funded basic education certificated instructional staff by determining the district average salary for basic education and special education instructional staff using the salary allocation schedule established pursuant to this section. ~~((However, no district shall receive an allocation based upon an average basic education certificated instructional staff salary which is less than the average of the district's 1986-87 actual basic education certificated instructional staff salaries, as reported to the superintendent of public instruction prior to June 1, 1987, and the legislature may grant minimum salary increases on that base: PROVIDED, That the superintendent of public instruction may adjust this allocation based upon the education and experience of the district's certificated instructional staff:))~~

(3) Beginning January 1, 1992, no more than ninety college quarter-hour credits received by any employee after the baccalaureate degree may be used to determine compensation allocations under the state salary allocation schedule and LEAP documents referenced in the biennial appropriations act, or any replacement schedules and documents, unless:

- (a) The employee has a masters degree; or
- (b) The credits were used in generating state salary allocations before January 1, 1992.

Sec. 2. RCW 28A.400.200 and 1993 c 492 s 225 are each amended to read as follows:

(1) Every school district board of directors shall fix, alter, allow, and order paid salaries and compensation for all district employees in conformance with this section.

(2)(a) Salaries for certificated instructional staff shall not be less than the salary provided in the appropriations act in the state-wide salary allocation schedule for an employee with a baccalaureate degree and zero years of service; and

(b) Salaries for certificated instructional staff with a masters degree shall not be less than the salary provided in the appropriations act in the state-wide salary allocation schedule for an employee with a masters degree and zero years of service;

(3)(a) The actual average salary paid to basic education and special education certificated instructional staff shall not exceed the district's average basic education and special education program certificated instructional staff salary used for the state basic education allocations for that school year as determined pursuant to RCW 28A.150.410.

(b) Fringe benefit contributions for basic education and special education certificated instructional staff shall be included as salary under (a) of this subsection only to the extent that the district's actual average benefit contribution exceeds the amount of the insurance benefits allocation provided per certificated instructional staff unit in the state operating appropriations act in effect at the time the compensation is payable. For purposes of this section, fringe benefits shall not include payment for unused leave for illness or injury under RCW 28A.400.210; employer contributions for old age survivors insurance, workers' compensation, unemployment compensation, and retirement benefits under the Washington state retirement system; or employer contributions for health benefits in excess of the insurance benefits allocation provided per certificated instructional staff unit in the state operating appropriations act in effect at the time the compensation is payable. A school district may not use state funds to provide employer contributions for such excess health benefits.

(c) Salary and benefits for certificated instructional staff in programs other than basic education and special education shall be consistent with the salary and

benefits paid to certificated instructional staff in the basic education and special education programs.

(4) Salaries and benefits for certificated instructional staff may exceed the limitations in subsection (3) of this section only by separate contract for additional time, additional responsibilities, or incentives. Supplemental contracts shall not cause the state to incur any present or future funding obligation. Supplemental contracts shall be subject to the collective bargaining provisions of chapter 41.59 RCW and the provisions of RCW 28A.405.240, shall not exceed one year, and if not renewed shall not constitute adverse change in accordance with RCW 28A.405.300 through 28A.405.380. No district may enter into a supplemental contract under this subsection for the provision of services which are a part of the basic education program required by Article IX, section 3 of the state Constitution.

(5) Employee benefit plans offered by any district shall comply with RCW 28A.400.350 and 28A.400.275 and 28A.400.280.

Passed the Senate March 11, 1997.

Passed the House April 10, 1997.

Approved by the Governor April 22, 1997.

Filed in Office of Secretary of State April 22, 1997.

CHAPTER 142

[Senate Bill 5439]

SURFACE MINING—EXCLUSION FOR SMALL PUBLIC WORKS

AN ACT Relating to small public works surface mines; and amending RCW 78.44.031.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 78.44.031 and 1993 c 518 s 4 are each amended to read as follows:

Unless the context clearly indicates otherwise, the definitions in this section apply throughout this chapter.

(1) "Approved subsequent use" means the post surface-mining land use contained in an approved reclamation plan and approved by the local land use authority.

(2) "Completion of surface mining" means the cessation of mining and directly related activities in any segment of a surface mine that occurs when essentially all minerals that can be taken under the terms of the reclamation permit have been depleted except minerals required to accomplish reclamation according to the approved reclamation plan.

(3) "Department" means the department of natural resources.

(4) "Determination" means any action by the department including permit issuance, reporting, reclamation plan approval or modification, permit transfers, orders, fines, or refusal to issue permits.

(5) "Disturbed area" means any place where activities clearly in preparation for, or during, surface mining have physically disrupted, covered, compacted,

moved, or otherwise altered the characteristics of soil, bedrock, vegetation, or topography that existed prior to such activity. Disturbed areas may include but are not limited to: Working faces, water bodies created by mine-related excavation, pit floors, the land beneath processing plant and stock pile sites, spoil pile sites, and equipment staging areas.

Disturbed areas do not include:

(a) Surface mine access roads unless these have characteristics of topography, drainage, slope stability, or ownership that, in the opinion of the department, make reclamation necessary; and

(b) Lands that have been reclaimed to all standards outlined in this chapter, rules of the department, any applicable SEPA document, and the approved reclamation plan.

(6) "Miner" means any person or persons, any partnership, limited partnership, or corporation, or any association of persons, including every public or governmental agency engaged in mining from the surface.

(7) "Minerals" means clay, coal, gravel, industrial minerals, metallic substances, peat, sand, stone, topsoil, and any other similar solid material or substance to be excavated from natural deposits on or in the earth for commercial, industrial, or construction use.

(8) "Operations" means all mine-related activities, exclusive of reclamation, that include, but are not limited to activities that affect noise generation, air quality, surface and ground water quality, quantity, and flow, glare, pollution, traffic safety, ground vibrations, and/or significant or substantial impacts commonly regulated under provisions of land use or other permits of local government and local ordinances, or other state laws.

Operations specifically include:

(a) The mining or extraction of rock, stone, gravel, sand, earth, and other minerals;

(b) Blasting, equipment maintenance, sorting, crushing, and loading;

(c) On-site mineral processing including asphalt or concrete batching, concrete recycling, and other aggregate recycling;

(d) Transporting minerals to and from the mine, on site road maintenance, road maintenance for roads used extensively for surface mining activities, traffic safety, and traffic control.

(9) "Overburden" means the earth, rock, soil, and topsoil that lie above mineral deposits.

(10) "Permit holder" means any person or persons, any partnership, limited partnership, or corporation, or any association of persons, either natural or artificial, including every public or governmental agency engaged in surface mining and/or the operation of surface mines, whether individually, jointly, or through subsidiaries, agents, employees, operators, or contractors who holds a state reclamation permit.

(11) "Reclamation" means rehabilitation for the appropriate future use of disturbed areas resulting from surface mining including areas under associated mineral processing equipment and areas under stockpiled materials. Although both the need for and the practicability of reclamation will control the type and degree of reclamation in any specific surface mine, the basic objective shall be to reestablish on a perpetual basis the vegetative cover, soil stability, and water conditions appropriate to the approved subsequent use of the surface mine and to prevent or mitigate future environmental degradation.

(12) "Reclamation setbacks" include those lands along the margins of surface mines wherein minerals and overburden shall be preserved in sufficient volumes to accomplish reclamation according to the approved plan and the minimum reclamation standards. Maintenance of reclamation setbacks may not preclude other mine-related activities within the reclamation setback.

(13) "Recycling" means the reuse of minerals or rock products.

(14) "Screening" consists of vegetation, berms or other topography, fencing, and/or other screens that may be required to mitigate impacts of surface mining on adjacent properties and/or the environment.

(15) "Segment" means any portion of the surface mine that, in the opinion of the department:

(a) Has characteristics of topography, drainage, slope stability, ownership, mining development, or mineral distribution, that make reclamation necessary;

(b) Is not in use as part of surface mining and/or related activities; and

(c) Is larger than seven acres and has more than five hundred linear feet of working face except as provided in a segmental reclamation agreement approved by the department.

(16) "SEPA" means the state environmental policy act, chapter 43.21C RCW and rules adopted thereunder.

(17)(a) "Surface mine" means any area or areas in close proximity to each other, as determined by the department, where extraction of minerals from the surface results in:

(i) More than three acres of disturbed area;

(ii) Mined slopes greater than thirty feet high and steeper than 1.0 foot horizontal to 1.0 foot vertical; or

(iii) More than one acre of disturbed area within an eight acre area, when the disturbed area results from mineral prospecting or exploration activities.

(b) Surface mines include areas where mineral extraction from the surface occurs by the auger method or by reworking mine refuse or tailings, when these activities exceed the size or height thresholds listed in (a) of this subsection.

(c) Surface mining shall exclude excavations or grading used:

(i) Primarily for on-site construction, on-site road maintenance, or on-site landfill construction;

(ii) For the purpose of public safety or restoring the land following a natural disaster;

- (iii) For the purpose of removing stockpiles;
- (iv) For forest or farm road construction or maintenance on site or on contiguous lands;
- (v) Primarily for public works projects if the mines are owned or primarily operated by counties with 1993 populations of less than twenty thousand persons, and if each mine has less than seven acres of disturbed area;
- (vi) For sand authorized by RCW 43.51.685; and
- ~~((+i))~~ (vii) For underground mines.

(18) "Topsoil" means the naturally occurring upper part of a soil profile, including the soil horizon that is rich in humus and capable of supporting vegetation together with other sediments within four vertical feet of the ground surface.

Passed the Senate March 15, 1997.

Passed the House April 10, 1997.

Approved by the Governor April 22, 1997.

Filed in Office of Secretary of State April 22, 1997.

CHAPTER 143

[Senate Bill 5452]

NONPROFIT CANCER CLINICS—PROPERTY TAX EXEMPTION

AN ACT Relating to the property taxation of nonprofit cancer clinics; amending RCW 84.36.800, 84.36.805, and 84.36.810; adding a new section to chapter 84.36 RCW; and creating a new section.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. **Sec. 1.** A new section is added to chapter 84.36 RCW to read as follows:

(1) All real or personal property owned or used by a nonprofit organization, corporation, or association in connection with a nonprofit cancer clinic or center shall be exempt from taxation if all of the following conditions are met:

(a) The nonprofit cancer clinic or center must be comprised of or have been formed by an organization, corporation, or association qualified for exemption under section 501(c)(3) of the internal revenue code of 1986 (26 U.S.C. Sec. 501(c)(3)), by a municipal hospital corporation, or by both;

(b) The nonprofit organization, corporation, or association operating the nonprofit clinic or center and applying for the exemption must be qualified for exemption under section 501(c)(3) of the internal revenue code of 1986 (26 U.S.C. Sec. 501(c)(3)); and

(c) The property must be used primarily in connection with the prevention, detection, and treatment of cancer, except as provided in RCW 84.36.805.

(2)(a) As used in this section, "nonprofit cancer clinic or center" means a medical facility operated:

(i) By a nonprofit organization, corporation, or association associated with a nonprofit hospital or group of nonprofit hospitals, by a municipal hospital corporation, or by both; and

(ii) For the primary purpose of preventing and detecting cancer and treating cancer patients.

(b) For the purposes of this subsection, "primary purpose" means that at least fifty-one percent of the patients who receive treatment at the clinic or center do so because they have been diagnosed as having cancer. In carrying out its primary purpose, the nonprofit cancer clinic or center provides any combination of radiation therapy, chemotherapy, and ancillary services, directly related to the prevention, detection, and treatment of cancer. These ancillary services include, but are not limited to, patient screening, case management, counseling, and access to a tumor registry.

(3) The exemption also applies to administrative offices located within the nonprofit cancer clinic or center that are used exclusively in conjunction with the cancer treatment services provided by the nonprofit cancer clinic or center.

(4) If the real or personal property for which exemption is sought is leased, the benefit of the exemption must inure to the nonprofit cancer clinic or center.

Sec. 2. RCW 84.36.800 and 1994 c 124 s 18 are each amended to read as follows:

As used in RCW 84.36.020, 84.36.030, (~~84.36.550~~;) 84.36.037, 84.36.040, 84.36.041, 84.36.050, 84.36.060, 84.36.550, section 1 of this act, and 84.36.800 through 84.36.865:

(1) "Church purposes" means the use of real and personal property owned by a nonprofit religious organization for religious worship or related administrative, educational, eleemosynary, and social activities. This definition is to be broadly construed;

(2) "Convent" means a house or set of buildings occupied by a community of clergy or nuns devoted to religious life under a superior;

(3) "Hospital" means any portion of a hospital building, or other buildings in connection therewith, used as a residence for persons engaged or employed in the operation of a hospital, or operated as a portion of the hospital unit;

(4) "Nonprofit" means an organization, association or corporation no part of the income of which is paid directly or indirectly to its members, stockholders, officers, directors or trustees except in the form of services rendered by the organization, association, or corporation in accordance with its purposes and bylaws and the salary or compensation paid to officers of such organization, association or corporation is for actual services rendered and compares to the salary or compensation of like positions within the public services of the state;

(5) "Parsonage" means a residence occupied by a member of the clergy who has been designated for a particular congregation and who holds regular services therefor.

Sec. 3. RCW 84.36.805 and 1995 2nd sp.s. c 9 s 2 are each amended to read as follows:

In order to be exempt pursuant to RCW 84.36.030, ~~((84.36.550,))~~ 84.36.035, 84.36.037, 84.36.040, 84.36.041, 84.36.043, 84.36.045, 84.36.047, 84.36.050, 84.36.060, 84.36.350, ~~((and))~~ 84.36.480, 84.36.550, and section 1 of this act, the nonprofit organizations, associations or corporations shall satisfy the following conditions:

(1) The property is used exclusively for the actual operation of the activity for which exemption is granted, unless otherwise provided, and does not exceed an amount reasonably necessary for that purpose, except:

(a) The loan or rental of the property does not subject the property to tax if:

(i) The rents and donations received for the use of the portion of the property are reasonable and do not exceed the maintenance and operation expenses attributable to the portion of the property loaned or rented; and

(ii) Except for the exemptions under RCW 84.36.030(4) and 84.36.037, the property would be exempt from tax if owned by the organization to which it is loaned or rented;

(b) The use of the property for fund-raising activities does not subject the property to tax if the fund-raising activities are consistent with the purposes for which the exemption is granted;

(2) The property is irrevocably dedicated to the purpose for which exemption has been granted, and on the liquidation, dissolution, or abandonment by said organization, association, or corporation, said property will not inure directly or indirectly to the benefit of any shareholder or individual, except a nonprofit organization, association, or corporation which too would be entitled to property tax exemption~~((=PROVIDED, That the))~~. This property need not be irrevocably dedicated if it is leased or rented to those qualified for exemption pursuant to RCW 84.36.035, 84.36.040, 84.36.041, ~~((or))~~ 84.36.043, or section 1 of this act or those qualified for exemption as an association engaged in the production or performance of musical, dance, artistic, dramatic, or literary works pursuant to RCW 84.36.060, but only if under the terms of the lease or rental agreement the nonprofit organization, association, or corporation receives the benefit of the exemption;

(3) The facilities and services are available to all regardless of race, color, national origin or ancestry;

(4) The organization, association, or corporation is duly licensed or certified where such licensing or certification is required by law or regulation;

(5) Property sold to organizations, associations, or corporations with an option to be repurchased by the seller shall not qualify for exempt status;

(6) The director of the department of revenue shall have access to its books in order to determine whether such organization, association, or corporation is exempt from taxes within the intent of RCW 84.36.030, 84.36.035, 84.36.037, 84.36.040, 84.36.041, 84.36.043, 84.36.045, 84.36.047, 84.36.050, 84.36.060, 84.36.350, ~~((and))~~ 84.36.480, and section 1 of this act.

Sec. 4. RCW 84.36.810 and 1994 c 124 s 19 are each amended to read as follows:

(1) Upon cessation of a use under which an exemption has been granted pursuant to RCW 84.36.030, (~~84.36.550;~~) 84.36.037, 84.36.040, 84.36.041, 84.36.043, 84.36.050, (~~and~~) 84.36.060, 84.36.550, and section 1 of this act, the county treasurer shall collect all taxes which would have been paid had the property not been exempt during the three years preceding, or the life of such exemption, if such be less, together with the interest at the same rate and computed in the same way as that upon delinquent property taxes. Where the property has been granted an exemption for more than ten years, taxes and interest shall not be assessed under this section.

(2) Subsection (1) of this section applies only when ownership of the property is transferred or when fifty-one percent or more of the area of the property has lost its exempt status. The additional tax under subsection (1) of this section shall not be imposed if the cessation of use resulted solely from:

(a) Transfer to a nonprofit organization, association, or corporation for a use which also qualifies and is granted exemption under the provisions of chapter 84.36 RCW;

(b) A taking through the exercise of the power of eminent domain, or sale or transfer to an entity having the power of eminent domain in anticipation of the exercise of such power;

(c) Official action by an agency of the state of Washington or by the county or city within which the property is located which disallows the present use of such property;

(d) A natural disaster such as a flood, windstorm, earthquake, or other such calamity rather than by virtue of the act of the organization, association, or corporation changing the use of such property;

(e) Relocation of the activity and use of another location or site except for undeveloped properties of camp facilities exempted under RCW 84.36.030;

(f) Cancellation of a lease on property that had been exempt under RCW 84.36.040, 84.36.041, 84.36.043, (~~or~~) 84.36.060, or section 1 of this act;

(g) A change in the exempt portion of a home for the aging under RCW 84.36.041(3), as long as some portion of the home remains exempt;

(h) The conversion of a full exemption of a home for the aging to a partial exemption or taxable status or the conversion of a partial exemption to taxable status under RCW 84.36.041(8).

NEW SECTION. Sec. 5. This act is effective for taxes levied for collection in 1998 and thereafter.

Passed the Senate March 17, 1997.

Passed the House April 10, 1997.

Approved by the Governor April 22, 1997.

Filed in Office of Secretary of State April 22, 1997.

CHAPTER 144

[Senate Bill 5519]

MONITORING COMPLIANCE WITH SENTENCING CONDITIONS

AN ACT Relating to assuring compliance with sentence conditions; and reenacting and amending RCW 9.94A.030 and 9.94A.120.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 9.94A.030 and 1996 c 289 s 1 and 1996 c 275 s 5 are each reenacted and amended to read as follows:

Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter.

(1) "Collect," or any derivative thereof, "collect and remit," or "collect and deliver," when used with reference to the department of corrections, means that the department is responsible for monitoring and enforcing the offender's sentence with regard to the legal financial obligation, receiving payment thereof from the offender, and, consistent with current law, delivering daily the entire payment to the superior court clerk without depositing it in a departmental account.

(2) "Commission" means the sentencing guidelines commission.

(3) "Community corrections officer" means an employee of the department who is responsible for carrying out specific duties in supervision of sentenced offenders and monitoring of sentence conditions.

(4) "Community custody" means that portion of an inmate's sentence of confinement in lieu of earned early release time or imposed pursuant to RCW 9.94A.120 (6), (8), or (10) served in the community subject to controls placed on the inmate's movement and activities by the department of corrections.

(5) "Community placement" means that period during which the offender is subject to the conditions of community custody and/or postrelease supervision, which begins either upon completion of the term of confinement (postrelease supervision) or at such time as the offender is transferred to community custody in lieu of earned early release. Community placement may consist of entirely community custody, entirely postrelease supervision, or a combination of the two.

(6) "Community service" means compulsory service, without compensation, performed for the benefit of the community by the offender.

(7) "Community supervision" means a period of time during which a convicted offender is subject to crime-related prohibitions and other sentence conditions imposed by a court pursuant to this chapter or RCW 16.52.200(6) or 46.61.524. For first-time offenders, the supervision may include crime-related prohibitions and other conditions imposed pursuant to RCW 9.94A.120(5). For purposes of the interstate compact for out-of-state supervision of parolees and probationers, RCW 9.95.270, community supervision is the functional equivalent of probation and should be considered the same as probation by other states.

(8) "Confinement" means total or partial confinement as defined in this section.

(9) "Conviction" means an adjudication of guilt pursuant to Titles 10 or 13 RCW and includes a verdict of guilty, a finding of guilty, and acceptance of a plea of guilty.

(10) "Court-ordered legal financial obligation" means a sum of money that is ordered by a superior court of the state of Washington for legal financial obligations which may include restitution to the victim, statutorily imposed crime victims' compensation fees as assessed pursuant to RCW 7.68.035, court costs, county or interlocal drug funds, court-appointed attorneys' fees, and costs of defense, fines, and any other financial obligation that is assessed to the offender as a result of a felony conviction. Upon conviction for vehicular assault while under the influence of intoxicating liquor or any drug, RCW 46.61.522(1)(b), or vehicular homicide while under the influence of intoxicating liquor or any drug, RCW 46.61.520(1)(a), legal financial obligations may also include payment to a public agency of the expense of an emergency response to the incident resulting in the conviction, subject to the provisions in RCW 38.52.430.

(11) "Crime-related prohibition" means an order of a court prohibiting conduct that directly relates to the circumstances of the crime for which the offender has been convicted, and shall not be construed to mean orders directing an offender affirmatively to participate in rehabilitative programs or to otherwise perform affirmative conduct. However, affirmative acts necessary to monitor compliance with the order of a court may be required by the department.

(12)(a) "Criminal history" means the list of a defendant's prior convictions, whether in this state, in federal court, or elsewhere. The history shall include, where known, for each conviction (i) whether the defendant has been placed on probation and the length and terms thereof; and (ii) whether the defendant has been incarcerated and the length of incarceration.

(b) "Criminal history" shall always include juvenile convictions for sex offenses and serious violent offenses and shall also include a defendant's other prior convictions in juvenile court if: (i) The conviction was for an offense which is a felony or a serious traffic offense and is criminal history as defined in RCW 13.40.020(9); (ii) the defendant was fifteen years of age or older at the time the offense was committed; and (iii) with respect to prior juvenile class B and C felonies or serious traffic offenses, the defendant was less than twenty-three years of age at the time the offense for which he or she is being sentenced was committed.

(13) "Day fine" means a fine imposed by the sentencing judge that equals the difference between the offender's net daily income and the reasonable obligations that the offender has for the support of the offender and any dependents.

(14) "Day reporting" means a program of enhanced supervision designed to monitor the defendant's daily activities and compliance with sentence conditions, and in which the defendant is required to report daily to a specific location designated by the department or the sentencing judge.

(15) "Department" means the department of corrections.

(16) "Determinate sentence" means a sentence that states with exactitude the number of actual years, months, or days of total confinement, of partial confinement, of community supervision, the number of actual hours or days of community service work, or dollars or terms of a legal financial obligation. The fact that an offender through "earned early release" can reduce the actual period of confinement shall not affect the classification of the sentence as a determinate sentence.

(17) "Disposable earnings" means that part of the earnings of an individual remaining after the deduction from those earnings of any amount required by law to be withheld. For the purposes of this definition, "earnings" means compensation paid or payable for personal services, whether denominated as wages, salary, commission, bonuses, or otherwise, and, notwithstanding any other provision of law making the payments exempt from garnishment, attachment, or other process to satisfy a court-ordered legal financial obligation, specifically includes periodic payments pursuant to pension or retirement programs, or insurance policies of any type, but does not include payments made under Title 50 RCW, except as provided in RCW 50.40.020 and 50.40.050, or Title 74 RCW.

(18) "Drug offense" means:

(a) Any felony violation of chapter 69.50 RCW except possession of a controlled substance (RCW 69.50.401(d)) or forged prescription for a controlled substance (RCW 69.50.403);

(b) Any offense defined as a felony under federal law that relates to the possession, manufacture, distribution, or transportation of a controlled substance; or

(c) Any out-of-state conviction for an offense that under the laws of this state would be a felony classified as a drug offense under (a) of this subsection.

(19) "Escape" means:

(a) Escape in the first degree (RCW 9A.76.110), escape in the second degree (RCW 9A.76.120), willful failure to return from furlough (RCW 72.66.060), willful failure to return from work release (RCW 72.65.070), or willful failure to be available for supervision by the department while in community custody (RCW 72.09.310); or

(b) Any federal or out-of-state conviction for an offense that under the laws of this state would be a felony classified as an escape under (a) of this subsection.

(20) "Felony traffic offense" means:

(a) Vehicular homicide (RCW 46.61.520), vehicular assault (RCW 46.61.522), eluding a police officer (RCW 46.61.024), or felony hit-and-run injury-accident (RCW 46.52.020(4)); or

(b) Any federal or out-of-state conviction for an offense that under the laws of this state would be a felony classified as a felony traffic offense under (a) of this subsection.

(21) "Fines" means the requirement that the offender pay a specific sum of money over a specific period of time to the court.

(22)(a) "First-time offender" means any person who is convicted of a felony (i) not classified as a violent offense or a sex offense under this chapter, or (ii) that is not the manufacture, delivery, or possession with intent to manufacture or deliver a controlled substance classified in schedule I or II that is a narcotic drug, nor the manufacture, delivery, or possession with intent to deliver methamphetamine, its salts, isomers, and salts of its isomers as defined in RCW 69.50.206(d)(2), nor the selling for profit of any controlled substance or counterfeit substance classified in schedule I, RCW 69.50.204, except leaves and flowering tops of marihuana, and except as provided in (b) of this subsection, who previously has never been convicted of a felony in this state, federal court, or another state, and who has never participated in a program of deferred prosecution for a felony offense.

(b) For purposes of (a) of this subsection, a juvenile adjudication for an offense committed before the age of fifteen years is not a previous felony conviction except for adjudications of sex offenses and serious violent offenses.

(23) "Most serious offense" means any of the following felonies or a felony attempt to commit any of the following felonies, as now existing or hereafter amended:

(a) Any felony defined under any law as a class A felony or criminal solicitation of or criminal conspiracy to commit a class A felony;

(b) Assault in the second degree;

(c) Assault of a child in the second degree;

(d) Child molestation in the second degree;

(e) Controlled substance homicide;

(f) Extortion in the first degree;

(g) Incest when committed against a child under age fourteen;

(h) Indecent liberties;

(i) Kidnapping in the second degree;

(j) Leading organized crime;

(k) Manslaughter in the first degree;

(l) Manslaughter in the second degree;

(m) Promoting prostitution in the first degree;

(n) Rape in the third degree;

(o) Robbery in the second degree;

(p) Sexual exploitation;

(q) Vehicular assault;

(r) Vehicular homicide, when proximately caused by the driving of any vehicle by any person while under the influence of intoxicating liquor or any drug as defined by RCW 46.61.502, or by the operation of any vehicle in a reckless manner;

(s) Any other class B felony offense with a finding of sexual motivation, as "sexual motivation" is defined under this section;

(t) Any other felony with a deadly weapon verdict under RCW 9.94A.125;

(u) Any felony offense in effect at any time prior to December 2, 1993, that is comparable to a most serious offense under this subsection, or any federal or out-of-state conviction for an offense that under the laws of this state would be a felony classified as a most serious offense under this subsection.

(24) "Nonviolent offense" means an offense which is not a violent offense.

(25) "Offender" means a person who has committed a felony established by state law and is eighteen years of age or older or is less than eighteen years of age but whose case has been transferred by the appropriate juvenile court to a criminal court pursuant to RCW 13.40.110. Throughout this chapter, the terms "offender" and "defendant" are used interchangeably.

(26) "Partial confinement" means confinement for no more than one year in a facility or institution operated or utilized under contract by the state or any other unit of government, or, if home detention or work crew has been ordered by the court, in an approved residence, for a substantial portion of each day with the balance of the day spent in the community. Partial confinement includes work release, home detention, work crew, and a combination of work crew and home detention as defined in this section.

(27) "Persistent offender" is an offender who:

(a)(i) Has been convicted in this state of any felony considered a most serious offense; and

(ii) Has, before the commission of the offense under (a) of this subsection, been convicted as an offender on at least two separate occasions, whether in this state or elsewhere, of felonies that under the laws of this state would be considered most serious offenses and would be included in the offender score under RCW 9.94A.360; provided that of the two or more previous convictions, at least one conviction must have occurred before the commission of any of the other most serious offenses for which the offender was previously convicted; or

(b)(i) Has been convicted of (A) rape in the first degree, rape in the second degree, or indecent liberties by forcible compulsion; (B) murder in the first degree, murder in the second degree, kidnapping in the first degree, kidnapping in the second degree, assault in the first degree, assault in the second degree, or burglary in the first degree, with a finding of sexual motivation; or (C) an attempt to commit any crime listed in this subsection (27)(b)(i); and

(ii) Has, before the commission of the offense under (b)(i) of this subsection, been convicted as an offender on at least one occasion, whether in this state or elsewhere, of an offense listed in (b)(i) of this subsection.

(28) "Postrelease supervision" is that portion of an offender's community placement that is not community custody.

(29) "Restitution" means the requirement that the offender pay a specific sum of money over a specific period of time to the court as payment of damages. The sum may include both public and private costs. The imposition of a restitution order does not preclude civil redress.

(30) "Serious traffic offense" means:

(a) Driving while under the influence of intoxicating liquor or any drug (RCW 46.61.502), actual physical control while under the influence of intoxicating liquor or any drug (RCW 46.61.504), reckless driving (RCW 46.61.500), or hit-and-run an attended vehicle (RCW 46.52.020(5)); or

(b) Any federal, out-of-state, county, or municipal conviction for an offense that under the laws of this state would be classified as a serious traffic offense under (a) of this subsection.

(31) "Serious violent offense" is a subcategory of violent offense and means:

(a) Murder in the first degree, homicide by abuse, murder in the second degree, assault in the first degree, kidnapping in the first degree, or rape in the first degree, assault of a child in the first degree, or an attempt, criminal solicitation, or criminal conspiracy to commit one of these felonies; or

(b) Any federal or out-of-state conviction for an offense that under the laws of this state would be a felony classified as a serious violent offense under (a) of this subsection.

(32) "Sentence range" means the sentencing court's discretionary range in imposing a nonappealable sentence.

(33) "Sex offense" means:

(a) A felony that is a violation of chapter 9A.44 RCW or RCW 9A.64.020 or 9.68A.090 or a felony that is, under chapter 9A.28 RCW, a criminal attempt, criminal solicitation, or criminal conspiracy to commit such crimes;

(b) A felony with a finding of sexual motivation under RCW 9.94A.127 or 13.40.135; or

(c) Any federal or out-of-state conviction for an offense that under the laws of this state would be a felony classified as a sex offense under (a) of this subsection.

(34) "Sexual motivation" means that one of the purposes for which the defendant committed the crime was for the purpose of his or her sexual gratification.

(35) "Total confinement" means confinement inside the physical boundaries of a facility or institution operated or utilized under contract by the state or any other unit of government for twenty-four hours a day, or pursuant to RCW 72.64.050 and 72.64.060.

(36) "Transition training" means written and verbal instructions and assistance provided by the department to the offender during the two weeks prior to the offender's successful completion of the work ethic camp program. The transition training shall include instructions in the offender's requirements and obligations during the offender's period of community custody.

(37) "Victim" means any person who has sustained emotional, psychological, physical, or financial injury to person or property as a direct result of the crime charged.

(38) "Violent offense" means:

(a) Any of the following felonies, as now existing or hereafter amended: Any felony defined under any law as a class A felony or an attempt to commit a class A felony, criminal solicitation of or criminal conspiracy to commit a class A felony, manslaughter in the first degree, manslaughter in the second degree, indecent liberties if committed by forcible compulsion, kidnapping in the second degree, arson in the second degree, assault in the second degree, assault of a child in the second degree, extortion in the first degree, robbery in the second degree, vehicular assault, and vehicular homicide, when proximately caused by the driving of any vehicle by any person while under the influence of intoxicating liquor or any drug as defined by RCW 46.61.502, or by the operation of any vehicle in a reckless manner;

(b) Any conviction for a felony offense in effect at any time prior to July 1, 1976, that is comparable to a felony classified as a violent offense in (a) of this subsection; and

(c) Any federal or out-of-state conviction for an offense that under the laws of this state would be a felony classified as a violent offense under (a) or (b) of this subsection.

(39) "Work crew" means a program of partial confinement consisting of civic improvement tasks for the benefit of the community of not less than thirty-five hours per week that complies with RCW 9.94A.135. The civic improvement tasks shall have minimal negative impact on existing private industries or the labor force in the county where the service or labor is performed. The civic improvement tasks shall not affect employment opportunities for people with developmental disabilities contracted through sheltered workshops as defined in RCW 82.04.385. Only those offenders sentenced to a facility operated or utilized under contract by a county or the state are eligible to participate on a work crew. Offenders sentenced for a sex offense as defined in subsection (33) of this section are not eligible for the work crew program.

(40) "Work ethic camp" means an alternative incarceration program designed to reduce recidivism and lower the cost of corrections by requiring offenders to complete a comprehensive array of real-world job and vocational experiences, character-building work ethics training, life management skills development, substance abuse rehabilitation, counseling, literacy training, and basic adult education.

(41) "Work release" means a program of partial confinement available to offenders who are employed or engaged as a student in a regular course of study at school. Participation in work release shall be conditioned upon the offender attending work or school at regularly defined hours and abiding by the rules of the work release facility.

(42) "Home detention" means a program of partial confinement available to offenders wherein the offender is confined in a private residence subject to electronic surveillance.

Sec. 2. RCW 9.94A.120 and 1996 c 275 s 2, 1996 c 215 s 5, 1996 c 199 s 1, and 1996 c 93 s 1 are each reenacted and amended to read as follows:

When a person is convicted of a felony, the court shall impose punishment as provided in this section.

(1) Except as authorized in subsections (2), (4), (5), (6), and (8) of this section, the court shall impose a sentence within the sentence range for the offense.

(2) The court may impose a sentence outside the standard sentence range for that offense if it finds, considering the purpose of this chapter, that there are substantial and compelling reasons justifying an exceptional sentence.

(3) Whenever a sentence outside the standard range is imposed, the court shall set forth the reasons for its decision in written findings of fact and conclusions of law. A sentence outside the standard range shall be a determinate sentence.

(4) A persistent offender shall be sentenced to a term of total confinement for life without the possibility of parole or, when authorized by RCW 10.95.030 for the crime of aggravated murder in the first degree, sentenced to death, notwithstanding the maximum sentence under any other law. An offender convicted of the crime of murder in the first degree shall be sentenced to a term of total confinement not less than twenty years. An offender convicted of the crime of assault in the first degree or assault of a child in the first degree where the offender used force or means likely to result in death or intended to kill the victim shall be sentenced to a term of total confinement not less than five years. An offender convicted of the crime of rape in the first degree shall be sentenced to a term of total confinement not less than five years. The foregoing minimum terms of total confinement are mandatory and shall not be varied or modified as provided in subsection (2) of this section. In addition, all offenders subject to the provisions of this subsection shall not be eligible for community custody, earned early release time, furlough, home detention, partial confinement, work crew, work release, or any other form of early release as defined under RCW 9.94A.150 (1), (2), (3), (5), (7), or (8), or any other form of authorized leave of absence from the correctional facility while not in the direct custody of a corrections officer or officers during such minimum terms of total confinement except in the case of an offender in need of emergency medical treatment or for the purpose of commitment to an inpatient treatment facility in the case of an offender convicted of the crime of rape in the first degree.

(5) In sentencing a first-time offender the court may waive the imposition of a sentence within the sentence range and impose a sentence which may include up to ninety days of confinement in a facility operated or utilized under contract by the county and a requirement that the offender refrain from committing new offenses. The sentence may also include up to two years of community supervision, which, in addition to crime-related prohibitions, may include requirements that the offender perform any one or more of the following:

(a) Devote time to a specific employment or occupation;

- (b) Undergo available outpatient treatment for up to two years, or inpatient treatment not to exceed the standard range of confinement for that offense;
- (c) Pursue a prescribed, secular course of study or vocational training;
- (d) Remain within prescribed geographical boundaries and notify the court or the community corrections officer prior to any change in the offender's address or employment;
- (e) Report as directed to the court and a community corrections officer; or
- (f) Pay all court-ordered legal financial obligations as provided in RCW 9.94A.030 and/or perform community service work.

(6)(a) An offender is eligible for the special drug offender sentencing alternative if:

(i) The offender is convicted of the manufacture, delivery, or possession with intent to manufacture or deliver a controlled substance classified in Schedule I or II that is a narcotic drug or a felony that is, under chapter 9A.28 RCW or RCW 69.50.407, a criminal attempt, criminal solicitation, or criminal conspiracy to commit such crimes, and the violation does not involve a sentence enhancement under RCW 9.94A.310 (3) or (4);

(ii) The offender has no prior convictions for a felony in this state, another state, or the United States; and

(iii) The offense involved only a small quantity of the particular controlled substance as determined by the judge upon consideration of such factors as the weight, purity, packaging, sale price, and street value of the controlled substance.

(b) If the midpoint of the standard range is greater than one year and the sentencing judge determines that the offender is eligible for this option and that the offender and the community will benefit from the use of the special drug offender sentencing alternative, the judge may waive imposition of a sentence within the standard range and impose a sentence that must include a period of total confinement in a state facility for one-half of the midpoint of the standard range. During incarceration in the state facility, offenders sentenced under this subsection shall undergo a comprehensive substance abuse assessment and receive, within available resources, treatment services appropriate for the offender. The treatment services shall be designed by the division of alcohol and substance abuse of the department of social and health services, in cooperation with the department of corrections. If the midpoint of the standard range is twenty-four months or less, no more than three months of the sentence may be served in a work release status. The court shall also impose one year of concurrent community custody and community supervision that must include appropriate outpatient substance abuse treatment, crime-related prohibitions including a condition not to use illegal controlled substances, and a requirement to submit to urinalysis or other testing to monitor that status. The court may require that the monitoring for controlled substances be conducted by the department or by a treatment alternatives to street crime program or a comparable court or agency-referred program. The offender may be required to pay thirty dollars per month while on community custody to

offset the cost of monitoring. In addition, the court shall impose three or more of the following conditions:

- (i) Devote time to a specific employment or training;
- (ii) Remain within prescribed geographical boundaries and notify the court or the community corrections officer before any change in the offender's address or employment;
- (iii) Report as directed to a community corrections officer;
- (iv) Pay all court-ordered legal financial obligations;
- (v) Perform community service work,
- (vi) Stay out of areas designated by the sentencing judge.

(c) If the offender violates any of the sentence conditions in (b) of this subsection, the department shall impose sanctions administratively, with notice to the prosecuting attorney and the sentencing court. Upon motion of the court or the prosecuting attorney, a violation hearing shall be held by the court. If the court finds that conditions have been willfully violated, the court may impose confinement consisting of up to the remaining one-half of the midpoint of the standard range. All total confinement served during the period of community custody shall be credited to the offender, regardless of whether the total confinement is served as a result of the original sentence, as a result of a sanction imposed by the department, or as a result of a violation found by the court. The term of community supervision shall be tolled by any period of time served in total confinement as a result of a violation found by the court.

(d) The department shall determine the rules for calculating the value of a day fine based on the offender's income and reasonable obligations which the offender has for the support of the offender and any dependents. These rules shall be developed in consultation with the administrator for the courts, the office of financial management, and the commission.

(7) If a sentence range has not been established for the defendant's crime, the court shall impose a determinate sentence which may include not more than one year of confinement, community service work, a term of community supervision not to exceed one year, and/or other legal financial obligations. The court may impose a sentence which provides more than one year of confinement if the court finds, considering the purpose of this chapter, that there are substantial and compelling reasons justifying an exceptional sentence.

(8)(a)(i) When an offender is convicted of a sex offense other than a violation of RCW 9A.44.050 or a sex offense that is also a serious violent offense and has no prior convictions for a sex offense or any other felony sex offenses in this or any other state, the sentencing court, on its own motion or the motion of the state or the defendant, may order an examination to determine whether the defendant is amenable to treatment.

The report of the examination shall include at a minimum the following: The defendant's version of the facts and the official version of the facts, the defendant's offense history, an assessment of problems in addition to alleged deviant behaviors,

the offender's social and employment situation, and other evaluation measures used. The report shall set forth the sources of the evaluator's information.

The examiner shall assess and report regarding the defendant's amenability to treatment and relative risk to the community. A proposed treatment plan shall be provided and shall include, at a minimum:

(A) Frequency and type of contact between offender and therapist;

(B) Specific issues to be addressed in the treatment and description of planned treatment modalities;

(C) Monitoring plans, including any requirements regarding living conditions, lifestyle requirements, and monitoring by family members and others;

(D) Anticipated length of treatment; and

(E) Recommended crime-related prohibitions.

The court on its own motion may order, or on a motion by the state shall order, a second examination regarding the offender's amenability to treatment. The evaluator shall be selected by the party making the motion. The defendant shall pay the cost of any second examination ordered unless the court finds the defendant to be indigent in which case the state shall pay the cost.

(ii) After receipt of the reports, the court shall consider whether the offender and the community will benefit from use of this special sexual offender sentencing alternative and consider the victim's opinion whether the offender should receive a treatment disposition under this subsection. If the court determines that this special sex offender sentencing alternative is appropriate, the court shall then impose a sentence within the sentence range. If this sentence is less than eight years of confinement, the court may suspend the execution of the sentence and impose the following conditions of suspension:

(A) The court shall place the defendant on community custody for the length of the suspended sentence or three years, whichever is greater, and require the offender to comply with any conditions imposed by the department of corrections under subsection (14) of this section; and

(B) The court shall order treatment for any period up to three years in duration. The court in its discretion shall order outpatient sex offender treatment or inpatient sex offender treatment, if available. A community mental health center may not be used for such treatment unless it has an appropriate program designed for sex offender treatment. The offender shall not change sex offender treatment providers or treatment conditions without first notifying the prosecutor, the community corrections officer, and the court, and shall not change providers without court approval after a hearing if the prosecutor or community corrections officer object to the change. In addition, as conditions of the suspended sentence, the court may impose other sentence conditions including up to six months of confinement, not to exceed the sentence range of confinement for that offense, crime-related prohibitions, and requirements that the offender perform any one or more of the following:

(I) Devote time to a specific employment or occupation;

(II) Remain within prescribed geographical boundaries and notify the court or the community corrections officer prior to any change in the offender's address or employment;

(III) Report as directed to the court and a community corrections officer;

(IV) Pay all court-ordered legal financial obligations as provided in RCW 9.94A.030, perform community service work, or any combination thereof; or

(V) Make recoupment to the victim for the cost of any counseling required as a result of the offender's crime.

(iii) The sex offender therapist shall submit quarterly reports on the defendant's progress in treatment to the court and the parties. The report shall reference the treatment plan and include at a minimum the following: Dates of attendance, defendant's compliance with requirements, treatment activities, the defendant's relative progress in treatment, and any other material as specified by the court at sentencing.

(iv) At the time of sentencing, the court shall set a treatment termination hearing for three months prior to the anticipated date for completion of treatment. Prior to the treatment termination hearing, the treatment professional and community corrections officer shall submit written reports to the court and parties regarding the defendant's compliance with treatment and monitoring requirements, and recommendations regarding termination from treatment, including proposed community supervision conditions. Either party may request and the court may order another evaluation regarding the advisability of termination from treatment. The defendant shall pay the cost of any additional evaluation ordered unless the court finds the defendant to be indigent in which case the state shall pay the cost. At the treatment termination hearing the court may: (A) Modify conditions of community custody, and either (B) terminate treatment, or (C) extend treatment for up to the remaining period of community custody.

(v) If a violation of conditions occurs during community custody, the department shall either impose sanctions as provided for in RCW 9.94A.205(2)(a) or refer the violation to the court and recommend revocation of the suspended sentence as provided for in (a)(vi) of this subsection.

(vi) The court may revoke the suspended sentence at any time during the period of community custody and order execution of the sentence if: (A) The defendant violates the conditions of the suspended sentence, or (B) the court finds that the defendant is failing to make satisfactory progress in treatment. All confinement time served during the period of community custody shall be credited to the offender if the suspended sentence is revoked.

(vii) Except as provided in (a)(viii) of this subsection, after July 1, 1991, examinations and treatment ordered pursuant to this subsection shall only be conducted by sex offender treatment providers certified by the department of health pursuant to chapter 18.155 RCW.

(viii) A sex offender therapist who examines or treats a sex offender pursuant to this subsection (8) does not have to be certified by the department of health

pursuant to chapter 18.155 RCW if the court finds that: (A) The offender has already moved to another state or plans to move to another state for reasons other than circumventing the certification requirements; (B) no certified providers are available for treatment within a reasonable geographical distance of the offender's home; and (C) the evaluation and treatment plan comply with this subsection (8) and the rules adopted by the department of health.

For purposes of this subsection, "victim" means any person who has sustained emotional, psychological, physical, or financial injury to person or property as a result of the crime charged. "Victim" also means a parent or guardian of a victim who is a minor child unless the parent or guardian is the perpetrator of the offense.

(b) When an offender commits any felony sex offense on or after July 1, 1987, and is sentenced to a term of confinement of more than one year but less than six years, the sentencing court may, on its own motion or on the motion of the offender or the state, request the department of corrections to evaluate whether the offender is amenable to treatment and the department may place the offender in a treatment program within a correctional facility operated by the department.

Except for an offender who has been convicted of a violation of RCW 9A.44.040 or 9A.44.050, if the offender completes the treatment program before the expiration of his or her term of confinement, the department of corrections may request the court to convert the balance of confinement to community supervision and to place conditions on the offender including crime-related prohibitions and requirements that the offender perform any one or more of the following:

- (i) Devote time to a specific employment or occupation;
- (ii) Remain within prescribed geographical boundaries and notify the court or the community corrections officer prior to any change in the offender's address or employment;
- (iii) Report as directed to the court and a community corrections officer;
- (iv) Undergo available outpatient treatment.

If the offender violates any of the terms of his or her community supervision, the court may order the offender to serve out the balance of his or her community supervision term in confinement in the custody of the department of corrections.

Nothing in this subsection (8)(b) shall confer eligibility for such programs for offenders convicted and sentenced for a sex offense committed prior to July 1, 1987. This subsection (8)(b) does not apply to any crime committed after July 1, 1990.

(c) Offenders convicted and sentenced for a sex offense committed prior to July 1, 1987, may, subject to available funds, request an evaluation by the department of corrections to determine whether they are amenable to treatment. If the offender is determined to be amenable to treatment, the offender may request placement in a treatment program within a correctional facility operated by the department. Placement in such treatment program is subject to available funds.

(9)(a) When a court sentences a person to a term of total confinement to the custody of the department of corrections for an offense categorized as a sex offense

or a serious violent offense committed after July 1, 1988, but before July 1, 1990, assault in the second degree, assault of a child in the second degree, any crime against a person where it is determined in accordance with RCW 9.94A.125 that the defendant or an accomplice was armed with a deadly weapon at the time of commission, or any felony offense under chapter 69.50 or 69.52 RCW not sentenced under subsection (6) of this section, committed on or after July 1, 1988, the court shall in addition to the other terms of the sentence, sentence the offender to a one-year term of community placement beginning either upon completion of the term of confinement or at such time as the offender is transferred to community custody in lieu of earned early release in accordance with RCW 9.94A.150 (1) and (2). When the court sentences an offender under this subsection to the statutory maximum period of confinement then the community placement portion of the sentence shall consist entirely of such community custody to which the offender may become eligible, in accordance with RCW 9.94A.150 (1) and (2). Any period of community custody actually served shall be credited against the community placement portion of the sentence.

(b) When a court sentences a person to a term of total confinement to the custody of the department of corrections for an offense categorized as a sex offense committed on or after July 1, 1990, but before June 6, 1996, a serious violent offense, vehicular homicide, or vehicular assault, committed on or after July 1, 1990, the court shall in addition to other terms of the sentence, sentence the offender to community placement for two years or up to the period of earned early release awarded pursuant to RCW 9.94A.150 (1) and (2), whichever is longer. The community placement shall begin either upon completion of the term of confinement or at such time as the offender is transferred to community custody in lieu of earned early release in accordance with RCW 9.94A.150 (1) and (2). When the court sentences an offender under this subsection to the statutory maximum period of confinement then the community placement portion of the sentence shall consist entirely of the community custody to which the offender may become eligible, in accordance with RCW 9.94A.150 (1) and (2). Any period of community custody actually served shall be credited against the community placement portion of the sentence. Unless a condition is waived by the court, the terms of community placement for offenders sentenced pursuant to this section shall include the following conditions:

(i) The offender shall report to and be available for contact with the assigned community corrections officer as directed;

(ii) The offender shall work at department of corrections-approved education, employment, and/or community service;

(iii) The offender shall not consume controlled substances except pursuant to lawfully issued prescriptions;

(iv) An offender in community custody shall not unlawfully possess controlled substances;

(v) The offender shall pay supervision fees as determined by the department of corrections; ~~((and))~~

(vi) The residence location and living arrangements are subject to the prior approval of the department of corrections during the period of community placement; and

(vii) The offender shall submit to affirmative acts necessary to monitor compliance with the orders of the court as required by the department.

(c) As a part of any sentence imposed under (a) or (b) of this subsection, the court may also order any of the following special conditions:

(i) The offender shall remain within, or outside of, a specified geographical boundary;

(ii) The offender shall not have direct or indirect contact with the victim of the crime or a specified class of individuals;

(iii) The offender shall participate in crime-related treatment or counseling services;

(iv) The offender shall not consume alcohol;

(v) The offender shall comply with any crime-related prohibitions; or

(vi) For an offender convicted of a felony sex offense against a minor victim after June 6, 1996, the offender shall comply with any terms and conditions of community placement imposed by the department of corrections relating to contact between the sex offender and a minor victim or a child of similar age or circumstance as a previous victim.

(d) Prior to transfer to, or during, community placement, any conditions of community placement may be removed or modified so as not to be more restrictive by the sentencing court, upon recommendation of the department of corrections.

(10)(a) When a court sentences a person to the custody of the department of corrections for an offense categorized as a sex offense committed on or after June 6, 1996, the court shall, in addition to other terms of the sentence, sentence the offender to community custody for three years or up to the period of earned early release awarded pursuant to RCW 9.94A.150 (1) and (2), whichever is longer. The community custody shall begin either upon completion of the term of confinement or at such time as the offender is transferred to community custody in lieu of earned early release in accordance with RCW 9.94A.150 (1) and (2).

(b) Unless a condition is waived by the court, the terms of community custody shall be the same as those provided for in subsection (9)(b) of this section and may include those provided for in subsection (9)(c) of this section. As part of any sentence that includes a term of community custody imposed under this subsection, the court shall also require the offender to comply with any conditions imposed by the department of corrections under subsection (14) of this section.

(c) At any time prior to the completion of a sex offender's term of community custody, if the court finds that public safety would be enhanced, the court may impose and enforce an order extending any or all of the conditions imposed pursuant to this section for a period up to the maximum allowable sentence for the

crime as it is classified in chapter 9A.20 RCW, regardless of the expiration of the offender's term of community custody. If a violation of a condition extended under this subsection occurs after the expiration of the offender's term of community custody, it shall be deemed a violation of the sentence for the purposes of RCW 9.94A.195 and may be punishable as contempt of court as provided for in RCW 7.21.040.

(11) If the court imposes a sentence requiring confinement of thirty days or less, the court may, in its discretion, specify that the sentence be served on consecutive or intermittent days. A sentence requiring more than thirty days of confinement shall be served on consecutive days. Local jail administrators may schedule court-ordered intermittent sentences as space permits.

(12) If a sentence imposed includes payment of a legal financial obligation, the sentence shall specify the total amount of the legal financial obligation owed, and shall require the offender to pay a specified monthly sum toward that legal financial obligation. Restitution to victims shall be paid prior to any other payments of monetary obligations. Any legal financial obligation that is imposed by the court may be collected by the department, which shall deliver the amount paid to the county clerk for credit. The offender's compliance with payment of legal financial obligations shall be supervised by the department. All monetary payments ordered shall be paid no later than ten years after the last date of release from confinement pursuant to a felony conviction or the date the sentence was entered. Independent of the department, the party or entity to whom the legal financial obligation is owed shall have the authority to utilize any other remedies available to the party or entity to collect the legal financial obligation. Nothing in this section makes the department, the state, or any of its employees, agents, or other persons acting on their behalf liable under any circumstances for the payment of these legal financial obligations. If an order includes restitution as one of the monetary assessments, the county clerk shall make disbursements to victims named in the order.

(13) Except as provided under RCW 9.94A.140(1) and 9.94A.142(1), a court may not impose a sentence providing for a term of confinement or community supervision or community placement which exceeds the statutory maximum for the crime as provided in chapter 9A.20 RCW.

(14) All offenders sentenced to terms involving community supervision, community service, community placement, or legal financial obligation shall be under the supervision of the department of corrections and shall follow explicitly the instructions and conditions of the department of corrections. The department may require an offender to perform affirmative acts it deems appropriate to monitor compliance with the conditions of the sentence imposed.

(a) The instructions shall include, at a minimum, reporting as directed to a community corrections officer, remaining within prescribed geographical boundaries, notifying the community corrections officer of any change in the offender's address or employment, and paying the supervision fee assessment.

(b) For sex offenders sentenced to terms involving community custody for crimes committed on or after June 6, 1996, the department may include, in addition to the instructions in (a) of this subsection, any appropriate conditions of supervision, including but not limited to, prohibiting the offender from having contact with any other specified individuals or specific class of individuals. The conditions authorized under this subsection (14)(b) may be imposed by the department prior to or during a sex offender's community custody term. If a violation of conditions imposed by the court or the department pursuant to subsection (10) of this section occurs during community custody, it shall be deemed a violation of community placement for the purposes of RCW 9.94A.207 and shall authorize the department to transfer an offender to a more restrictive confinement status as provided in RCW 9.94A.205. At any time prior to the completion of a sex offender's term of community custody, the department may recommend to the court that any or all of the conditions imposed by the court or the department pursuant to subsection (10) of this section be continued beyond the expiration of the offender's term of community custody as authorized in subsection (10)(c) of this section.

The department may require offenders to pay for special services rendered on or after July 25, 1993, including electronic monitoring, day reporting, and telephone reporting, dependent upon the offender's ability to pay. The department may pay for these services for offenders who are not able to pay.

(15) All offenders sentenced to terms involving community supervision, community service, or community placement under the supervision of the department of corrections shall not own, use, or possess firearms or ammunition. Offenders who own, use, or are found to be in actual or constructive possession of firearms or ammunition shall be subject to the appropriate violation process and sanctions. "Constructive possession" as used in this subsection means the power and intent to control the firearm or ammunition. "Firearm" as used in this subsection means a weapon or device from which a projectile may be fired by an explosive such as gunpowder.

(16) The sentencing court shall give the offender credit for all confinement time served before the sentencing if that confinement was solely in regard to the offense for which the offender is being sentenced.

(17) A departure from the standards in RCW 9.94A.400 (1) and (2) governing whether sentences are to be served consecutively or concurrently is an exceptional sentence subject to the limitations in subsections (2) and (3) of this section, and may be appealed by the defendant or the state as set forth in RCW 9.94A.210 (2) through (6).

(18) The court shall order restitution whenever the offender is convicted of a felony that results in injury to any person or damage to or loss of property, whether the offender is sentenced to confinement or placed under community supervision, unless extraordinary circumstances exist that make restitution inappropriate in the

court's judgment. The court shall set forth the extraordinary circumstances in the record if it does not order restitution.

(19) As a part of any sentence, the court may impose and enforce an order that relates directly to the circumstances of the crime for which the offender has been convicted, prohibiting the offender from having any contact with other specified individuals or a specific class of individuals for a period not to exceed the maximum allowable sentence for the crime, regardless of the expiration of the offender's term of community supervision or community placement.

(20) In any sentence of partial confinement, the court may require the defendant to serve the partial confinement in work release, in a program of home detention, on work crew, or in a combined program of work crew and home detention.

(21) All court-ordered legal financial obligations collected by the department and remitted to the county clerk shall be credited and paid where restitution is ordered. Restitution shall be paid prior to any other payments of monetary obligations.

Passed the Senate March 12, 1997.

Passed the House April 10, 1997.

Approved by the Governor April 22, 1997.

Filed in Office of Secretary of State April 22, 1997.

CHAPTER 145

[Senate Bill 5551]

HISTORIC PLACES—NOMINATIONS FOR REGISTERS

AN ACT Relating to significant historic places; and amending RCW 27.34.220 and 27.34.270.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 27.34.220 and 1987 c 505 s 8 are each amended to read as follows:

The director or the director's designee is authorized:

(1) To promulgate and maintain (~~(a state register)~~) the Washington heritage register of districts, sites, buildings, structures, and objects significant in American or Washington state history, architecture, archaeology, and culture, and to prepare comprehensive state-wide historic surveys and plans and research and evaluation of surveyed resources for the preparation of nominations to the ~~((state))~~ Washington heritage register and the national register(s) of historic places, in accordance with criteria approved by the advisory council established under RCW 27.34.250. ~~((The))~~ Nominations to the national register of historic places shall comply with any standards and regulations promulgated by the United States secretary of the interior for the preservation, acquisition, and development of such properties. Nominations to the Washington heritage register shall comply with rules adopted under this chapter.

(2) To establish a program of matching grants-in-aid to public agencies, public or private organizations, or individuals for projects having as their purpose the preservation for public benefit of properties that are significant in American or Washington state history, architecture, archaeology, and culture.

(3) To promote historic preservation efforts throughout the state, including private efforts and those of city, county, and state agencies.

(4) To enhance the effectiveness of the state preservation program through the initiation of legislation, the use of varied funding sources, the creation of special purpose programs, and contact with state, county, and city officials, civic groups, and professionals.

(5) To spend funds, subject to legislative appropriation and the availability of funds, where necessary to assist the Indian tribes of Washington state in removing prehistoric human remains for scientific examination and reburial, if the human remains have been unearthed inadvertently or through vandalism and if no other public agency is legally responsible for their preservation.

(6) To consult with the governor and the legislature on issues relating to the conservation of the man-made environment and their impact on the well-being of the state and its citizens.

(7) To charge fees for professional and clerical services provided by the office.

(8) To adopt such rules, in accordance with chapter 34.05 RCW, as are necessary to carry out RCW 27.34.200 through 27.34.280.

Sec. 2. RCW 27.34.270 and 1986 c 266 s 14 are each amended to read as follows:

The advisory council shall:

(1) Advise the governor and the department on matters relating to historic preservation; recommend measures to coordinate activities of state and local agencies, private institutions, and individuals relating to historic preservation; and advise on the dissemination of information pertaining to such activities; and

(2) Review and recommend nominations for the ~~((state-and))~~ national register~~((s))~~ of historic places to the preservation officer and the director.

Passed the Senate March 12, 1997.

Passed the House April 10, 1997.

Approved by the Governor April 22, 1997.

Filed in Office of Secretary of State April 22, 1997.

CHAPTER 146

[Substitute Senate Bill 5578]

FAMILY RECONCILIATION ACT—TECHNICAL CLARIFICATIONS

AN ACT Relating to technical clarifying changes to the family reconciliation act; and amending RCW 13.32A.030, 13.32A.050, 13.32A.060, 13.32A.130, 13.32A.140, 13.32A.160, 13.32A.179, 13.32A.192, and 74.13.037.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 13.32A.030 and 1996 c 133 s 9 are each amended to read as follows:

As used in this chapter the following terms have the meanings indicated unless the context clearly requires otherwise:

(1) "Administrator" means the individual who has the daily administrative responsibility of a crisis residential center, or his or her designee.

(2) "At-risk youth" means a juvenile:

(a) Who is absent from home for at least seventy-two consecutive hours without consent of his or her parent;

(b) Who is beyond the control of his or her parent such that the child's behavior endangers the health, safety, or welfare of the child or any other person; or

(c) Who has a substance abuse problem for which there are no pending criminal charges related to the substance abuse.

(3) "Child," "juvenile," and "youth" mean any unemancipated individual who is under the chronological age of eighteen years.

(4) "Child in need of services" means a juvenile:

(a) Who is beyond the control of his or her parent such that the child's behavior endangers the health, safety, or welfare of the child or other person;

(b) Who has been reported to law enforcement as absent without consent for at least twenty-four consecutive hours from the parent's home, a crisis residential center, an out-of-home placement, or a court-ordered placement on two or more separate occasions; and

(i) Has exhibited a serious substance abuse problem; or

(ii) Has exhibited behaviors that create a serious risk of harm to the health, safety, or welfare of the child or any other person; or

(c)(i) Who is in need of necessary services, including food, shelter, health care, clothing, educational, or services designed to maintain or reunite the family;

(ii) Who lacks access, or has declined, to utilize these services; and

(iii) Whose parents have evidenced continuing but unsuccessful efforts to maintain the family structure or are unable or unwilling to continue efforts to maintain the family structure.

(5) "Child in need of services petition" means a petition filed in juvenile court by a parent, child, or the department seeking adjudication of placement of the child.

(6) "Crisis residential center" means a secure or semi-secure facility established pursuant to chapter 74.13 RCW.

(7) "Custodian" means the person or entity who has the legal right to the custody of the child.

(8) "Department" means the department of social and health services.

(9) "Extended family member" means an adult who is a grandparent, brother, sister, stepbrother, stepsister, uncle, aunt, or first cousin with whom the child has a relationship and is comfortable, and who is willing and available to care for the child.

(10) "Guardian" means that person or agency that (a) has been appointed as the guardian of a child in a legal proceeding other than a proceeding under chapter 13.34 RCW, and (b) has the right to legal custody of the child pursuant to such appointment. The term "guardian" does not include a "dependency guardian" appointed pursuant to a proceeding under chapter 13.34 RCW.

(11) "Multidisciplinary team" means a group formed to provide assistance and support to a child who is an at-risk youth or a child in need of services and his or her parent. The team shall include the parent, a department case worker, a local government representative when authorized by the local government, and when appropriate, members from the mental health and substance abuse disciplines. The team may also include, but is not limited to, the following persons: Educators, law enforcement personnel, probation officers, employers, church persons, tribal members, therapists, medical personnel, social service providers, placement providers, and extended family members. The team members shall be volunteers who do not receive compensation while acting in a capacity as a team member, unless the member's employer chooses to provide compensation or the member is a state employee.

(12) "Out-of-home placement" means a placement in a foster family home or group care facility licensed pursuant to chapter 74.15 RCW or placement in a home, other than that of the child's parent, guardian, or legal custodian, not required to be licensed pursuant to chapter 74.15 RCW.

(13) "Parent" means the parent or parents who have the legal right to custody of the child. "Parent" includes custodian or guardian.

(14) "Secure facility" means a crisis residential center, or portion thereof, that has locking doors, locking windows, or a secured perimeter, designed and operated to prevent a child from leaving without permission of the facility staff.

(15) "Semi-secure facility" means any facility, including but not limited to crisis residential centers or specialized foster family homes, operated in a manner to reasonably assure that youth placed there will not run away. Pursuant to rules established by the department, the facility administrator shall establish reasonable hours for residents to come and go from the facility such that no residents are free to come and go at all hours of the day and night. To prevent residents from taking unreasonable actions, the facility administrator, where appropriate, may condition a resident's leaving the facility upon the resident being accompanied by the administrator or the administrator's designee and the resident may be required to notify the administrator or the administrator's designee of any intent to leave, his or her intended destination, and the probable time of his or her return to the center.

(16) "Staff secure facility" means a structured group care facility licensed under rules adopted by the department with a ratio of at least one adult staff member to every two children.

(17) "Temporary out-of-home placement" means an out-of-home placement of not more than fourteen days ordered by the court at a fact-finding hearing on a child in need of services petition.

Sec. 2. RCW 13.32A.050 and 1996 c 133 s 10 are each amended to read as follows:

(1) A law enforcement officer shall take a child into custody:

(a) If a law enforcement agency has been contacted by the parent of the child that the child is absent from parental custody without consent; or

(b) If a law enforcement officer reasonably believes, considering the child's age, the location, and the time of day, that a child is in circumstances which constitute a danger to the child's safety or that a child is violating a local curfew ordinance; or

(c) If an agency legally charged with the supervision of a child has notified a law enforcement agency that the child has run away from placement; or

(d) If a law enforcement agency has been notified by the juvenile court that the court finds probable cause exists to believe that the child has violated a court placement order issued pursuant to chapter 13.32A or 13.34 RCW or that the court has issued an order for law enforcement pick-up of the child under this chapter or chapter 13.34 RCW.

(2) Law enforcement custody shall not extend beyond the amount of time reasonably necessary to transport the child to a destination authorized by law and to place the child at that destination. Law enforcement custody continues until the law enforcement officer transfers custody to a person, agency, or other authorized entity under this chapter, or releases the child because no placement is available. Transfer of custody is not complete unless the person, agency, or entity to whom the child is released agrees to accept custody.

(3) If a law enforcement officer takes a child into custody pursuant to either subsection (1)(a) or (b) of this section and transports the child to a crisis residential center, the officer shall, within twenty-four hours of delivering the child to the center, provide to the center a written report detailing the reasons the officer took the child into custody. The center shall provide the department with a copy of the officer's report.

(4) If the law enforcement officer who initially takes the juvenile into custody or the staff of the crisis residential center have reasonable cause to believe that the child is absent from home because he or she is abused or neglected, a report shall be made immediately to the department.

(5) Nothing in this section affects the authority of any political subdivision to make regulations concerning the conduct of minors in public places by ordinance or other local law.

(6) If a law enforcement officer receives a report that causes the officer to have reasonable suspicion that a child is being harbored under RCW 13.32A.080 or for other reasons has a reasonable suspicion that a child is being harbored under RCW 13.32A.080, the officer shall remove the child from the custody of the person harboring the child and shall transport the child to one of the locations specified in RCW 13.32A.060.

(7) No child may be placed in a secure facility except as provided in this chapter.

Sec. 3. RCW 13.32A.060 and 1996 c 133 s 11 are each amended to read as follows:

(1) An officer taking a child into custody under RCW 13.32A.050(1) (a) or (b) shall inform the child of the reason for such custody and shall:

(a) Transport the child to his or her home or to a parent at his or her place of employment, if no parent is at home. The parent may request that the officer take the child to the home of an adult extended family member, responsible adult, crisis residential center, the department, or a licensed youth shelter. In responding to the request of the parent, the officer shall take the child to a requested place which, in the officer's belief, is within a reasonable distance of the parent's home. The officer releasing a child into the custody of a parent, an adult extended family member, responsible adult, or a licensed youth shelter shall inform the person receiving the child of the reason for taking the child into custody and inform all parties of the nature and location of appropriate services available in the community; or

(b) After attempting to notify the parent, take the child to a designated crisis residential center's secure facility or a center's semi-secure facility if a secure facility is full, not available, or not located within a reasonable distance:

(i) If the child expresses fear or distress at the prospect of being returned to his or her home which leads the officer to believe there is a possibility that the child is experiencing some type of child abuse or neglect, as defined in RCW 26.44.020;

(ii) If it is not practical to transport the child to his or her home or place of the parent's employment; or

(iii) If there is no parent available to accept custody of the child; or

(c) After attempting to notify the parent, if a crisis residential center is full, not available, or not located within a reasonable distance, the officer may request the department to accept custody of the child. If the department determines that an appropriate placement is currently available, the department shall accept custody and place the child in an out-of-home placement. Upon accepting custody of a child from the officer, the department may place the child in an out-of-home placement for up to seventy-two hours, excluding Saturdays, Sundays, and holidays, without filing a child in need of services petition under this chapter, obtaining parental consent, or obtaining an order for placement under chapter 13.34 RCW. Upon transferring a child to the department's custody, the officer shall provide written documentation of the reasons and the statutory basis for taking the child into custody. If the department declines to accept custody of the child, the officer may release the child after attempting to take the child to the following, in the order listed: The home of an adult extended family member; a responsible adult; a licensed youth shelter and shall immediately notify the department if no placement option is available and the child is released.

(2) An officer taking a child into custody under RCW 13.32A.050(1) (c) or (d) shall inform the child of the reason for custody. An officer taking a child into custody under RCW 13.32A.050(1)(c) may release the child to the supervising agency, or shall take the child to a designated crisis residential center's secure facility. If the secure facility is not available, not located within a reasonable distance, or full, the officer shall take the child to a semi-secure crisis residential center. An officer taking a child into custody under RCW 13.32A.050(1)(d) may place the child in a juvenile detention facility as provided in RCW 13.32A.065 or a secure facility, except that the child shall be taken to detention whenever the officer has been notified that a juvenile court has entered a detention order under this chapter or chapter 13.34 RCW.

(3) Whenever an officer transfers custody of a child to a crisis residential center or the department, the child may reside in the crisis residential center or may be placed by the department in an out-of-home placement for an aggregate total period of time not to exceed seventy-two hours excluding Saturdays, Sundays, and holidays. Thereafter, the child may continue in out-of-home placement only if the parents have consented, a child in need of services petition has been filed under this chapter, or an order for placement has been entered under chapter 13.34 RCW.

(4) The department shall ensure that all law enforcement authorities are informed on a regular basis as to the location of all designated secure and semi-secure facilities within centers in their jurisdiction, where children taken into custody under RCW 13.32A.050 may be taken.

Sec. 4. RCW 13.32A.130 and 1996 c 133 s 8 are each amended to read as follows:

(1) A child admitted to a secure facility within a crisis residential center shall remain in the facility for not more than five consecutive days, but for at least twenty-four hours after admission. If the child admitted under this section is transferred between centers or between secure and semi-secure facilities, the aggregate length of time spent in all such centers or facilities may not exceed five consecutive days.

(2)(a)(i) The facility administrator shall determine within twenty-four hours after a child's admission to a secure facility whether the child is likely to remain in a semi-secure facility and may transfer the child to a semi-secure facility or release the child to the department. The determination shall be based on: (A) The need for continued assessment, protection, and treatment of the child in a secure facility; and (B) the likelihood the child would remain at a semi-secure facility until his or her parents can take the child home or a petition can be filed under this title.

(ii) In making the determination the administrator shall consider the following information if known: (A) The child's age and maturity; (B) the child's condition upon arrival at the center; (C) the circumstances that led to the child's being taken to the center; (D) whether the child's behavior endangers the health, safety, or welfare of the child or any other person; (E) the child's history of running away

which has endangered the health, safety, and welfare of the child; and (F) the child's willingness to cooperate in the assessment.

(b) If the administrator of a secure facility determines the child is unlikely to remain in a semi-secure facility, the administrator shall keep the child in the secure facility pursuant to this chapter and in order to provide for space for the child may transfer another child who has been in the facility for at least seventy-two hours to a semi-secure facility. The administrator shall only make a transfer of a child after determining that the child who may be transferred is likely to remain at the semi-secure facility.

(c) A crisis residential center administrator is authorized to transfer a child to a crisis residential center in the area where the child's parents reside or where the child's lawfully prescribed residence is located.

(d) An administrator may transfer a child from a semi-secure facility to a secure facility whenever he or she reasonably believes that the child is likely to leave the semi-secure facility and not return and after full consideration of all factors in (a)(i) and (ii) of this subsection.

(3) If no parent is available or willing to remove the child during the ~~((five-day period))~~ first seventy-two hours following admission, the department shall consider the filing of a petition under RCW 13.32A.140.

(4) ~~((The requirements of this section shall not apply to a child who is: (a) Returned to the home of his or her parent; (b) placed in a semi-secure facility within a crisis residential center pursuant to a temporary out-of-home placement order authorized under RCW 13.32A.125; (c) placed in an out-of-home placement; or (d) the subject of an at-risk youth petition.~~

~~—(5))~~ Notwithstanding the provisions of subsection (1) of this section, the parents may remove the child at any time during the five-day period unless the staff of the crisis residential center has reasonable cause to believe that the child is absent from the home because he or she is abused or neglected or if allegations of abuse or neglect have been made against the parents. The department or any agency legally charged with the supervision of a child may remove a child from a crisis residential center at any time after the first twenty-four-hour period after admission has elapsed and only after full consideration by all parties of the factors in subsection (2)(a) of this section.

~~((6))~~ (5) Crisis residential center staff shall make reasonable efforts to protect the child and achieve a reconciliation of the family. If a reconciliation and voluntary return of the child has not been achieved within forty-eight hours from the time of intake, and if the administrator of the center does not consider it likely that reconciliation will be achieved within the five-day period, then the administrator shall inform the parent and child of: (a) The availability of counseling services; (b) the right to file a child in need of services petition for an out-of-home placement, the right of a parent to file an at-risk youth petition, and the right of the parent and child to obtain assistance in filing the petition; (c) the right to request the facility administrator or his or her designee to form a

multidisciplinary team; (d) the right to request a review of any out-of-home placement; (e) the right to request a mental health or chemical dependency evaluation by a county-designated professional or a private treatment facility; and (f) the right to request treatment in a program to address the child's at-risk behavior under RCW 13.32A.197.

~~((7))~~ (6) At no time shall information regarding a parent's or child's rights be withheld. The department shall develop and distribute to all law enforcement agencies and to each crisis residential center administrator a written statement delineating the services and rights. Every officer taking a child into custody shall provide the child and his or her parent(s) or responsible adult with whom the child is placed with a copy of the statement. In addition, the administrator of the facility or his or her designee shall provide every resident and parent with a copy of the statement.

~~((8))~~ (7) A crisis residential center and its administrator or his or her designee acting in good faith in carrying out the provisions of this section are immune from criminal or civil liability for such actions.

Sec. 5. RCW 13.32A.140 and 1996 c 133 s 19 are each amended to read as follows:

Unless the department files a dependency petition, the department shall file a child in need of services petition to approve an out-of-home placement on behalf of a child under any of the following sets of circumstances:

(1) The child has been admitted to a crisis residential center or has been placed by the department in an out-of-home placement, and:

(a) The parent has been notified that the child was so admitted or placed;

(b) ~~((Seventy-two hours, including Saturdays, Sundays, and holidays, have passed since such notification))~~ The child cannot return home, and legal authorization is needed for out-of-home placement beyond seventy-two hours;

(c) No agreement between the parent and the child as to where the child shall live has been reached;

(d) No child in need of services petition has been filed by either the child or parent;

(e) The parent has not filed an at-risk youth petition; and

(f) The child has no suitable place to live other than the home of his or her parent.

(2) The child has been admitted to a crisis residential center and:

(a) Seventy-two hours, including Saturdays, Sundays, and holidays, have passed since such placement;

(b) The staff, after searching with due diligence, have been unable to contact the parent of such child; and

(c) The child has no suitable place to live other than the home of his or her parent.

(3) An agreement between parent and child made pursuant to RCW 13.32A.090(2)(e) or pursuant to RCW 13.32A.120(1) is no longer acceptable to parent or child, and:

(a) The party to whom the arrangement is no longer acceptable has so notified the department;

(b) Seventy-two hours, including Saturdays, Sundays, and holidays, have passed since such notification;

(c) No new agreement between parent and child as to where the child shall live has been reached;

(d) No child in need of services petition has been filed by either the child or the parent;

(e) The parent has not filed an at-risk youth petition; and

(f) The child has no suitable place to live other than the home of his or her parent.

Under the circumstances of subsections (1), (2), or (3) of this section, the child shall remain in an out-of-home placement until a child in need of services petition filed by the department on behalf of the child is reviewed by the juvenile court and is resolved by the court. The department may authorize emergency medical or dental care for a child admitted to a crisis residential center or placed in an out-of-home placement by the department. The state, when the department files a child in need of services petition under this section, shall be represented as provided for in RCW 13.04.093.

Sec. 6. RCW 13.32A.160 and 1996 c 133 s 22 are each amended to read as follows:

(1) When a proper child in need of services petition to approve an out-of-home placement is filed under RCW 13.32A.120, 13.32A.140, or 13.32A.150 the juvenile court shall: (a)(i) Schedule a fact-finding hearing to be held: (A) For a child who ((is)) resides in a ((center or a child who is not residing at home, nor in an out-of-home placement)) place other than his or her parent's home and other than an out-of-home placement, within five calendar days unless the last calendar day is a Saturday, Sunday, or holiday, in which case the hearing shall be held on the preceding judicial day; or (B) for ((any other)) a child living at home or in an out-of-home placement, within ten days; and (ii) notify the parent, child, and the department of such date; (b) notify the parent of the right to be represented by counsel and, if indigent, to have counsel appointed for him or her by the court; (c) appoint legal counsel for the child; (d) inform the child and his or her parent of the legal consequences of the court approving or disapproving a child in need of services petition; (e) notify the parents of their rights under this chapter and chapters 11.88, 13.34, 70.96A, and 71.34 RCW, including the right to file an at-risk youth petition, the right to submit an application for admission of their child to a treatment facility for alcohol, chemical dependency, or mental health treatment, and the right to file a guardianship petition; and (f) notify all parties,

including the department, of their right to present evidence at the fact-finding hearing.

(2) Upon filing of a child in need of services petition, the child may be placed, if not already placed, by the department in a crisis residential center, foster family home, group home facility licensed under chapter 74.15 RCW, or any other suitable residence to be determined by the department. The court may place a child in a crisis residential center for a temporary out-of-home placement as long as the requirements of RCW 13.32A.125 are met.

(3) If the child has been placed in a foster family home or group care facility under chapter 74.15 RCW, the child shall remain there, or in any other suitable residence as determined by the department, pending resolution of the petition by the court. Any placement may be reviewed by the court within three judicial days upon the request of the juvenile or the juvenile's parent.

Sec. 7. RCW 13.32A.179 and 1996 c 133 s 24 are each amended to read as follows:

(1) A disposition hearing shall be held no later than fourteen days after the approval of the temporary out-of-home placement. The parents, child, and department shall be notified by the court of the time and place of the hearing.

(2) At the conclusion of the disposition hearing, the court may: (a) Reunite the family and dismiss the petition; (b) approve an at-risk youth petition filed by the parents and dismiss the child in need of services petition; (c) approve an out-of-home placement requested in the child in need of services petition by the parents; (d) order an out-of-home placement at the request of the child or the department not to exceed ninety days; or (e) order the department to review the matter for purposes of filing a dependency petition under chapter 13.34 RCW. Whether or not the court approves or orders an out-of-home placement, the court may also order any conditions of supervision as set forth in RCW 13.32A.196(2).

(3) The court may only enter an order under subsection (2)(d) of this section if it finds by clear, cogent, and convincing evidence that: (a)(i) The order is in the best interest of the family; (ii) the parents have not requested an out-of-home placement; (iii) the parents have not exercised any other right listed in RCW 13.32A.160(1)(e); (iv) the child has made reasonable efforts to resolve the problems that led to the filing of the petition; (v) the problems cannot be resolved by delivery of services to the family during continued placement of the child in the parental home; (vi) reasonable efforts have been made to prevent or eliminate the need for removal of the child from the child's home and to make it possible for the child to return home; and (vii) a suitable out-of-home placement resource is available; (b)(i) the order is in the best interest of the child; and (ii) the parents are unavailable; or (c) the parent's actions cause an imminent threat to the child's health or safety.

(4) The court may order the department to submit a dispositional plan if such a plan would assist the court in ordering a suitable disposition in the case. The plan, if ordered, shall address ~~(only the needs of the child and shall not address the~~

~~perceived needs of the parents, unless the order was entered under subsection (2)(d) of this section or specifically agreed to by the parents)) the needs of the child, and the perceived needs of the parents if the order was entered under subsection (2)(d) of this section or if specifically agreed to by the parents. If the parents do not agree or the order was not entered under subsection (2)(d) of this section the plan may only make recommendations regarding services in which the parents may voluntarily participate. If the court orders the department to prepare a plan, the department shall provide copies of the plan to the parent, the child, and the court. If the parties or the court desire the department to be involved in any future proceedings or case plan development, the department shall be provided with timely notification of all court hearings.~~

(5) A child who fails to comply with a court order issued under this section shall be subject to contempt proceedings, as provided in this chapter, but only if the noncompliance occurs within one year after the entry of the order.

(6) After the court approves or orders an out-of-home placement, the parents or the department may request, and the court may grant, dismissal of the child in need of services proceeding when it is not feasible for the department to provide services due to one or more of the following circumstances:

(a) The child has been absent from court approved placement for thirty consecutive days or more;

(b) The parents or the child, or all of them, refuse to cooperate in available, appropriate intervention aimed at reunifying the family; or

(c) The department has exhausted all available and appropriate resources that would result in reunification.

(7) The court shall dismiss a placement made under subsection (2)(c) of this section upon the request of the parents.

Sec. 8. RCW 13.32A.192 and 1996 c 133 s 26 are each amended to read as follows:

(1) When a proper at-risk youth petition is filed by a child's parent under this chapter, the juvenile court shall:

(a)(i) Schedule a fact-finding hearing to be held: (A) For a child who ~~((is)) resides in a ((center or a child who is not residing at home, nor in an out-of-home placement))~~ place other than his or her parent's home and other than an out-of-home placement, within five calendar days unless the last calendar day is a Saturday, Sunday, or holiday, in which case the hearing shall be held on the preceding judicial day; or (B) for ~~((any other))~~ a child living at home or in an out-of-home placement, within ten days; and (ii) notify the parent and the child of such date;

(b) Notify the parent of the right to be represented by counsel at the parent's own expense;

(c) Appoint legal counsel for the child;

(d) Inform the child and his or her parent of the legal consequences of the court finding the child to be an at-risk youth; and

(e) Notify the parent and the child of their rights to present evidence at the fact-finding hearing.

(2) Unless out-of-home placement of the child is otherwise authorized or required by law, the child shall reside in the home of his or her parent or in an out-of-home placement requested by the parent or child and approved by the parent.

(3) If upon sworn written or oral declaration of the petitioning parent, the court has reason to believe that a child has willfully and knowingly violated a court order issued pursuant to subsection (2) of this section, the court may issue an order directing law enforcement to take the child into custody and place the child in a juvenile detention facility or in a secure facility within a crisis residential center. If the child is placed in detention, a review shall be held as provided in RCW 13.32A.065.

(4) If both a child in need of services petition and an at-risk youth petition have been filed with regard to the same child, the petitions and proceedings shall be consolidated as an at-risk youth petition. Pending a fact-finding hearing regarding the petition, the child may be placed in the parent's home or in an out-of-home placement if not already placed in a temporary out-of-home placement pursuant to a child in need of services petition. The child or the parent may request a review of the child's placement including a review of any court order requiring the child to reside in the parent's home.

Sec. 9. RCW 74.13.037 and 1996 c 133 s 39 are each amended to read as follows:

Within available funds appropriated for this purpose, the department shall establish, by contracts with private vendors, transitional living programs for ((dependent)) youth who are being assisted by the department in being emancipated as part of their permanency plan under chapter 13.34 RCW. These programs shall be licensed under rules adopted by the department.

Passed the Senate March 14, 1997.

Passed the House April 10, 1997.

Approved by the Governor April 22, 1997.

Filed in Office of Secretary of State April 22, 1997.

CHAPTER 147

[Senate Bill 5637]

COUNTY ROAD ENGINEERS AND COUNTY ENGINEERS—RESIDENCY PROVISIONS ELIMINATED

AN ACT Relating to the residency of the county road engineer; and amending RCW 36.80.010.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 36.80.010 and 1991 c 363 s 85 are each amended to read as follows:

The county legislative authority of each county with a population of eight thousand or more shall employ a full-time county road engineer ((residing in the

county)). The county legislative authority of each other county shall employ a county engineer on either a full-time or part-time basis (~~(who need not be a resident of the county)~~), or may contract with another county for the engineering services of a county road engineer from such other county.

Passed the Senate March 12, 1997.

Passed the House April 10, 1997.

Approved by the Governor April 22, 1997.

Filed in Office of Secretary of State April 22, 1997.

CHAPTER 148

[Substitute Senate Bill 5664]

CREDIT AND DEBIT CARD PURCHASES IN STATE LIQUOR STORES

AN ACT Relating to credit and debit card purchases in state liquor stores; and amending RCW 66.08.026 and 66.16.041.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 66.08.026 and 1996 c 291 s 3 are each amended to read as follows:

All administrative expenses of the board incurred on and after April 1, 1963 shall be appropriated and paid from the liquor revolving fund. These administrative expenses shall include, but not be limited to: The salaries and expenses of the board and its employees, the cost of establishing, leasing, maintaining, and operating state liquor stores and warehouses, legal services, pilot projects, annual or other audits, and other general costs of conducting the business of the board. The administrative expenses shall not, however, be deemed to include costs of liquor and lottery tickets purchased, the cost of transportation and delivery to the point of distribution, other costs pertaining to the acquisition and receipt of liquor and lottery tickets, packaging and repackaging of liquor, transaction fees associated with credit card purchases pursuant to RCW 66.16.040 and 66.16.041, sales tax, and those amounts distributed pursuant to RCW 66.08.180, 66.08.190, 66.08.200, 66.08.210 and 66.08.220.

Sec. 2. RCW 66.16.041 and 1996 c 291 s 2 are each amended to read as follows:

(1) The state liquor control board shall (~~allow~~) accept bank credit card and debit cards from nonlicensees for purchases in (~~(a pilot project to study and test the use of credit cards in)~~) state liquor stores (~~(-In order to conduct the pilot project, the board shall, by rule:~~

— (a) Establish the criteria for selecting store test sites;

— (b) Limit the pilot project to eighteen months in duration;

— (c) Include no more than twenty stores;

— (d) Include the use of debit cards; and

— (e) Allow only nonlicensees to make credit card purchases;), under such rules as the board may adopt. The board shall authorize liquor vendors appointed under

RCW 66.08.050 to accept bank credit cards and debit cards for liquor purchases under this title, under such rules as the board may adopt.

(2) The board shall provide a report ~~((of the results))~~ evaluating the implementation of this section to the appropriate committees of the legislature by January 1, 1998.

Passed the Senate March 19, 1997.

Passed the House April 10, 1997.

Approved by the Governor April 22, 1997.

Filed in Office of Secretary of State April 22, 1997.

CHAPTER 149

[Substitute Senate Bill 6062]

OPERATING BUDGET, 1997-1999

AN ACT Relating to fiscal matters; making appropriations and authorizing expenditures for the operations of state agencies for the fiscal biennium beginning July 1, 1997, and ending June 30, 1999; amending RCW 43.08.250, 69.50.520, 79.24.580, and 86.26.007; reenacting and amending RCW 82.44.110; creating new sections; providing an effective date; and declaring an emergency.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. **Sec. 1.** (1) A budget is hereby adopted and, subject to the provisions set forth in the following sections, the several amounts specified in the following sections, or so much thereof as shall be sufficient to accomplish the purposes designated, are hereby appropriated and authorized to be incurred for salaries, wages, and other expenses of the agencies and offices of the state and for other specified purposes for the fiscal biennium beginning July 1, 1997, and ending June 30, 1999, except as otherwise provided, out of the several funds of the state hereinafter named.

(2) Unless the context clearly requires otherwise, the definitions in this section apply throughout this act.

(a) "Fiscal year 1998" or "FY 1998" means the fiscal year ending June 30, 1998.

(b) "Fiscal year 1999" or "FY 1999" means the fiscal year ending June 30, 1999.

(c) "FTE" means full time equivalent.

(d) "Lapse" or "revert" means the amount shall return to an unappropriated status.

(e) "Provided solely" means the specified amount may be spent only for the specified purpose. Unless otherwise specifically authorized in this act, any portion of an amount provided solely for a specified purpose which is unnecessary to fulfill the specified purpose shall lapse.

**PART I
GENERAL GOVERNMENT**

NEW SECTION. Sec. 101. FOR THE HOUSE OF REPRESENTATIVES

General Fund Appropriation (FY 1998)	\$	24,241,000
General Fund Appropriation (FY 1999)	\$	25,637,000
TOTAL APPROPRIATION	\$	49,878,000

The appropriations in this section are subject to the following conditions and limitations:

(1) \$75,000 of the general fund fiscal year 1998 appropriation and \$75,000 of the general fund fiscal year 1999 appropriation are provided solely for the independent operations of the legislative ethics board. Expenditure decisions of the board, including employment of staff, shall be independent of the senate and house of representatives.

(2) \$25,000 of the general fund fiscal year 1998 appropriation is provided solely to implement Substitute Senate Concurrent Resolution No. 8408 (water policy report). If the concurrent resolution is not enacted by June 30, 1997, the amount provided in this subsection shall lapse.

NEW SECTION. Sec. 102. FOR THE SENATE

General Fund Appropriation (FY 1998)	\$	19,357,000
General Fund Appropriation (FY 1999)	\$	20,663,000
TOTAL APPROPRIATION	\$	40,020,000

The appropriations in this section are subject to the following conditions and limitations:

(1) \$75,000 of the general fund fiscal year 1998 appropriation and \$75,000 of the general fund fiscal year 1999 appropriation are provided solely for the independent operations of the legislative ethics board. Expenditure decisions of the board, including employment of staff, shall be independent of the senate and house of representatives.

(2) \$25,000 of the general fund fiscal year 1998 appropriation is provided solely to implement Substitute Senate Concurrent Resolution No. 8408 (water policy report). If the concurrent resolution is not enacted by June 30, 1997, the amount provided in this subsection shall lapse.

(3) \$100,000 of the general fund appropriation for fiscal year 1998 is provided solely for a study of financial aid and tuition by the senate committee on ways and means and the house of representatives committee on appropriations.

(a) The study shall report on the current usage and distribution of financial aid, investigate other resources available to financial aid recipients, and shall compare alternative methods of financial aid distribution and their impacts on the sectors of higher education and students served within each sector.

(b) The study shall also provide comparative data from other states on methods of establishing tuition rates and the relationship of tuition to state funding.

NEW SECTION. Sec. 103. FOR THE JOINT LEGISLATIVE AUDIT AND REVIEW COMMITTEE

General Fund Appropriation (FY 1998)	\$	1,524,000
General Fund Appropriation (FY 1999)	\$	1,837,000
TOTAL APPROPRIATION	\$	3,361,000

The appropriations in this section are subject to the following conditions and limitations:

(1) \$103,000 of the general fund fiscal year 1998 appropriation and \$412,000 of the general fund fiscal year 1999 appropriation are provided solely to implement Engrossed Substitute Senate Bill No. 5633 (performance audit of the department of transportation). If the bill is not enacted by June 30, 1997, the amounts provided in this subsection shall lapse.

(2) \$50,000 of the general fund appropriation for fiscal year 1998 is provided solely to implement Substitute Senate Bill No. 5071 (school district territory). If the bill is not enacted by June 30, 1997, the amount provided in this subsection shall lapse.

NEW SECTION. Sec. 104. FOR THE LEGISLATIVE EVALUATION AND ACCOUNTABILITY PROGRAM COMMITTEE

General Fund Appropriation (FY 1998)	\$	1,263,000
General Fund Appropriation (FY 1999)	\$	1,332,000
TOTAL APPROPRIATION	\$	2,595,000

The appropriations in this section are subject to the following conditions and limitations: The committee shall conduct an inventory and examination of state data processing projects funded in this act and make recommendations to improve the accountability and legislative evaluation and oversight of these projects.

NEW SECTION. Sec. 105. FOR THE OFFICE OF THE STATE ACTUARY

Department of Retirement Systems Expense Account

Appropriation	\$	1,681,000
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NEW SECTION. Sec. 106. FOR THE JOINT LEGISLATIVE SYSTEMS COMMITTEE

General Fund Appropriation (FY 1998)	\$	5,430,000
General Fund Appropriation (FY 1999)	\$	5,430,000
TOTAL APPROPRIATION	\$	10,860,000

The appropriations in this section are subject to the following conditions and limitations: \$800,000 of the general fund fiscal year 1998 appropriation and \$800,000 of the general fund fiscal year 1999 appropriation are provided solely for purchasing computers and related equipment on behalf of the senate, house of representatives, and statute law committee. Equipment shall be purchased only at the request of the customer agencies.

NEW SECTION. Sec. 107. FOR THE STATUTE LAW COMMITTEE

General Fund Appropriation (FY 1998)	\$	3,226,000
General Fund Appropriation (FY 1999)	\$	3,559,000
TOTAL APPROPRIATION	\$	6,785,000

The appropriations in this section are subject to the following conditions and limitations: \$35,000 of the general fund fiscal year 1998 appropriation and \$36,000 of the general fund fiscal year 1999 appropriation are provided solely for the uniform legislation commission.

NEW SECTION. Sec. 108. FOR THE SUPREME COURT

General Fund Appropriation (FY 1998)	\$	4,640,000
General Fund Appropriation (FY 1999)	\$	4,813,000
TOTAL APPROPRIATION	\$	9,453,000

NEW SECTION. Sec. 109. FOR THE LAW LIBRARY

General Fund Appropriation (FY 1998)	\$	1,769,000
General Fund Appropriation (FY 1999)	\$	1,785,000
TOTAL APPROPRIATION	\$	3,554,000

NEW SECTION. Sec. 110. FOR THE COURT OF APPEALS

General Fund Appropriation (FY 1998)	\$	10,225,000
General Fund Appropriation (FY 1999)	\$	10,133,000
TOTAL APPROPRIATION	\$	20,358,000

The appropriations in this section are subject to the following conditions and limitations:

(1) \$271,000 of the general fund fiscal year 1999 appropriation is provided solely for an additional judge position and related support staff in division I, effective July 1, 1998.

(2) \$490,000 of the general fund fiscal year 1998 appropriation is provided solely for remodeling existing space in division I court facilities to house additional staff.

NEW SECTION. Sec. 111. FOR THE COMMISSION ON JUDICIAL CONDUCT

General Fund Appropriation (FY 1998)	\$	652,000
General Fund Appropriation (FY 1999)	\$	653,000
TOTAL APPROPRIATION	\$	1,305,000

NEW SECTION. Sec. 112. FOR THE ADMINISTRATOR FOR THE COURTS

General Fund Appropriation (FY 1998)	\$	12,723,000
General Fund Appropriation (FY 1999)	\$	12,595,000
Public Safety and Education Account		
Appropriation	\$	31,134,000
Judicial Information Systems Account		
Appropriation	\$	16,305,000

TOTAL APPROPRIATION \$ 72,757,000

The appropriations in this section are subject to the following conditions and limitations:

(1) Funding provided in the judicial information systems account appropriation shall be used for the operations and maintenance of technology systems that improve services provided by the supreme court, the court of appeals, the office of public defense, and the office of the administrator for the courts. \$400,000 of the judicial information systems account appropriation is provided solely for the year 2000 date conversion.

(2) No moneys appropriated in this section may be expended by the administrator for the courts for payments in excess of fifty percent of the employer contribution on behalf of superior courts judges for insurance and health care plans and federal social security and medicare and medical aid benefits. Consistent with Article IV, section 13 of the state Constitution and 1996 Attorney General's Opinion No. 2, it is the intent of the legislature that the cost of these employer contributions shall be shared equally between the state and county or counties in which the judges serve. The administrator for the courts shall continue to implement procedures for the collection and disbursement of these employer contributions.

(3) \$6,510,000 of the public safety and education account appropriation is provided solely for the continuation of treatment alternatives to street crimes (TASC) programs in Pierce, Snohomish, Clark, King, Spokane, and Yakima counties.

(4) \$125,000 of the public safety and education account appropriation is provided solely for the workload associated with the increase in state cases filed in Thurston county superior court.

(5) \$223,000 of the public safety and education account appropriation is provided solely for the gender and justice commission.

(6) \$308,000 of the public safety and education account appropriation is provided solely for the minority and justice commission.

(7) \$100,000 of the general fund fiscal year 1998 appropriation and \$100,000 of the general fund fiscal year 1999 appropriation are provided solely for judicial program enhancements. Within the funding provided in this subsection, the office of administrator of courts in consultation with the supreme court shall determine the program or programs to receive an enhancement.

(8) \$35,000 of the general fund fiscal year 1998 appropriation is provided solely for the implementation of Engrossed Substitute House Bill No. 1771 (guardian certification). If the bill is not enacted by June 30, 1997, the amount provided in this subsection shall lapse.

(9) \$100,000 of the general fund fiscal year 1998 appropriation is provided solely for the Snohomish county preprosecution diversion program.

NEW SECTION. Sec. 113. FOR THE OFFICE OF PUBLIC DEFENSE Public Safety and Education Account

Appropriation \$ 12,187,000

The appropriation in this section is subject to the following conditions and limitations:

(1) The cost of defending indigent offenders in death penalty cases has escalated significantly over the last four years. The office of public defense advisory committee shall analyze the current methods for reimbursing private attorneys and shall develop appropriate standards and criteria designed to control costs and still provide indigent defendants their constitutional right to representation at public expense. The office of public defense advisory committee shall report its findings and recommendations to the supreme court and the appropriate legislative committees by September 30, 1998.

(2) \$688,000 of the public safety and education account appropriation is provided solely to increase the reimbursement for private attorneys providing constitutionally mandated indigent defense in nondeath penalty cases.

NEW SECTION. Sec. 114. FOR THE OFFICE OF THE GOVERNOR

General Fund—State Appropriation (FY 1998)	\$	5,047,000
General Fund—State Appropriation (FY 1999)	\$	4,963,000
General Fund—Federal Appropriation	\$	188,000
Water Quality Account Appropriation	\$	700,000
TOTAL APPROPRIATION	\$	10,898,000

The appropriations in this section are subject to the following conditions and limitations:

(1) \$1,618,000 of the general fund—state appropriation for fiscal year 1998, \$1,520,000 of the general fund—state appropriation for fiscal year 1999, \$700,000 of the water quality account appropriation, and \$188,000 of the general fund—federal appropriation are provided solely for the implementation of the Puget Sound work plan and agency action items PSAT-01 through PSAT-06.

(2) \$12,000 of the general fund—state appropriation for fiscal year 1998 and \$13,000 of the general fund—state appropriation for fiscal year 1999 are provided for the state law enforcement medal of honor committee for the purposes of recognizing qualified law enforcement officers as provided by chapter 41.72 RCW.

NEW SECTION. Sec. 115. FOR THE LIEUTENANT GOVERNOR

General Fund Appropriation (FY 1998)	\$	282,000
General Fund Appropriation (FY 1999)	\$	283,000
TOTAL APPROPRIATION	\$	565,000

NEW SECTION. Sec. 116. FOR THE PUBLIC DISCLOSURE COMMISSION

General Fund Appropriation (FY 1998)	\$	1,457,000
General Fund Appropriation (FY 1999)	\$	1,206,000
TOTAL APPROPRIATION	\$	2,663,000

The appropriations in this section are subject to the following conditions and limitations: \$306,000 of the general fund fiscal year 1998 appropriation and

\$72,000 of the general fund fiscal year 1999 appropriation are provided solely for technology for customer service improvements.

NEW SECTION. Sec. 117. FOR THE SECRETARY OF STATE

General Fund Appropriation (FY 1998)	\$	8,055,000
General Fund Appropriation (FY 1999)	\$	5,901,000
Archives & Records Management Account—State		
Appropriation	\$	4,032,000
Archives & Records Management Account—Private/Local		
Appropriation	\$	2,553,000
Department of Personnel Service Account		
Appropriation	\$	663,000
TOTAL APPROPRIATION	\$	21,204,000

The appropriations in this section are subject to the following conditions and limitations:

(1) \$2,355,000 of the general fund appropriation for fiscal year 1998 is provided solely to reimburse counties for the state's share of primary and general election costs and the costs of conducting mandatory recounts on state measures.

(2) \$2,011,000 of the general fund appropriation for fiscal year 1998 and \$2,536,000 of the general fund appropriation for fiscal year 1999 are provided solely for the verification of initiative and referendum petitions, maintenance of related voter registration records, and the publication and distribution of the voters and candidates pamphlet.

(3) \$99,000 of the general fund appropriation is provided solely for the state's participation in the United States census block boundary suggestion program.

(4) \$125,000 of the fiscal year 1998 general fund appropriation is provided solely for legal advertising of state measures under RCW 29.27.072.

(5) \$45,000 of the general fund fiscal year 1998 appropriation is provided solely for an economic feasibility study of a state horse park.

(6) The election review section under chapter 29.60 RCW shall be administered in a manner consistent with Engrossed Senate Bill No. 5565 (election procedures review).

NEW SECTION. Sec. 118. FOR THE GOVERNOR'S OFFICE OF INDIAN AFFAIRS

General Fund Appropriation (FY 1998)	\$	185,000
General Fund Appropriation (FY 1999)	\$	188,000
TOTAL APPROPRIATION	\$	373,000

NEW SECTION. Sec. 119. FOR THE COMMISSION ON ASIAN-AMERICAN AFFAIRS

General Fund Appropriation (FY 1998)	\$	200,000
General Fund Appropriation (FY 1999)	\$	201,000
TOTAL APPROPRIATION	\$	401,000

NEW SECTION. Sec. 120. FOR THE STATE TREASURER

State Treasurer's Service Account	
Appropriation	\$ 11,567,000

NEW SECTION. Sec. 121. FOR THE STATE AUDITOR

General Fund Appropriation (FY 1998)	\$ 678,000
General Fund Appropriation (FY 1999)	\$ 678,000
State Auditing Services Revolving Account	
Appropriation	\$ 11,928,000
TOTAL APPROPRIATION	\$ 13,284,000

The appropriations in this section are subject to the following conditions and limitations:

(1) Audits of school districts by the division of municipal corporations shall include findings regarding the accuracy of: (a) Student enrollment data; and (b) the experience and education of the district's certified instructional staff, as reported to the superintendent of public instruction for allocation of state funding.

(2) \$420,000 of the general fund appropriation for fiscal year 1998 and \$420,000 of the general fund appropriation for fiscal year 1999 are provided solely for staff and related costs to audit special education programs that exhibit unusual rates of growth, extraordinarily high costs, or other characteristics requiring attention of the state safety net committee. The auditor shall consult with the superintendent of public instruction regarding training and other staffing assistance needed to provide expertise to the audit staff.

(3) \$250,000 of the general fund fiscal year 1998 appropriation and \$250,000 of the general fund fiscal year 1999 appropriation are provided solely for the budget and reporting system (BARS) to improve the reporting of local government fiscal data. Audits of counties and cities by the division of municipal corporations shall include findings regarding the completeness, accuracy, and timeliness of BARS data reported to the state auditor's office.

NEW SECTION. Sec. 122. FOR THE CITIZENS' COMMISSION ON SALARIES FOR ELECTED OFFICIALS

General Fund Appropriation (FY 1998)	\$ 4,000
General Fund Appropriation (FY 1999)	\$ 63,000
TOTAL APPROPRIATION	\$ 67,000

NEW SECTION. Sec. 123. FOR THE ATTORNEY GENERAL

General Fund—State Appropriation (FY 1998)	\$ 4,361,000
General Fund—State Appropriation (FY 1999)	\$ 3,631,000
General Fund—Federal Appropriation	\$ 2,248,000
Public Safety and Education Account	
Appropriation	\$ 1,300,000
New Motor Vehicle Arbitration Account	
Appropriation	\$ 1,094,000
Legal Services Revolving Account	

Appropriation	\$	125,008,000
TOTAL APPROPRIATION	\$	137,642,000

The appropriations in this section are subject to the following conditions and limitations:

(1) The attorney general shall report each fiscal year on actual legal services expenditures and actual attorney staffing levels for each agency receiving legal services. The report shall be submitted to the office of financial management and the fiscal committees of the senate and house of representatives no later than ninety days after the end of each fiscal year.

(2) The attorney general shall include, at a minimum, the following information with each bill sent to agencies receiving legal services: (a) The number of hours and cost of attorney services provided during the billing period; (b) cost of support staff services provided during the billing period; (c) attorney general overhead and central support costs charged to the agency for the billing period; (d) direct legal costs, such as filing and docket fees, charged to the agency for the billing period; and (e) other costs charged to the agency for the billing period. The attorney general may, with approval of the office of financial management change its billing system to meet the needs of its user agencies.

(3) \$300,000 of the fiscal year 1998 general fund—state appropriation is provided for a comprehensive assessment of environmental and public health impacts and for other costs related to pursuing remedies for pollution in the Spokane river basin.

(4) \$640,000 of the fiscal year 1998 general fund—state appropriation and \$210,000 of the fiscal year 1999 general fund—state appropriation are provided solely to implement the supervision management and recidivist tracking program to allow the department of corrections and local law enforcement agencies to share information concerning the activities of offenders on community supervision. No information on any person may be entered into or retained in the program unless the person is under the jurisdiction of the department of corrections.

NEW SECTION. Sec. 124. FOR THE DEPARTMENT OF FINANCIAL INSTITUTIONS

Securities Regulation Account Appropriation	\$	5,445,000
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The appropriation in this section is subject to the following conditions and limitations: \$34,000 of the securities regulation account appropriation is provided solely for the implementation of Engrossed House Bill No. 3901 (implementing welfare reform). If the bill is not enacted by June 30, 1997, the amount provided shall lapse.

***NEW SECTION. Sec. 125. FOR THE DEPARTMENT OF COMMUNITY, TRADE, AND ECONOMIC DEVELOPMENT**

<i>General Fund—State Appropriation (FY 1998)</i>	\$	56,361,000
<i>General Fund—State Appropriation (FY 1999)</i>	\$	55,351,000
<i>General Fund—Federal Appropriation</i>	\$	155,278,000

<i>General Fund—Private/Local Appropriation</i>	<i>\$</i>	<i>6,903,000</i>
<i>Public Safety and Education Account</i>		
<i>Appropriation</i>	<i>\$</i>	<i>8,781,000</i>
<i>Public Works Assistance Account</i>		
<i>Appropriation</i>	<i>\$</i>	<i>2,223,000</i>
<i>Building Code Council Account Appropriation</i>	<i>\$</i>	<i>1,318,000</i>
<i>Administrative Contingency Account</i>		
<i>Appropriation</i>	<i>\$</i>	<i>1,776,000</i>
<i>Low-Income Weatherization Assistance Account</i>		
<i>Appropriation</i>	<i>\$</i>	<i>923,000</i>
<i>State Toxics Control Account Appropriation</i>	<i>\$</i>	<i>555,000</i>
<i>Violence Reduction and Drug Enforcement Account</i>		
<i>Appropriation</i>	<i>\$</i>	<i>6,042,000</i>
<i>Manufactured Home Installation Training Account</i>		
<i>Appropriation</i>	<i>\$</i>	<i>250,000</i>
<i>Washington Housing Trust Account</i>		
<i>Appropriation</i>	<i>\$</i>	<i>7,999,000</i>
<i>Public Facility Construction Loan Revolving Account</i>		
<i>Appropriation</i>	<i>\$</i>	<i>515,000</i>
TOTAL APPROPRIATION	\$	304,275,000

The appropriations in this section are subject to the following conditions and limitations:

(1) \$3,282,500 of the general fund—state appropriation for fiscal year 1998 and \$3,282,500 of the general fund—state appropriation for fiscal year 1999 are provided solely for a contract with the Washington technology center. For work essential to the mission of the Washington technology center and conducted in partnership with universities, the center shall not pay any increased indirect rate nor increases in other indirect charges above the absolute amount paid during the 1995-97 biennium.

(2) \$155,000 of the general fund—state appropriation for fiscal year 1998 and \$155,000 of the general fund—state appropriation for fiscal year 1999 are provided solely for a contract with the Washington manufacturing extension partnership.

(3) \$9,964,000 of the general fund—federal appropriation is provided solely for the drug control and system improvement formula grant program, to be distributed in state fiscal year 1998 as follows:

(a) \$3,603,250 to local units of governments to continue the multi-jurisdictional narcotics task forces;

(b) \$500,000 to the department to continue the state-wide drug prosecution assistance program in support of multijurisdictional narcotics task forces;

(c) \$1,306,075 to the Washington state patrol for coordination, investigative, and supervisory support to the multijurisdictional narcotics task forces and for methamphetamine education and response;

(d) \$240,000 to the department for grants to support tribal law enforcement needs;

(e) \$900,000 to drug courts in eastern and western Washington;

(f) \$300,000 to the department for grants to provide sentencing alternatives training programs to defenders;

(g) \$200,000 for grants to support substance-abuse treatment in county jails;

(h) \$517,075 to the department for legal advocacy for victims of domestic violence and for training of local law enforcement officers and prosecutors on domestic violence laws and procedures;

(i) \$903,000 to the department to continue youth violence prevention and intervention projects;

(j) \$91,000 for the governor's council on substance abuse;

(k) \$99,000 for program evaluation and monitoring;

(l) \$100,000 for the department of corrections for a feasibility study of replacing or updating the offender based tracking system.

(m) \$498,200 for development of a state-wide system to track criminal history records; and

(n) No more than \$706,400 to the department for grant administration and reporting.

These amounts represent the maximum Byrne grant expenditure authority for each program. No program may expend Byrne grant funds in excess of the amounts provided in this section. If moneys in excess of those appropriated in this section become available, whether from prior or current fiscal year Byrne grant distributions, the department shall hold these moneys in reserve and may not expend them without a specific appropriation. These moneys shall be carried forward and applied to the pool of moneys available for appropriation for programs and projects in the succeeding fiscal year. As part of its budget request for the succeeding fiscal year, the department shall estimate and request authority to spend any funds remaining in reserve as a result of this subsection.

(4) \$1,000,000 of the general fund fiscal year 1998 appropriation and \$1,000,000 of the general fund fiscal year 1999 appropriation are provided solely to implement Engrossed Substitute House Bill No. 1576 (buildable lands) or Senate Bill No. 6094 (growth management). If neither bill is enacted by June 30, 1997, the amounts provided in this subsection shall lapse.

(5) \$4,800,000 of the public safety and education account appropriation is provided solely for indigent civil legal representation services contracts and contracts administration. The amount provided in this subsection is contingent upon enactment of section 2 of Engrossed Substitute House Bill No. 2276 (civil legal services for indigent persons). If section 2 of the bill is not enacted by June 30, 1997, the amount provided in this subsection shall lapse.

(6) \$643,000 of the general fund—state fiscal year 1998 appropriation and \$643,000 of the general fund—state fiscal year 1999 appropriation are provided solely to increase payment rates for contracted early childhood education

assistance program providers. It is the legislature's intent that these amounts shall be used primarily to increase compensation for persons employed in direct, front-line service delivery.

(7) \$75,000 of the general fund—state fiscal year 1998 appropriation and \$75,000 of the general fund—state fiscal year 1999 appropriation are provided solely as a grant for the community connections program in Walla Walla county.

(8) \$300,000 of the general fund—state fiscal year 1998 appropriation and \$300,000 of the general fund—state fiscal year 1999 appropriation are provided solely to contract with the Washington state association of court-appointed special advocates/guardians ad litem (CASA/GAL) to establish pilot programs in three counties to recruit additional community volunteers to represent the interests of children in dependency proceedings. Of this amount, a maximum of \$30,000 shall be used by the department to contract for an evaluation of the effectiveness of CASA/GAL in improving outcomes for dependent children. The evaluation shall address the cost-effectiveness of CASA/GAL and to the extent possible, identify savings in other programs of the state budget where the savings resulted from the efforts of the CASA/GAL volunteers. The department shall report to the governor and legislature by October 15, 1998.

(9) \$75,000 of the general fund—state appropriation for fiscal year 1999 is provided solely for state sponsorship of the "BIO 99" international biotechnology conference and exhibition in the Seattle area in 1999.

(10) \$698,000 of the general fund—state appropriation for fiscal year 1998, \$697,000 of the general fund—state appropriation for fiscal year 1999, and \$1,101,000 of the administrative contingency account appropriation are provided solely for contracting with associate development organizations.

(11) \$50,000 of the general fund—state appropriation for fiscal year 1998 and \$50,000 of the general fund—state appropriation for fiscal year 1999 are provided solely to expand the long-term care ombudsman program.

(12) \$60,000 of the general fund—state appropriation for fiscal year 1998 and \$60,000 of the general fund—state appropriation for fiscal year 1999 are provided solely for implementation of the Puget Sound work plan action item DCTED-01.

(13) \$555,000 of the state toxics control account appropriation is provided solely for the public participation grant program pursuant to RCW 70.105D.070. In administering the grant program, the department shall award grants based upon a state-wide competitive process each year. Priority is to be given to applicants that demonstrate the ability to provide accurate technical information on complex waste management issues. Amounts provided in this subsection may not be spent on lobbying activities.

(14) \$20,000 of the general fund—state appropriation for fiscal year 1998 is provided solely for a task force on tourism promotion and development. The task force shall report to the legislature on its findings and recommendations by January 31, 1998.

(15) \$71,000 of the general fund—state appropriation for fiscal year 1998 and \$60,000 of the general fund—state appropriation for fiscal year 1999 are provided solely for the pacific northwest economic region (PNWER).

(16) \$123,000 of the general fund—state appropriation for fiscal year 1998 and \$124,000 of the general fund—state appropriation for fiscal year 1999 are provided solely for the community development finance program.

(17) Within the appropriations provided in this section, the department shall conduct a study of possible financial incentives to assist in revitalization of commercial areas and report its findings and recommendations to the appropriate committees of the legislature by November 15, 1997.

*Sec. 125 was vetoed. See message at end of chapter.

NEW SECTION. Sec. 126. FOR THE ECONOMIC AND REVENUE FORECAST COUNCIL

General Fund Appropriation (FY 1998)	\$	452,000
General Fund Appropriation (FY 1999)	\$	453,000
TOTAL APPROPRIATION	\$	905,000

NEW SECTION. Sec. 127. FOR THE OFFICE OF FINANCIAL MANAGEMENT

General Fund—State Appropriation (FY 1998)	\$	10,178,000
General Fund—State Appropriation (FY 1999)	\$	9,916,000
General Fund—Federal Appropriation	\$	23,331,000
TOTAL APPROPRIATION	\$	43,425,000

The appropriations in this section are subject to the following conditions and limitations: \$125,000 of the general fund—state appropriation for fiscal year 1998 and \$125,000 of the general fund—state appropriation for fiscal year 1999 are provided solely for staff support for the implementation of the Washington educational network. Funds shall be transferred to the appropriate agency as required by Substitute House Bill No. 1698 or Substitute Senate Bill No. 5002 or substantially similar legislation (K-20 telecommunications).

NEW SECTION. Sec. 128. FOR THE OFFICE OF ADMINISTRATIVE HEARINGS

Administrative Hearings Revolving Account		
Appropriation	\$	19,615,000

The appropriation in this section is subject to the following conditions and limitations: \$1,798,000 of the administrative hearings revolving fund appropriation is provided solely to implement Engrossed House Bill No. 3901 (implementing welfare reform). If the bill is not enacted by June 30, 1997, the amount provided shall lapse.

NEW SECTION. Sec. 129. FOR THE DEPARTMENT OF PERSONNEL

Department of Personnel Service Account		
Appropriation	\$	16,493,000
Higher Education Personnel Services Account		

Appropriation	\$	1,632,000
TOTAL APPROPRIATION	\$	18,125,000

The appropriations in this section are subject to the following conditions and limitations:

(1) The department shall reduce its charge for personnel services to the lowest rate possible.

(2) \$32,000 of the department of personnel service fund appropriation is provided solely for the creation, printing, and distribution of the personal benefits statement for state employees.

(3) The department of personnel service account appropriation contains sufficient funds to continue the employee exchange program with the Hyogo prefecture in Japan.

(4) \$500,000 of the department of personnel service account appropriation is provided solely for the career transition program to assist state employees who are separated or are at risk of lay-off due to reduction-in-force. Services shall include employee retraining and career counseling.

(5) \$800,000 of the department of personnel service account appropriation is provided solely for the human resource data warehouse to: Expand the type and amount of information available on the state-wide work force; and to provide the office of financial management, legislature, and state agencies with direct access to the data for policy and planning purposes. The department of personnel shall establish uniform reporting procedures, applicable to all state agencies and higher education institutions, for reporting data to the data warehouse by June 30, 1998. The department of personnel will report quarterly to the legislative fiscal committees, the office of financial management, the information services board, and the office of information technology oversight of the department of information services the following items: (a) The number of state agencies that have received access to the data warehouse (it is anticipated that approximately 40 agencies will receive access during the 1997-99 biennium); (b) the change in requests for downloads from the mainframe computer by agencies with access to the data warehouse, to reflect transferring customers use of the mainframe computer to the more economical use of data warehouse information; and (c) a summary of customer feedback from agencies with access to the data warehouse. Authority to expend this amount is conditioned on compliance with section 902 of this act.

(6) The department of personnel has the authority to charge agencies for expenses associated with converting its payroll/personnel computer system to accommodate the year 2000 date change. Funding to cover these expenses shall be realized from the agency FICA savings associated with the pretax benefits contributions plan.

(7) The department of personnel shall charge all administrative services costs incurred by the department of retirement systems for the deferred compensation

program. The billings to the department of retirement systems shall be for actual costs only.

NEW SECTION. Sec. 130. FOR THE WASHINGTON STATE LOTTERY

Industrial Insurance Premium Refund		
Appropriation	\$	9,000
Lottery Administrative Account		
Appropriation	\$	19,966,000
TOTAL APPROPRIATION	\$	19,975,000

NEW SECTION. Sec. 131. FOR THE COMMISSION ON HISPANIC AFFAIRS

General Fund Appropriation (FY 1998)	\$	199,000
General Fund Appropriation (FY 1999)	\$	208,000
TOTAL APPROPRIATION	\$	407,000

NEW SECTION. Sec. 132. FOR THE COMMISSION ON AFRICAN-AMERICAN AFFAIRS

General Fund Appropriation (FY 1998)	\$	170,000
General Fund Appropriation (FY 1999)	\$	168,000
TOTAL APPROPRIATION	\$	338,000

NEW SECTION. Sec. 133. FOR THE PERSONNEL APPEALS BOARD

Department of Personnel Service Account		
Appropriation	\$	1,539,000

NEW SECTION. Sec. 134. FOR THE DEPARTMENT OF RETIREMENT SYSTEMS—OPERATIONS

Dependent Care Administrative Account		
Appropriation	\$	357,000
Department of Retirement Systems Expense Account		
Appropriation	\$	31,415,000
TOTAL APPROPRIATION	\$	31,772,000

The appropriations in this section are subject to the following conditions and limitations:

(1) \$1,373,000 of the department of retirement systems expense account appropriation is provided solely for the information systems project known as the electronic document image management system. Authority to expend this amount is conditioned on compliance with section 902 of this act.

(2) \$1,259,000 of the department of retirement systems expense account appropriation is provided solely for the information systems project known as the receivables management system. Authority to expend this amount is conditioned on compliance with section 902 of this act.

(3) The department of retirement systems shall complete a study examining whether it would be cost-effective to contract out the administration functions for

the dependent care assistance program and shall report to the fiscal committees of the legislature by December 15, 1997.

NEW SECTION. Sec. 135. FOR THE STATE INVESTMENT BOARD

State Investment Board Expense Account Appropriation . \$ 10,303,000

NEW SECTION. Sec. 136. FOR THE DEPARTMENT OF REVENUE

General Fund Appropriation (FY 1998) \$ 65,033,000

General Fund Appropriation (FY 1999) \$ 65,320,000

Timber Tax Distribution Account

Appropriation \$ 4,778,000

Waste Reduction/Recycling/Litter Control

Appropriation \$ 100,000

State Toxics Control Account Appropriation \$ 67,000

Solid Waste Management Account

Appropriation \$ 92,000

Oil Spill Administration Account

Appropriation \$ 14,000

TOTAL APPROPRIATION \$ 135,404,000

The appropriations in this section are subject to the following conditions and limitations:

(1) \$1,540,000 of the general fund appropriation for fiscal year 1998 and \$1,710,000 of the general fund appropriation for fiscal year 1999 are provided solely for senior citizen property tax deferral distribution.

(2) Within the amounts appropriated in this section the department shall conduct a study identifying the impacts of exempting all shellfish species from the tax imposed on enhanced food fish under chapter 82.27 RCW. The study shall include an estimate of the fiscal impacts to state revenues as well as an examination of how such an exemption would impact shellfish-based industries and communities where shellfish-based industries are located. The department shall complete this study and report its findings to the legislature by December 1, 1997.

NEW SECTION. Sec. 137. FOR THE BOARD OF TAX APPEALS

General Fund Appropriation (FY 1998) \$ 885,000

General Fund Appropriation (FY 1999) \$ 889,000

TOTAL APPROPRIATION \$ 1,774,000

NEW SECTION. Sec. 138. FOR THE MUNICIPAL RESEARCH COUNCIL

General Fund Appropriation (FY 1998) \$ 1,651,000

General Fund Appropriation (FY 1999) \$ 1,743,000

County Research Services Account Appropriation \$ 625,000

TOTAL APPROPRIATION \$ 4,019,000

The appropriations in this section are subject to the following conditions and limitations: The county research services account appropriation is provided solely

to implement Substitute Senate Bill No. 5521 (county research services). If the bill is not enacted by June 30, 1997, the appropriation shall lapse.

NEW SECTION. Sec. 139. FOR THE OFFICE OF MINORITY AND WOMEN'S BUSINESS ENTERPRISES

OMWBE Enterprises Account Appropriation \$ 2,357,000

NEW SECTION. Sec. 140. FOR THE DEPARTMENT OF GENERAL ADMINISTRATION

General Fund—State Appropriation (FY 1998)	\$	1,302,000
General Fund—State Appropriation (FY 1999)	\$	1,278,000
General Fund—Federal Appropriation	\$	2,402,000
General Fund—Private/Local Appropriation	\$	400,000
Motor Transport Account Appropriation	\$	14,120,000
Air Pollution Control Account Appropriation	\$	391,000
General Administration Facilities and Services		
Revolving Account Appropriation	\$	22,299,000
Central Stores Revolving Account		
Appropriation	\$	3,306,000
Energy Efficiency Services Account		
Appropriation	\$	180,000
Risk Management Account Appropriation	\$	2,328,000
TOTAL APPROPRIATION	\$	48,006,000

The appropriations in this section are subject to the following conditions and limitations:

(1) \$1,200,000 of the general fund—state appropriation for fiscal year 1998 and \$1,200,000 of the general fund—state appropriation for fiscal year 1999 are provided solely for the purchase of food for distribution to the state's food assistance network and related expenses.

(2) \$25,000 of the general fund—state appropriation for fiscal year 1998 is provided solely for the World War II memorial on the condition that the currently approved design for the World War II memorial be sited on the location selected by the World War II advisory committee and approved and recommended by the capitol campus design advisory committee. This site is immediately south of the Columbia street and 11th avenue axial on the west capitol campus.

(3) Except for the World War II memorial, no additional monuments may be placed on the capitol campus until the completion of the capitol campus monuments and memorial policy by the department of general administration, adoption of the policy by the state capitol committee, and inclusion of the policy in the department of general administration's administrative code.

(4) The department shall not purchase any travel product for any state employee or state official from a vendor who is not a Washington-based seller of travel licensed under chapter 19.138 RCW.

(5) The department shall study the state motor pool vehicle fleet to develop a plan for meeting and exceeding the minimum vehicle mileage standards established

by the federal government. The department shall report its findings and conclusions to the appropriate legislative committees by December 1, 1997.

(6) The department shall sell or contract for sale all surplus motor pool fleet vehicles and shall, when cost effective, contract out for the reconditioning, transport, and delivery of the vehicles prior to their sale at auction.

NEW SECTION. Sec. 141. FOR THE DEPARTMENT OF INFORMATION SERVICES

Data Processing Revolving Account

Appropriation	\$	3,577,000
K-20 Technology Account Appropriation	\$	44,028,000
TOTAL APPROPRIATION	\$	47,605,000

The appropriation in this section is subject to the following conditions and limitations:

(1) The department shall provide a toll-free telephone number and operator service staff for the general public to call for information about state agencies. The department may provide such staff, equipment, and facilities as are necessary for this purpose. The director shall adopt rules to fix terms and charges for these services. All state agencies and the legislature shall participate in the information program and shall reimburse the department of information services in accordance with rules established by the director. The department shall also provide conference calling services for state and other public agencies on a fee-for-service basis.

(2) \$44,028,000 of the K-20 technology account appropriation shall be expended in accordance with the expenditures authorized by the K-20 telecommunications oversight and policy committee as currently existing or as modified by Substitute House Bill No. 1698, Substitute Senate Bill No. 5002, or substantially similar legislation (K-20 telecommunications network).

NEW SECTION. Sec. 142. FOR THE INSURANCE COMMISSIONER

General Fund—Federal Appropriation \$ 106,000
Insurance Commissioners Regulatory Account

Appropriation	\$	22,431,000
TOTAL APPROPRIATION	\$	22,537,000

The appropriations in this section are subject to the following conditions and limitations:

(1) \$532,000 of the insurance commissioner's regulatory account appropriation is provided solely for the expenditure of funds received under the consent order with the Prudential insurance company. These funds are provided solely for implementing the Prudential remediation process and for examinations of the Prudential company.

(2) \$206,000 of the insurance commissioner's regulatory account appropriation is provided solely to implement Substitute House Bill No. 1387 (basic health plan

benefits). If the bill is not enacted by June 30, 1997, the amount provided in this subsection shall lapse.

(3) \$298,000 of the insurance commissioner's regulatory account appropriation is provided solely for technology improvements that will support the electronic filing of insurance rates and contracts and enable regulators and the industry to share information about licensed agents to protect the public from fraudulent sales practices.

**NEW SECTION. Sec. 143. FOR THE BOARD OF ACCOUNTANCY
Certified Public Accountants' Account**

Appropriation \$ 978,000

The appropriation in this section is subject to the following conditions and limitations: \$22,000 of the certified public accountants' account appropriation is provided solely for the implementation of Engrossed House Bill No. 3901 (implementing welfare reform). If the bill is not enacted by June 30, 1997, the amount provided shall lapse.

**NEW SECTION. Sec. 144. FOR THE FORENSIC INVESTIGATION
COUNCIL**

Death Investigations Account Appropriation \$ 12,000

**NEW SECTION. Sec. 145. FOR THE HORSE RACING COMMISSION
Horse Racing Commission Account Appropriation \$ 4,828,000**

NEW SECTION. Sec. 146. FOR THE LIQUOR CONTROL BOARD

General Fund Appropriation (FY 1998) \$ 1,603,000

General Fund Appropriation (FY 1999) \$ 1,242,000

Liquor Control Board Construction and Maintenance

Account Appropriation \$ 9,919,000

Liquor Revolving Account Appropriation \$ 121,391,000

TOTAL APPROPRIATION \$ 134,155,000

The appropriations in this section are subject to the following conditions and limitations:

(1) \$1,250,000 of the liquor revolving account appropriation is provided solely for the agency information technology upgrade. This item is conditioned on satisfying the requirements of section 902 of this act, including the development of a project management plan, a project schedule, a project budget, a project agreement, and incremental funding based on completion of key milestones.

(2) \$1,603,000 of the general fund fiscal year 1998 appropriation and \$1,242,000 of the general fund fiscal year 1999 appropriation are provided solely to implement Substitute Senate Bill No. 6084 or Engrossed Substitute House Bill No. 2272 (transferring enforcement provisions regarding cigarette and tobacco taxes to the liquor control board). If neither bill is enacted by June 30, 1997, the amounts provided in this subsection shall lapse.

(3) \$459,000 of the liquor revolving account appropriation is provided solely for implementation of Substitute Senate Bill No. 5664 (credit and debit cards

purchases in state liquor stores). If the bill is not enacted by June 30, 1997, the amount provided in this subsection shall lapse.

(4) \$154,000 of the liquor revolving account appropriation is provided solely for the implementation of Engrossed House Bill No. 3901 (implementing welfare reform). If the bill is not enacted by June 30, 1997, the amount provided in this subsection shall lapse.

NEW SECTION. Sec. 147. FOR THE UTILITIES AND TRANSPORTATION COMMISSION

Public Service Revolving Account—State	
Appropriation	\$ 24,313,000
Public Service Revolving Account—Federal	
Appropriation	\$ 292,000
TOTAL APPROPRIATION	\$ 24,605,000

NEW SECTION. Sec. 148. FOR THE BOARD FOR VOLUNTEER FIREFIGHTERS

Volunteer Firefighters' Relief & Pension Administrative	
Account Appropriation	\$ 529,000

NEW SECTION. Sec. 149. FOR THE MILITARY DEPARTMENT

General Fund—State Appropriation (FY 1998)	\$ 8,151,000
General Fund—State Appropriation (FY 1999)	\$ 11,735,000
General Fund—Federal Appropriation	\$ 34,314,000
General Fund—Private/Local Appropriation	\$ 238,000
Flood Control Assistance Account Appropriation	\$ 3,000,000
Enhanced 911 Account Appropriation	\$ 26,782,000
Disaster Response Account—State Appropriation	\$ 23,977,000
Disaster Response Account—Federal Appropriation	\$ 95,419,000
TOTAL APPROPRIATION	\$ 203,616,000

The appropriations in this section are subject to the following conditions and limitations:

(1) \$3,581,000 of the general fund—state appropriation for fiscal year 1999, \$3,000,000 of the flood control assistance account appropriation, and \$6,197,000 of the general fund—federal appropriation are provided solely for deposit in the disaster response account to cover costs pursuant to subsection (2) of this section.

(2) \$23,977,000 of the disaster response account—state appropriation is provided solely for the state share of response and recovery costs associated with federal emergency management agency (FEMA) disaster number 1079 (November/December 1995 storms), FEMA disaster 1100 (February 1996 floods), FEMA disaster 1152 (November 1996 ice storm), FEMA disaster 1159 (December 1996 holiday storm), FEMA disaster 1172 (March 1997 floods) and to assist local governmental entities with the matching funds necessary to earn FEMA funds for FEMA disaster 1100 (February 1996 floods).

(3) \$100,000 of the general fund—state fiscal year 1998 appropriation and \$100,000 of the general fund—state fiscal year 1999 appropriation are provided solely for the implementation of a conditional scholarship program pursuant to chapter 28B.103 RCW.

(4) \$35,000 of the general fund—state fiscal year 1998 appropriation and \$35,000 of the general fund—state fiscal year 1999 appropriation are provided solely for the north county emergency medical service.

NEW SECTION. Sec. 150. FOR THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

General Fund Appropriation (FY 1998)	\$	1,768,000
General Fund Appropriation (FY 1999)	\$	1,764,000
TOTAL APPROPRIATION	\$	3,532,000

NEW SECTION. Sec. 151. FOR THE GROWTH PLANNING HEARINGS BOARD

General Fund Appropriation (FY 1998)	\$	1,247,000
General Fund Appropriation (FY 1999)	\$	1,252,000
TOTAL APPROPRIATION	\$	2,499,000

NEW SECTION. Sec. 152. FOR THE STATE CONVENTION AND TRADE CENTER

State Convention and Trade Center Operating Account

Appropriation	\$	27,175,000
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NEW SECTION. Sec. 153. FOR THE CASELOAD FORECAST COUNCIL

General Fund Appropriation (FY 1998)	\$	489,000
General Fund Appropriation (FY 1999)	\$	390,000
TOTAL APPROPRIATION	\$	879,000

The appropriations in this section are subject to the following conditions and limitations: The appropriations are provided solely to implement Substitute Senate Bill No. 5472 (caseload forecast council). If the bill is not enacted by June 30, 1997, the amounts provided in this subsection shall lapse.

**PART II
HUMAN SERVICES**

NEW SECTION. Sec. 201. FOR THE DEPARTMENT OF SOCIAL AND HEALTH SERVICES. (1) Appropriations made in this act to the department of social and health services shall initially be allotted as required by this act. Subsequent allotment modifications shall not include transfers of moneys between sections of this act except as expressly provided in this act, nor shall allotment modifications permit moneys that are provided solely for a specified purpose to be used for other than that purpose.

(2) The department of social and health services shall not initiate any services that will require expenditure of state general fund moneys unless expressly

authorized in this act or other law. The department may seek, receive, and spend, under RCW 43.79.260 through 43.79.282, federal moneys not anticipated in this act as long as the federal funding does not require expenditure of state moneys for the program in excess of amounts anticipated in this act. If the department receives unanticipated unrestricted federal moneys, those moneys shall be spent for services authorized in this act or in any other legislation providing appropriation authority, and an equal amount of appropriated state general fund moneys shall lapse. Upon the lapsing of any moneys under this subsection, the office of financial management shall notify the legislative fiscal committees. As used in this subsection, "unrestricted federal moneys" includes block grants and other funds that federal law does not require to be spent on specifically defined projects or matched on a formula basis by state funds.

(3) The appropriations in sections 202 through 213 of this act shall be expended for the programs and in the amounts listed in those sections.

****NEW SECTION. Sec. 202. FOR THE DEPARTMENT OF SOCIAL AND HEALTH SERVICES—CHILDREN AND FAMILY SERVICES PROGRAM***

<i>General Fund—State Appropriation (FY 1998)</i>	<i>\$</i>	<i>191,716,000</i>
<i>General Fund—State Appropriation (FY 1999)</i>	<i>\$</i>	<i>201,581,000</i>
<i>General Fund—Federal Appropriation</i>	<i>\$</i>	<i>247,553,000</i>
<i>General Fund—Private/Local Appropriation</i>	<i>\$</i>	<i>400,000</i>
<i>Violence Reduction and Drug Enforcement Account</i>		
<i>Appropriation</i>	<i>\$</i>	<i>4,230,000</i>
<i>TOTAL APPROPRIATION</i>	<i>\$</i>	<i>645,480,000</i>

The appropriations in this section are subject to the following conditions and limitations:

(1) \$16,510,000 of the general fund—state appropriation for fiscal year 1998 and \$17,508,000 of the general fund—state appropriation for fiscal year 1999 are provided solely for purposes consistent with the maintenance of effort requirements under the federal temporary assistance for needy families program established under P.L. 104-193.

(2) \$837,000 of the violence reduction and drug enforcement account appropriation and \$7,228,000 of the general fund—federal appropriation are provided solely for the operation of the family policy council, the community public health and safety networks, and delivery of services authorized under the federal family preservation and support act. Within the funds provided, the family policy council shall contract for an evaluation of the community networks with the institute for public policy and shall provide for audits of ten networks. Within the funds provided, the family policy council may build and maintain a geographic information system database tied to community network geography.

(3) \$577,000 of the general fund—state fiscal year 1998 appropriation and \$577,000 of the general fund—state fiscal year 1999 appropriation are provided solely to contract for the operation of one pediatric interim care facility. The

facility shall provide residential care for up to twelve children through two years of age. Seventy-five percent of the children served by the facility must be in need of special care as a result of substance abuse by their mothers. The facility also shall provide on-site training to biological, adoptive, or foster parents. The facility shall provide at least three months of consultation and support to parents accepting placement of children from the facility. The facility may recruit new and current foster and adoptive parents for infants served by the facility. The department shall not require case management as a condition of the contract.

(4) \$481,000 of the general fund—state fiscal year 1998 appropriation and \$481,000 of the general fund—state fiscal year 1999 appropriation are provided solely for up to three nonfacility-based programs for the training, consultation, support, and recruitment of biological, foster, and adoptive parents of children through age three in need of special care as a result of substance abuse by their mothers, except that each program may serve up to three medically fragile nonsubstance-abuse-affected children. In selecting nonfacility-based programs, preference shall be given to programs whose federal or private funding sources have expired or that have successfully performed under the existing pediatric interim care program.

(5) \$640,000 of the general fund—state appropriation for fiscal year 1998 and \$640,000 of the general fund—state appropriation for fiscal year 1999 are provided solely to fund the provisions of Second Substitute House Bill No. 1862 (community-based alternative response system) or Second Substitute Senate Bill No. 5710 (juvenile care and treatment), including section 2 of the bill. Amounts provided in this subsection to implement Second Substitute House Bill No. 1862 or Second Substitute Senate Bill No. 5710 must be used to serve families who are screened from the child protective services risk assessment process. Services shall be provided through contracts with community-based organizations. If neither bill is enacted by June 30, 1997, the amounts provided in this subsection shall lapse.

(6) \$594,000 of the general fund—state appropriation for fiscal year 1998, \$556,000 of the general fund—state appropriation for fiscal year 1999, and \$290,000 of the general fund—federal appropriation are provided solely to fund the provisions of Engrossed Second Substitute House Bill No. 2046 (foster parent liaison). The department shall establish a foster parent liaison in each department of social and health services region of the state and contract with a private provider to implement a recruitment and retention program for foster parents and adoptive families. The department shall provide a minimum of two hundred additional adoptive and foster home placements by June 30, 1998. If the bill is not enacted by June 30, 1997, the amounts in this subsection shall lapse.

(7) \$433,000 of the fiscal year 1998 general fund—state appropriation, \$395,000 of the fiscal year 1999 general fund—state appropriation, and \$894,000

of the general fund—federal appropriation are provided solely to increase the rate paid to private child-placing agencies.

(8) \$580,000 of the general fund—state appropriation for fiscal year 1998 and \$580,000 of the general fund—state appropriation for fiscal year 1999 are provided solely for development and expansion of child care training requirements and optional training programs. The department shall adopt rules to require annual training in early childhood development of all directors, supervisors, and lead staff at child care facilities. Directors, supervisors, and lead staff at child care facilities include persons licensed as family child care providers, and persons employed at child care centers or school age child care centers. The department shall establish a program to fund scholarships and grants to assist persons in meeting these training requirements. The department shall also develop criteria for approving training programs and establish a system for tracking who has received the required level of training. In adopting rules, developing curricula, setting up systems, and administering scholarship programs, the department shall consult with the child care coordinating committee and other community stakeholders.

(9) The department shall provide a report to the legislature by November 1997 on the growth in additional rates paid to foster parents beyond the basic monthly rate. This report shall explain why exceptional, personal, and special rates are being paid for an increasing number of children and why the amount paid for these rates per child has risen in recent years. This report must also recommend methods by which the legislature may improve the current foster parent compensation system, allow for some method of controlling the growth in costs per case, and improve the department's and the legislature's ability to forecast the program's needs in future years.

(10) \$100,000 of the general fund—state appropriation for fiscal year 1998 and \$100,000 of the general fund—state appropriation for fiscal year 1999 are provided solely for legal costs associated with the defense of vendors operating a secure treatment facility, for actions arising from the good faith performance of treatment services for behavioral difficulties or needs.

(11) \$2,745,000 of the fiscal year 1998 general fund—state appropriation, \$2,745,000 of the fiscal year 1999 general fund—state appropriation, and \$1,944,000 of the general fund—federal appropriation are provided solely for the category of services titled "intensive family preservation services."

(12) \$2,200,000 of the fiscal year 1998 general fund—state appropriation and \$2,200,000 of the fiscal year 1999 general fund—state appropriation are provided solely to continue existing continuum of care and street youth projects.

(13) \$1,456,000 of the general fund—state appropriation for fiscal year 1998, \$1,474,000 of the general fund—state appropriation for fiscal year 1999 and \$1,141,000 of the general fund—federal appropriation are provided solely for the improvement of quality and capacity of the child care system and related consumer education. The activities funded by this appropriation shall include,

but not be limited to: Expansion of child care resource and referral network services to serve additional families, to provide technical assistance to child care providers, and to cover currently unserved areas of the state; development of and incentives for child care during nonstandard work hours; and the development of care for infants, toddlers, preschoolers, and school age youth. These amounts are provided in addition to funding for child care training and fire inspections of child care facilities. These activities shall also improve the quality and capacity of the child care system.

**Sec. 202 was vetoed. See message at end of chapter.*

***NEW SECTION. Sec. 203. FOR THE DEPARTMENT OF SOCIAL AND HEALTH SERVICES—JUVENILE REHABILITATION PROGRAM**

(1) COMMUNITY SERVICES

<i>General Fund—State Appropriation (FY 1998)</i>	<i>\$</i>	<i>29,732,000</i>
<i>General Fund—State Appropriation (FY 1999)</i>	<i>\$</i>	<i>28,764,000</i>
<i>General Fund—Federal Appropriation</i>	<i>\$</i>	<i>16,127,000</i>
<i>General Fund—Private/Local Appropriation</i>	<i>\$</i>	<i>378,000</i>
<i>Violence Reduction and Drug Enforcement Account</i>		
<i> Appropriation</i>	<i>\$</i>	<i>13,381,000</i>
<i> TOTAL APPROPRIATION</i>	<i>\$</i>	<i>88,382,000</i>

The appropriations in this subsection are subject to the following conditions and limitations:

(a) \$445,000 of the violence reduction and drug enforcement account appropriation is provided solely for deposit in the county criminal justice assistance account solely for costs to the criminal justice system associated with the implementation of RCW 13.04.030 as amended by Engrossed Third Substitute House Bill No. 3900 (revising the juvenile code). If RCW 13.04.030 is not amended by Engrossed Third Substitute House Bill No. 3900 by June 30, 1997, the amount provided in this subsection shall lapse. The amount provided in this subsection is intended to provide funding for county adult court and jail costs associated with the implementation of Engrossed Third Substitute House Bill No. 3900 and shall be distributed in accordance with RCW 82.14.310.

(b) \$4,913,000 of the violence reduction and drug enforcement account is provided solely for the implementation of Engrossed Third Substitute Senate Bill No. 3900 (revising the juvenile code). The amount provided in this subsection is intended to provide funding for county impacts associated with the implementation of Third Substitute Senate Bill No. 3900 and shall be distributed to counties as prescribed in the current consolidated juvenile services (CJS) formula. If the bill is not enacted by June 30, 1997, the amounts provided shall lapse.

(c) \$2,350,000 of the general fund—state fiscal year 1998 appropriation and \$2,350,000 of the general fund—state fiscal year 1999 appropriation are provided solely for an early intervention program to be administered at the county level. Moneys shall be awarded on a competitive basis to counties that have submitted

plans for implementation of an early intervention program consistent with proven methodologies currently in place in the state. The juvenile rehabilitation administration shall develop criteria for evaluation of plans submitted and a timeline for awarding funding and shall assist counties in creating and submitting plans for evaluation.

(d) \$1,832,000 of the violence reduction and drug enforcement appropriation is provided solely to implement alcohol and substance abuse treatment for locally committed offenders. The juvenile rehabilitation administration shall award these moneys on a competitive basis to counties that have submitted a plan for the provision of treatment services approved by the division of alcohol and substance abuse. The juvenile rehabilitation administration shall develop criteria for evaluation of plans submitted and a timeline for awarding funding and shall assist counties in creating and submitting plans for evaluation. If Engrossed Third Substitute House Bill No. 3900 (juvenile code revisions) is not enacted by June 30, 1997, the amount provided in this subsection shall lapse.

(e) \$50,000 of the general fund—state fiscal year 1998 appropriation and \$100,000 of the general fund—state fiscal year 1999 appropriation are provided solely for the juvenile rehabilitation administration to contract with the institute for public policy for the responsibilities assigned in Engrossed Third Substitute House Bill No. 3900 (juvenile code revisions). If the bill is not enacted by June 30, 1997, the amounts provided in this subsection shall lapse.

(2) INSTITUTIONAL SERVICES

General Fund—State Appropriation (FY 1998)	\$	49,823,000
General Fund—State Appropriation (FY 1999)	\$	52,373,000
General Fund—Private/Local Appropriation	\$	721,000
Violence Reduction and Drug Enforcement Account		
Appropriation	\$	13,156,000
TOTAL APPROPRIATION	\$	116,073,000

The appropriations in this subsection are subject to the following conditions and limitations: \$3,691,000 of the general fund—state fiscal year 1998 appropriation, \$6,679,000 of the general fund—state fiscal year 1999 appropriation, and \$1,555,000 of the violence reduction and drug enforcement account appropriation are provided solely for the implementation of Engrossed Third Substitute House Bill No. 3900 (juvenile code revisions). If the bill is not enacted by June 30, 1997, the amounts provided in this subsection shall lapse.

(3) PROGRAM SUPPORT

General Fund—State Appropriation (FY 1998)	\$	1,874,000
General Fund—State Appropriation (FY 1999)	\$	1,623,000
General Fund—Federal Appropriation	\$	156,000
Violence Reduction and Drug Enforcement Account		
Appropriation	\$	421,000
TOTAL APPROPRIATION	\$	4,074,000

The appropriations in this subsection are subject to the following conditions and limitations:

(a) \$92,000 of the general fund—state fiscal year 1998 appropriation and \$36,000 of the general fund—state fiscal year 1999 appropriation are provided solely for the implementation of Substitute Senate Bill No. 5759 (risk classification). If the bill is not enacted by June 30, 1997, the amounts provided shall lapse.

(b) \$206,000 of the general fund—state fiscal year 1998 appropriation is provided solely for the implementation of Substitute House Bill No. 1968 (juvenile offender placement). If the bill is not enacted by June 30, 1997, the amount provided shall lapse.

(c) \$49,000 of the general fund—state fiscal year 1998 appropriation and \$49,000 of the general fund—state fiscal year 1999 appropriation are provided solely for the implementation of Engrossed Third Substitute House Bill No. 3900 (juvenile code revisions). If the bill is not enacted by June 30, 1997, the amounts provided shall lapse.

(d) Within the amounts provided in this subsection, the juvenile rehabilitation administration (JRA) shall develop by January 1, 1998, a staffing model for noncustody functions at JRA institutions and work camps. The models should, whenever possible, reflect the most efficient practices currently being used within the system.

*Sec. 203 was vetoed. See message at end of chapter.

NEW SECTION. Sec. 204. FOR THE DEPARTMENT OF SOCIAL AND HEALTH SERVICES—MENTAL HEALTH PROGRAM

(1) COMMUNITY SERVICES/REGIONAL SUPPORT NETWORKS

General Fund—State Appropriation (FY 1998)	\$	167,577,000
General Fund—State Appropriation (FY 1999)	\$	170,803,000
General Fund—Federal Appropriation	\$	296,006,000
General Fund—Private/Local Appropriation	\$	4,000,000
TOTAL APPROPRIATION	\$	638,386,000

The appropriations in this subsection are subject to the following conditions and limitations:

(a) Regional support networks shall use portions of the general fund—state appropriation for implementation of working agreements with the vocational rehabilitation program which will maximize the use of federal funding for vocational programs.

(b) From the general fund—state appropriations in this subsection, the secretary of social and health services shall assure that regional support networks reimburse the aging and adult services program for the general fund—state cost of medicaid personal care services that enrolled regional support network consumers use because of their psychiatric disability.

(c) \$2,413,000 of the general fund—state appropriation for fiscal year 1998 and \$2,393,000 of the general fund—state appropriation for fiscal year 1999 are

provided solely to directly reimburse eligible providers for the medicaid share of mental health services provided to persons eligible for both medicaid and medicare. To be reimbursed, the service must be covered by and provided in accordance with the state medicaid plan.

(d) \$1,304,000 of the general fund—state appropriation for fiscal year 1998, \$3,356,000 of the general fund—state appropriation for fiscal year 1999, and \$5,056,000 of the general fund—federal appropriation are provided solely for distribution to those regional support networks whose 1997-99 allocation would otherwise be less than the regional support network would receive if all funding appropriated in this subsection (1) of this section for medicaid outpatient mental health services were distributed among all regional support networks at the state-wide average per capita rate for each eligibility category.

(e) At least thirty days prior to entering contracts that would capitate payments for voluntary psychiatric hospitalizations, the mental health division shall report the proposed capitation rates, and the assumptions and calculations by which they were established, to the budget and forecasting divisions of the office of financial management, the appropriations committee of the house of representatives, and the ways and means committee of the senate.

(2) INSTITUTIONAL SERVICES

General Fund—State Appropriation (FY 1998)	\$	59,496,000
General Fund—State Appropriation (FY 1999)	\$	59,508,000
General Fund—Federal Appropriation	\$	127,118,000
General Fund—Private/Local Appropriation	\$	30,940,000
TOTAL APPROPRIATION	\$	277,062,000

The appropriations in this subsection are subject to the following conditions and limitations:

(a) The state mental hospitals may use funds appropriated in this subsection to purchase goods and supplies through hospital group purchasing organizations when it is cost-effective to do so.

(b) The mental health program at Western state hospital shall continue to use labor provided by the Tacoma prerelease program of the department of corrections.

(3) CIVIL COMMITMENT

General Fund Appropriation (FY 1998)	\$	5,423,000
General Fund Appropriation (FY 1999)	\$	6,082,000
TOTAL APPROPRIATION	\$	11,505,000

(4) SPECIAL PROJECTS

General Fund—State Appropriation (FY 1998)	\$	50,000
General Fund—State Appropriation (FY 1999)	\$	450,000
General Fund—Federal Appropriation	\$	3,826,000
TOTAL APPROPRIATION	\$	4,326,000

The appropriations in this subsection are subject to the following conditions and limitations: \$50,000 of the general fund—state appropriation for fiscal year

1998 and \$450,000 of the general fund—state appropriation for fiscal year 1999 are provided solely for development and operation of the pilot project for mentally ill offenders described in Substitute Senate Bill No. 6002 (mentally ill offenders). If the bill is not enacted by June 30, 1997, the amounts provided shall lapse.

(5) PROGRAM SUPPORT

General Fund—State Appropriation (FY 1998)	\$	2,560,000
General Fund—State Appropriation (FY 1999)	\$	2,395,000
General Fund—Federal Appropriation	\$	3,111,000
TOTAL APPROPRIATION	\$	8,066,000

The appropriations in this subsection are subject to the following conditions and limitations: \$60,000 of the general fund—state appropriation for fiscal year 1998 is provided solely to increase the department's capacity to carry out legislative intent set forth in RCW 71.24.400 through 71.24.415. To facilitate this activity, the secretary shall appoint an oversight committee of project stakeholders including representatives from: Service providers, mental health regional support networks, the department's mental health division, the department's division of alcohol and substance abuse, the department's division of children and family services, and the department's medical assistance administration. The oversight group shall continue to seek ways to streamline service delivery as set forth in RCW 71.24.405 until at least July 1, 1998.

NEW SECTION. Sec. 205. FOR THE DEPARTMENT OF SOCIAL AND HEALTH SERVICES—DEVELOPMENTAL DISABILITIES PROGRAM

(1) COMMUNITY SERVICES

General Fund—State Appropriation (FY 1998)	\$	140,172,000
General Fund—State Appropriation (FY 1999)	\$	142,643,000
General Fund—Federal Appropriation	\$	194,347,000
Health Services Account Appropriation	\$	1,695,000
TOTAL APPROPRIATION	\$	478,857,000

The appropriations in this subsection are subject to the following conditions and limitations:

(a) \$1,695,000 of the health services account appropriation and \$1,835,000 of the general fund—federal appropriation are provided solely for the enrollment in the basic health plan of home care workers with family incomes below 200 percent of the federal poverty level who are employed through state contracts. Enrollment in the basic health plan for home care workers with family incomes at or above 200 percent of poverty shall be covered with general fund—state and matching general fund—federal revenues that were identified by the department to have been previously appropriated for health benefits coverage, to the extent that these funds had not been contractually obligated for worker wage increases prior to March 1, 1996.

(b) \$365,000 of the general fund—state appropriation for fiscal year 1998 and \$1,543,000 of the general fund—state appropriation for fiscal year 1999 are provided solely for employment, or other day activities and training programs, for young people who complete their high school curriculum in 1997 or 1998.

(c) \$22,974,000 of the general fund—state appropriation for fiscal year 1998 and \$25,111,000 of the general fund—state appropriation for fiscal year 1999, plus any vendor rate increases allotted in accordance with section 213 of this act, are provided solely to deliver personal care services to an average of 6,250 children and adults in fiscal year 1998 and an average of 7,100 children and adults in fiscal year 1999. If the secretary of social and health services determines that total expenditures are likely to exceed these appropriated amounts, the secretary shall take action as required by RCW 74.09.520 to adjust either functional eligibility standards or service levels or both sufficiently to maintain expenditures within appropriated levels. Such action may include the adoption of emergency rules and may not be taken to the extent that projected over-expenditures are offset by under-expenditures elsewhere within the program's general fund—state appropriation.

(d) \$453,000 of the general fund—state appropriation for fiscal year 1998, \$214,000 of the general fund—state appropriation for fiscal year 1999, and \$719,000 of the general fund—federal appropriation are provided solely to continue operation of the united cerebral palsy residential center during the period in which its residents are phasing into new community residences.

(e) \$197,000 of the general fund—state appropriation for fiscal year 1998 and \$197,000 of the general fund—state appropriation for fiscal year 1999 are provided solely to contract with the Washington initiative for supported employment for the purpose of continuing the promotion of supported employment services for persons with disabilities.

(2) INSTITUTIONAL SERVICES

General Fund—State Appropriation (FY 1998)	\$	63,982,000
General Fund—State Appropriation (FY 1999)	\$	63,206,000
General Fund—Federal Appropriation	\$	142,955,000
General Fund—Private/Local Appropriation	\$	9,729,000
TOTAL APPROPRIATION	\$	279,872,000

The appropriations in this subsection are subject to the following conditions and limitations:

(a) With the funds appropriated in this subsection, the secretary of social and health services shall develop an eight-bed program at Yakima valley school specifically for the purpose of providing respite services to all eligible individuals on a state-wide basis, with an emphasis on those residing in central Washington.

(b) \$112,000 of the general fund—state appropriation for fiscal year 1998, \$113,000 of the general fund—state appropriation for fiscal year 1999, and \$75,000 of the general fund—federal appropriation are provided solely for a nursing community outreach project at Yakima valley school. Registered nursing staff are

to provide nursing assessments, consulting services, training, and quality assurance on behalf of individuals residing in central Washington.

(c) \$200,000 of the general fund—state appropriation for fiscal year 1998, \$200,000 of the general fund—state appropriation for fiscal year 1999, and \$400,000 of the general fund—federal appropriation are provided solely for the development of a sixteen-bed program at Yakima valley school specifically for the purpose of providing respite services to all eligible individuals on a state-wide basis, with an emphasis on those residing in central Washington.

(3) PROGRAM SUPPORT

General Fund—State Appropriation (FY 1998)	\$	2,543,000
General Fund—State Appropriation (FY 1999)	\$	2,517,000
General Fund—Federal Appropriation	\$	1,645,000
TOTAL APPROPRIATION	\$	6,705,000

(4) SPECIAL PROJECTS

General Fund—Federal Appropriation	\$	12,030,000
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NEW SECTION. Sec. 206. FOR THE DEPARTMENT OF SOCIAL AND HEALTH SERVICES—AGING AND ADULT SERVICES PROGRAM

General Fund—State Appropriation (FY 1998)	\$	392,045,000
General Fund—State Appropriation (FY 1999)	\$	416,304,000
General Fund—Federal Appropriation	\$	878,169,000
Health Services Account Appropriation	\$	6,087,000
TOTAL APPROPRIATION	\$	1,692,605,000

The appropriations in this section are subject to the following conditions and limitations:

(1) The entire health services account appropriation and \$6,076,000 of the general fund—federal appropriation are provided solely for the enrollment in the basic health plan of home care workers with family incomes below 200 percent of the federal poverty level who are employed through state contracts. Enrollment in the basic health plan for home care workers with family incomes at or above 200 percent of poverty shall be covered with general fund—state and matching general fund—federal revenues that were identified by the department to have been previously appropriated for health benefits coverage, to the extent that these funds had not been contractually obligated for worker wage increases prior to March 1, 1996.

(2) \$1,277,000 of the general fund—state appropriation for fiscal year 1998 and \$1,277,000 of the general fund—state appropriation for fiscal year 1999 are provided solely for operation of the volunteer chore program.

(3) \$107,997,000 of the general fund—state appropriation for fiscal year 1998 and \$120,397,000 of the general fund—state appropriation for fiscal year 1999, plus any vendor rate increases allocated to these services in accordance with section 213 of this act, are provided solely to deliver chore, COPES, and medicaid personal care services. If the secretary of social and health services determines that total

expenditures are likely to exceed these amounts, the secretary shall take action as required by RCW 74.09.520, 74.39A.120, and 74.09.530 to adjust functional eligibility standards and/or service levels sufficiently to maintain expenditures within appropriated levels. Such action may include the adoption of emergency rules, and shall not be taken to the extent that projected over-expenditures are offset by under-expenditures resulting from lower than budgeted nursing home caseloads.

(4) \$26,000 of the general fund—state appropriation for fiscal year 1998, \$59,000 of the general fund—state appropriation for fiscal year 1999, and \$85,000 of the general fund—federal appropriation are provided solely to employ registered nurses rather than social workers to fill six of the new field positions to be filled in fiscal year 1998 and seven more of the new positions to be filled in fiscal year 1999. These registered nurses shall conduct assessments, develop and monitor service plans, and consult with social work staff to assure that persons with medical needs are placed in and receive the appropriate level of care.

(5) \$425,000 of the general fund—state appropriation for fiscal year 1998 and \$882,000 of the general fund—state appropriation for fiscal year 1999 are provided solely to implement Second Substitute Senate Bill No. 5179 (nursing facility reimbursement). If the bill is not enacted by June 30, 1997, the amounts provided in this subsection shall lapse.

(6) A maximum of \$2,193,000 of the general fund—state appropriation for fiscal year 1998 and \$2,351,000 of the general fund—federal appropriation for fiscal year 1998 are provided to fund the medicaid share of any new prospective payment rate adjustments as may be necessary in accordance with RCW 74.46.460.

(7) \$242,000 of the general fund—state appropriation for fiscal year 1998, \$212,000 of the general fund—state appropriation for fiscal year 1999, and \$498,000 of the general fund—federal appropriation are provided solely for operation of a system for investigating allegations of staff abuse and neglect in nursing homes, as provided in Second Substitute House Bill No. 1850 (long-term care standards of care).

(8) \$350,000 of the general fund—state appropriation for fiscal year 1998 and \$382,000 of the general fund—state appropriation for fiscal year 1999 are provided solely to supplement the incomes of disabled legal immigrants who, because of loss of their federal supplemental security income benefit, would otherwise be at risk of placement into a more expensive long-term care setting.

(9)(a) The department shall establish a shadow case mix payment system to educate facilities about payment system alternatives. The department shall provide shadow rates beginning July 1, 1997, based on the following:

(i) The direct care portion of the rate, usually called "nursing services," shall be set under a case mix methodology that classifies residents under the Resource Utilization Group III (RUG-III) Version 5.10 (or subsequent revision) 44 group index maximizing model based on the Minimum Data Set (MDS) Version 2.0.

(ii) Payment to a facility shall be based on facility weighted average case mix data which provides one rate to a facility reflecting its mix of residents. For purposes of determining the facility's cost per case mix unit, the facility average case mix score will be based on the case mix of all residents. For purposes of determining the facility's payment rate, the facility average case mix score shall be based on the case mix of medicaid residents.

(iii) The direct care rates shall be adjusted prospectively each quarter based on the facility's MDS 2.0 data from the quarter commencing six months preceding the rate effective date. For example, the MDSs for 1/1/97 - 3/31/97 shall be used to establish shadow rates for 7/1/97 - 9/30/97.

(iv) Those costs which currently comprise nursing services as defined by chapter 74.46 RCW, excluding therapies, shall be included in the direct care component for case mix.

(v) Data from 1994 cost reports (allowable and audited costs) shall be used to establish the shadow rates. The costs shall be inflated comparable to fiscal year 1998 payment rates, according to RCW 74.46.420.

(vi) Separate prices, ceilings, and corridors shall be established for the peer groups of metropolitan statistical area and nonmetropolitan statistical area.

(b) The following methods shall be used to establish the shadow case mix rates:

(i) A pricing system in which payment to a facility shall be based on a price multiplied by each facility's medicaid case mix. The price, per peer group, shall be established at the median direct care cost per case mix unit.

(ii) A pricing system in which payment to a facility shall be based on a price multiplied by each facility's medicaid case mix. The price, per peer group, shall be based on the cost per case-mix unit of a group of cost-effective benchmark facilities which meet quality standards.

(iii) A corridor-based system in which payment to a facility shall be the facility's allowable cost per case-mix unit adjusted for case mix up to a ceiling and no less than a floor. The floor, per peer group, shall be established at 90 percent of the cost per case-mix unit of a group of cost-effective benchmark facilities which meet quality standards. The ceiling, per peer group, shall be established at 110 percent of the cost per case-mix unit of the group of benchmark facilities.

(iv) A corridor-based system in which payment to a facility shall be the facility's allowable cost per case-mix unit adjusted for case mix up to a ceiling and no less than a floor. The floor, per peer group, shall be established at 90 percent of the industry-wide median direct care cost per case-mix unit. The ceiling, per peer group, shall be established at 110 percent of the industry-wide median direct care cost per case-mix unit.

(c) The department shall provide all data, information, and specifications of the methods used in establishing the shadow case mix rates to the nursing home provider associations.

(d) It is the legislature's intent that the average state payment for nursing facility services under the new system increase by no more than 175 percent of the health care financing administration nursing home input price index, excluding capital costs. In designing the new payment system, the department shall develop and propose options for the combined direct and indirect rate components that assure this.

(10) \$50,000 of the general fund—state appropriation for fiscal year 1998 and \$50,000 of the general fund—state appropriation for fiscal year 1999 are provided solely for payments to any nursing facility licensed under chapter 18.51 RCW which meets all of the following criteria: (a) The nursing home entered into an arm's length agreement for a facility lease prior to January 1, 1980; (b) the lessee purchased the leased nursing home after January 1, 1980; and (c) the lessor defaulted on its loan or mortgage for the assets of the home after January 1, 1991, and prior to January 1, 1992. Payments provided pursuant to this subsection shall not be subject to the settlement, audit, or rate-setting requirements contained in chapter 74.46 RCW.

(11) \$546,000 of the general fund—state appropriation for fiscal year 1998, \$583,000 of the general fund—state appropriation for fiscal year 1999, and \$1,220,000 of the general fund—federal appropriation are provided solely for an increase in the state payment rates for adult residential care and enhanced adult residential care.

***NEW SECTION. Sec. 207. FOR THE DEPARTMENT OF SOCIAL AND HEALTH SERVICES—ECONOMIC SERVICES PROGRAM**

General Fund—State Appropriation (FY 1998)	\$	543,150,000
General Fund—State Appropriation (FY 1999)	\$	529,985,000
General Fund—Federal Appropriation	\$	952,618,000
TOTAL APPROPRIATION	\$	2,025,753,000

The appropriations in this section are subject to the following conditions and limitations:

(1) General assistance-unemployable recipients who are assessed as needing alcohol or drug treatment shall be assigned a protective payee to prevent the diversion of cash assistance toward purchasing alcohol or other drugs.

(2) The legislature finds that, with the passage of the federal personal responsibility and work opportunity act and Engrossed House Bill No. 3901, the temporary assistance for needy families is no longer an entitlement. The legislature declares that the currently appropriated level for the program is sufficient for the next few budget cycles. To the extent, however, that currently appropriated amounts exceed costs during the 1997-99 biennium, the department is encouraged to set aside excess federal funds for use in future years.

(3) \$485,000 of the general fund—state fiscal year 1998 appropriation, \$3,186,000 of the general fund—state fiscal year 1999 appropriation, and \$3,168,000 of the general fund—federal appropriation are provided solely to continue to implement the previously competitively procured electronic benefits

transfer system through the western states EBT alliance for distribution of cash grants and food stamps so as to meet the requirements of P.L. 104-193.

(4) \$50,000 of the fiscal year 1998 general fund—state appropriation is provided solely for a study of child care affordability as directed in section 403 of Engrossed House Bill No. 3901 (implementing welfare reform). The study shall be performed by the Washington institute for public policy. If the bill is not enacted by June 30, 1997, the amount provided in this subsection shall lapse.

(5) \$500,000 of the fiscal year 1998 general fund—state appropriation and \$500,000 of the fiscal year 1999 general fund—state appropriation are provided solely for an evaluation of the WorkFirst program as directed in section 705 of Engrossed House Bill No. 3901 (implementing welfare reform). The study shall be performed by the joint legislative audit and review committee. If the bill is not enacted by June 30, 1997, the amount provided in this subsection shall lapse.

(6) \$73,129,000 of the general fund—federal appropriation is provided solely to implement section 402 of Engrossed House Bill No. 3901 (implementing welfare reform). If section 402 of the bill is not enacted by June 30, 1997, the amount provided in this subsection shall lapse.

(7) \$7,624,000 of the fiscal year 1998 general fund—state appropriation, \$18,489,000 of the fiscal year 1999 general fund—state appropriation, and \$29,781,000 of the general fund—federal appropriation are provided solely for implementation of Engrossed House Bill No. 3901 (implementing welfare reform), including sections 404 and 405. If the bill is not enacted by June 30, 1997, the amounts provided in this subsection shall lapse.

*Sec. 207 was partially vetoed. See message at end of chapter.

NEW SECTION. Sec. 208. FOR THE DEPARTMENT OF SOCIAL AND HEALTH SERVICES—ALCOHOL AND SUBSTANCE ABUSE PROGRAM

General Fund—State Appropriation (FY 1998)	\$	14,714,000
General Fund—State Appropriation (FY 1999)	\$	14,829,000
General Fund—Federal Appropriation	\$	80,497,000
General Fund—Private/Local Appropriation	\$	630,000
Violence Reduction and Drug Enforcement Account		
Appropriation	\$	72,900,000
TOTAL APPROPRIATION	\$	183,570,000

The appropriations in this section are subject to the following conditions and limitations:

(1) \$2,062,000 of the general fund—federal appropriation and \$7,482,000 of the violence reduction and drug enforcement account appropriation are provided solely for the grant programs for school districts and educational service districts set forth in RCW 28A.170.080 through 28A.170.100, including state support activities, as administered through the office of the superintendent of public instruction.

(2) \$1,902,000 of the general fund—state fiscal year 1998 appropriation, \$1,902,000 of the general fund—state fiscal year 1999 appropriation, and \$1,592,000 of the general fund—federal appropriation are provided solely for alcohol and substance abuse assessment, treatment, including treatment for drug affected infants and toddlers, and child care services for clients of the division of children and family services. Assessment shall be provided by approved chemical dependency treatment programs as requested by child protective services personnel in the division of children and family services. Child care shall be provided as deemed necessary by the division of children and family services while parents requiring alcohol and substance abuse treatment are attending treatment programs.

(3) \$760,000 of the fiscal year 1998 general fund—state appropriation and \$760,000 of the fiscal year 1999 general fund—state appropriation are provided solely to fund a program serving mothers of children affected by fetal alcohol syndrome and related conditions, known as the birth-to-three program. The program may be operated in two cities in the state.

(4) \$248,000 of the fiscal year 1998 general fund—state appropriation and \$495,000 of the fiscal year 1999 general fund—state appropriation are provided solely to implement Engrossed Third Substitute House Bill No. 3900 (revising the juvenile code). If the bill is not enacted by June 30, 1997, the amounts provided in this subsection shall lapse.

NEW SECTION. Sec. 209. FOR THE DEPARTMENT OF SOCIAL AND HEALTH SERVICES—MEDICAL ASSISTANCE PROGRAM

General Fund—State Appropriation (FY 1998)	\$	684,033,000
General Fund—State Appropriation (FY 1999)	\$	684,885,000
General Fund—Federal Appropriation	\$	2,038,101,000
General Fund—Private/Local Appropriation	\$	223,900,000
Health Services Account Appropriation	\$	253,004,000
Emergency Medical and Trauma Care Services		
Account Appropriation	\$	4,600,000
TOTAL APPROPRIATION	\$	3,888,523,000

The appropriations in this section are subject to the following conditions and limitations:

(1) The department shall continue to make use of the special eligibility category created for children through age 18 and in households with incomes below 200 percent of the federal poverty level made eligible for medicaid as of July 1, 1994.

(2) It is the intent of the legislature that Harborview medical center continue to be an economically viable component of the health care system and that the state's financial interest in Harborview medical center be recognized.

(3) Funding is provided in this section for the adult dental program for Title XIX categorically eligible and medically needy persons and to provide foot care services by podiatric physicians and surgeons.

(4) \$1,622,000 of the general fund—state appropriation for fiscal year 1998 and \$1,622,000 of the general fund—state appropriation for fiscal year 1999 are provided for treatment of low-income kidney dialysis patients.

(5) \$80,000 of the general fund—state appropriation for fiscal year 1998, \$80,000 of the general fund—state appropriation for fiscal year 1999, and \$160,000 of the general fund—federal appropriation are provided solely for the prenatal triage clearinghouse to provide access and outreach to reduce infant mortality.

(6) The department shall employ the managed care contracting and negotiation strategies defined in Substitute Senate Bill No. 5125 to assure that the average per-recipient cost of managed care services for temporary assistance to needy families and expansion populations increases by no more than two percent per year in calendar years 1998 and 1999.

(7) The department shall seek federal approval to require adult medicaid recipients who are not elderly or disabled to contribute ten dollars per month toward the cost of their medical assistance coverage. The department shall report on the progress of this effort to the house of representatives and senate health care and fiscal committees by September 1 and November 15, 1997.

(8) \$325,000 of the general fund—state appropriation for fiscal year 1998 and \$325,000 of the general fund—state appropriation for fiscal year 1999 are provided solely to increase rates paid for air ambulance services.

NEW SECTION. Sec. 210. FOR THE DEPARTMENT OF SOCIAL AND HEALTH SERVICES—VOCATIONAL REHABILITATION PROGRAM

General Fund—State Appropriation (FY 1998)	\$	8,652,000
General Fund—State Appropriation (FY 1999)	\$	8,592,000
General Fund—Federal Appropriation	\$	79,542,000
General Fund—Private/Local Appropriation	\$	2,904,000
TOTAL APPROPRIATION	\$	99,690,000

The appropriations in this section are subject to the following conditions and limitations:

(1) The division of vocational rehabilitation shall negotiate cooperative interagency agreements with local organizations, including higher education institutions, mental health regional support networks, and county developmental disabilities programs to improve and expand employment opportunities for people with severe disabilities served by those local agencies.

(2) \$363,000 of the general fund—state appropriation for fiscal year 1998, \$506,000 of the general fund—state appropriation for fiscal year 1999, and \$3,208,000 of the general fund—federal appropriation are provided solely for vocational rehabilitation services for individuals enrolled for services with the developmental disabilities program who complete their high school curriculum in 1997 or 1998.

***NEW SECTION. Sec. 211. FOR THE DEPARTMENT OF SOCIAL AND HEALTH SERVICES—ADMINISTRATION AND SUPPORTING SERVICES PROGRAM**

General Fund—State Appropriation (FY 1998)	\$	24,572,000
General Fund—State Appropriation (FY 1999)	\$	23,956,000
General Fund—Federal Appropriation	\$	40,352,000
General Fund—Private/Local Appropriation	\$	270,000
TOTAL APPROPRIATION	\$	89,150,000

The appropriations in this section are subject to the following conditions and limitations:

(1) The department may transfer up to \$1,289,000 of the general fund—state appropriation for fiscal year 1998, \$1,757,000 of the general fund—state appropriation for fiscal year 1999, and \$2,813,000 of the general fund—federal appropriation to the administration and supporting services program from various other programs to implement administrative reductions.

(2) The secretary of social and health services and the director of labor and industries shall report to the appropriate fiscal and policy committees of the legislature by July 1, 1997, and every six months thereafter on the measurable changes in employee injury and time-loss rates that have occurred in the state developmental disabilities, juvenile rehabilitation, and mental health institutions as a result of the upfront loss-control discount agreement between the agencies.

(3) The department shall not expend any funding for staffing or publication of the sexual minority initiative.

(4) \$60,000 of the general fund—state appropriation for fiscal year 1998 is provided solely for a welfare fraud pilot program as described by House Bill No. 1822 (welfare fraud investigation).

(5) \$55,000 of the fiscal year 1998 general fund—state appropriation, \$64,000 of the fiscal year 1999 general fund—state appropriation, and \$231,000 of the general fund—federal appropriation are provided solely for implementation of Engrossed House Bill No. 3901 (implementing welfare reform). If the bill is not enacted by June 30, 1997, the amounts provided in this subsection shall lapse.

*Sec. 211 was partially vetoed. See message at end of chapter.

***NEW SECTION. Sec. 212. FOR THE DEPARTMENT OF SOCIAL AND HEALTH SERVICES—CHILD SUPPORT PROGRAM**

General Fund—State Appropriation (FY 1998)	\$	21,122,000
General Fund—State Appropriation (FY 1999)	\$	20,877,000
General Fund—Federal Appropriation	\$	145,739,000
General Fund—Private/Local Appropriation	\$	33,207,000
TOTAL APPROPRIATION	\$	220,945,000

The appropriations provided in this section are subject to the following conditions and limitations:

(1) The department shall contract with private collection agencies to pursue collection of AFDC child support arrearages in cases that might otherwise consume

a disproportionate share of the department's collection efforts. The department's child support collection staff shall determine which cases are appropriate for referral to private collection agencies. In determining appropriate contract provisions, the department shall consult with other states that have successfully contracted with private collection agencies to the extent allowed by federal support enforcement regulations.

(2) The department shall request a waiver from federal support enforcement regulations to replace the current program audit criteria, which is process-based, with performance measures based on program outcomes.

(3) The amounts appropriated in this section for child support legal services shall be expended only by means of contracts with local prosecutor's offices.

(4) \$305,000 of the general fund—state fiscal year 1998 appropriation, \$494,000 of the general fund—state fiscal year 1999 appropriation, and \$1,408,000 of the general fund—federal appropriation are provided solely to implement Engrossed House Bill No. 3901 (implementing welfare reform). If the bill is not enacted by June 30, 1997, the amounts provided in this subsection shall lapse.

*Sec. 212 was partially vetoed. See message at end of chapter.

***NEW SECTION. Sec. 213. FOR THE DEPARTMENT OF SOCIAL AND HEALTH SERVICES—PAYMENTS TO OTHER AGENCIES PROGRAM**

General Fund—State Appropriation (FY 1998)	\$	47,435,000
General Fund—State Appropriation (FY 1999)	\$	47,514,000
General Fund—Federal Appropriation	\$	54,366,000
Health Services Account Appropriation	\$	1,502,000
Violence Reduction and Drug Enforcement Account		
Appropriation	\$	2,215,000
TOTAL APPROPRIATION	\$	153,032,000

The appropriations in this section are subject to the following conditions and limitations:

(1) \$22,893,000 of the general fund—state appropriation for fiscal year 1998, \$22,835,000 of the general fund—state appropriation for fiscal year 1999, \$35,431,000 of the general fund—federal appropriation, \$2,215,000 of the violence reduction and drug enforcement account, and \$1,502,000 of the health services account are provided solely to increase the rates of contracted service providers. The department need not provide all vendors with the same percentage rate increase. Rather, the department is encouraged to use these funds to help assure an adequate supply of qualified vendors. Vendors providing services in markets where recruitment and retention of qualified providers is a problem may receive larger rate increases than other vendors. It is the legislature's intent that these amounts shall be used primarily to increase compensation for persons employed in direct, front-line service delivery. Any rate increases granted as a result of this section must be implemented so that the carry-forward costs into the 1999-01 biennium do not exceed the amounts

provided in this subsection. Within thirty days of granting a vendor rate increase under this section, the department shall report the following information to the fiscal committees of the legislature: (1) The amounts and effective dates of any increases granted; (2) the process and criteria used to determine the increases; and (3) any data used in that process. In accordance with RCW 43.88.110(1), the department and the office of financial management shall allot funds appropriated in this section to the programs and budget units from which the funds will be expended. Such allotments shall be completed no later than September 15, 1997.

(2) \$263,000 of the fiscal year 1998 general fund—state appropriation, \$349,000 of the fiscal year 1999 general fund—state appropriation, and \$1,186,000 of the general fund—federal appropriation are provided solely for implementation of Engrossed House Bill No. 3901 (implementing welfare reform). If the bill is not enacted by June 30, 1997, the amounts provided in this subsection shall lapse.

*Sec. 213 was partially vetoed. See message at end of chapter.

***NEW SECTION. Sec. 214. FOR THE STATE HEALTH CARE AUTHORITY**

<i>General Fund—State Appropriation (FY 1998)</i>	<i>\$</i>	<i>6,316,000</i>
<i>General Fund—State Appropriation (FY 1999)</i>	<i>\$</i>	<i>6,317,000</i>
<i>State Health Care Authority Administration</i>		
<i>Account Appropriation</i>	<i>\$</i>	<i>14,719,000</i>
<i>Health Services Account Appropriation</i>	<i>\$</i>	<i>300,796,000</i>
TOTAL APPROPRIATION	\$	328,148,000

The appropriations in this section are subject to the following conditions and limitations:

(1) The general fund—state appropriations are provided solely for health care services provided through local community clinics.

(2) The health care authority shall utilize competitive contracting strategies, increase co-pay requirements, adjust state subsidy levels, and take other actions it deems necessary to assure that the funds appropriated in this section are sufficient to subsidize basic health plan enrollment for a monthly average of 130,000 persons during fiscal years 1998 and 1999.

(3) Within funds appropriated in this section and sections 205 and 206 of this act, the health care authority shall continue to provide an enhanced basic health plan subsidy option for foster parents licensed under chapter 74.15 RCW and workers in state-funded homecare programs. Under this enhanced subsidy option, foster parents and homecare workers with family incomes below 200 percent of the federal poverty level shall be allowed to enroll in the basic health plan at a cost of ten dollars per covered worker per month.

(4) The health care authority shall require organizations and individuals that are paid to deliver basic health plan services to contribute a minimum of forty-five dollars per enrollee per month if the organization or individual chooses to sponsor an individual's enrollment in the subsidized basic health plan.

(5) *\$150,000 of the health services account appropriation is provided solely to implement Substitute House Bill No. 1805 (health care savings accounts). If this bill is not enacted by June 30, 1997, the amount provided in this subsection shall lapse.*

(6) *The health care authority shall report to the fiscal committees of the legislature by December 1, 1997, on the number of basic health plan enrollees who are illegal aliens but are not resident citizens, legal aliens, legal refugees, or legal asylees.*

(7) *\$270,000 of the health services account appropriation is provided solely to pay commissions to agents and brokers in accordance with RCW 70.47.015(5) for application assistance provided to persons on the reservation list as of June 30, 1997, who enroll in the subsidized basic health plan on or after July 1, 1997.*

*Sec. 214 was vetoed. See message at end of chapter.

NEW SECTION. Sec. 215. FOR THE HUMAN RIGHTS COMMISSION

General Fund—State Appropriation (FY 1998)	\$	2,019,000
General Fund—State Appropriation (FY 1999)	\$	2,036,000
General Fund—Federal Appropriation	\$	1,444,000
General Fund—Private/Local Appropriation	\$	259,000
TOTAL APPROPRIATION	\$	5,758,000

NEW SECTION. Sec. 216. FOR THE BOARD OF INDUSTRIAL INSURANCE APPEALS

Worker and Community Right-to-Know Account

Appropriation	\$	20,000
Accident Account Appropriation	\$	10,785,000
Medical Aid Account Appropriation	\$	10,787,000
TOTAL APPROPRIATION	\$	21,592,000

NEW SECTION. Sec. 217. FOR THE CRIMINAL JUSTICE TRAINING COMMISSION

General Fund—Federal Appropriation	\$	100,000
Death Investigations Account Appropriation	\$	38,000
Public Safety and Education Account		
Appropriation	\$	13,434,000
Violence Reduction and Drug Enforcement Account		
Appropriation	\$	346,000
TOTAL APPROPRIATION	\$	13,918,000

The appropriations made in this section are subject to the following conditions and limitations:

(1) \$80,000 of the public safety and education account appropriation is provided solely to continue the study of law enforcement and corrections training begun in 1996. In conducting the study, the criminal justice training commission shall consult with the appropriate policy and fiscal committees of the legislature. Specific elements to be addressed in the study include: (a) The feasibility and the

rationale for increasing basic law enforcement training from 440 to 600 hours; (b) the feasibility and rationale for creating a certification process for law enforcement officers; (c) the feasibility and rationale for expanding the correctional officers academy; (d) the feasibility and rationale for expanding the juvenile service workers academy and/or the adult services academy; and (e) any other items considered relevant by the commission. Any recommendations made shall include a plan and timeline for how they would be implemented. The board on correctional training standards and education and the board on law enforcement training standards and education shall be actively involved in the study effort. Copies of the study shall be provided to the appropriate policy and fiscal committees of the legislature and the director of financial management by October 1, 1997.

(2) \$50,000 of the public safety and education account appropriation is provided solely to prepare a cost and fee study of the current and proposed criminal justice course offerings. The analysis shall identify total costs and major cost components for: (a) Any current training classes which are considered mandatory; and (b) any proposed or modified training courses which are considered mandatory. Mandatory classes include, but are not limited to, the following: Basic law enforcement academy, correctional officers academy, supervisory and management training of law enforcement officers, supervisory and management training of correctional officers, juvenile service workers academy, and the adult service academy. The study shall also recommend a methodology for estimating the future demand for these classes. The study shall also estimate the cost of implementing any recommendations made pursuant to subsection (1) of this section. The study shall be conducted by a private sector consultant selected by the office of financial management in consultation with the executive director of the criminal justice training commission. The final report shall be completed by January 1, 1998.

(3) \$92,000 of the public safety and education account appropriation is provided solely for the purpose of training law enforcement managers and supervisors.

(4) \$40,000 of the public safety and education account appropriation is provided solely to implement the provisions of Substitute House Bill No. 1423 (criminal justice training commission). If this bill is not enacted by June 30, 1997, the amount provided in this subsection shall lapse.

NEW SECTION. Sec. 218. FOR THE DEPARTMENT OF LABOR AND INDUSTRIES

General Fund Appropriation (FY 1998)	\$	6,805,000
General Fund Appropriation (FY 1999)	\$	6,848,000
Public Safety and Education Account—State		
Appropriation	\$	16,246,000
Public Safety and Education Account—		
Federal Appropriation	\$	6,002,000

Public Safety and Education Account—	
Private/Local Appropriation	\$ 2,014,000
Electrical License Account Appropriation	\$ 22,542,000
Farm Labor Revolving Account Appropriation	\$ 28,000
Worker and Community Right-to-Know Account	
Appropriation	\$ 2,187,000
Public Works Administration Account Appropriation . . .	\$ 1,975,000
Accident Account—State Appropriation	\$ 146,849,000
Accident Account—Federal Appropriation	\$ 9,112,000
Medical Aid Account—State Appropriation	\$ 155,220,000
Medical Aid Account—Federal Appropriation	\$ 1,592,000
Plumbing Certificate Account Appropriation	\$ 846,000
Pressure Systems Safety Account Appropriation	\$ 2,106,000
TOTAL APPROPRIATION	\$ 380,372,000

The appropriations in this section are subject to the following conditions and limitations:

(1) Expenditures of funds appropriated in this section for the information systems projects identified in agency budget requests as "claims service delivery", "electrical permitting and inspection system", and "credentialing information system" are conditioned upon compliance with section 902 of this act.

(2) Pursuant to RCW 7.68.015, the department shall operate the crime victims compensation program within the public safety and education account funds appropriated in this section. In the event that cost containment measures are necessary, the department may (a) institute copayments for services; (b) develop preferred provider and managed care contracts; (c) coordinate with the department of social and health services to use the public safety and education account as matching funds for federal Title XIX reimbursement, to the extent this maximizes total funds available for services to crime victims.

(3) \$54,000 of the general fund appropriation for fiscal year 1998 and \$54,000 of the general fund appropriation for fiscal year 1999 are provided solely for an interagency agreement to reimburse the board of industrial insurance appeals for crime victims appeals.

(4) The secretary of social and health services and the director of labor and industries shall report to the appropriate fiscal and policy committees of the legislature by July 1, 1997, and every six months thereafter on the measurable changes in employee injury and time-loss rates that have occurred in the state developmental disabilities, juvenile rehabilitation, and mental health institutions as a result of the upfront loss-control discount agreement between the agencies.

(5) \$43,000 of the general fund—state appropriation for fiscal year 1998, \$35,000 of the general fund—state appropriation for fiscal year 1999, \$20,000 of the electrical license account appropriation, and \$58,000 of the plumbing certificate account appropriation are provided solely for the implementation of Engrossed

House Bill No. 3901 (implementing welfare reform). If the bill is not enacted by June 30, 1997, the amount provided shall lapse.

(6) The expenditures of the elevator, factory assembled structures, and contractors' registration and compliance programs may not exceed the revenues generated by these programs.

NEW SECTION. Sec. 219. FOR THE INDETERMINATE SENTENCE REVIEW BOARD

General Fund Appropriation (FY 1998)	\$	1,141,000
General Fund Appropriation (FY 1999)	\$	920,000
TOTAL APPROPRIATION	\$	2,061,000

The appropriations in this section are subject to the following conditions and limitations: \$920,000 of the general fund appropriation for fiscal year 1999 is provided solely to implement House Bill No. 1646 (indeterminate sentence review) or Senate Bill No. 5410 (indeterminate sentence review board). If neither of these bills is enacted by June 30, 1997, this amount shall lapse.

NEW SECTION. Sec. 220. FOR THE DEPARTMENT OF VETERANS AFFAIRS

(1) HEADQUARTERS

General Fund Appropriation (FY 1998)	\$	1,339,000
General Fund Appropriation (FY 1999)	\$	1,334,000
Industrial Insurance Premium Refund Account		
Appropriation	\$	80,000
Charitable, Educational, Penal, and Reformatory		
Institutions Account Appropriation	\$	4,000
TOTAL APPROPRIATION	\$	2,757,000

(2) FIELD SERVICES

General Fund—State Appropriation (FY 1998)	\$	2,418,000
General Fund—State Appropriation (FY 1999)	\$	2,420,000
General Fund—Federal Appropriation	\$	26,000
General Fund—Private/Local Appropriation	\$	85,000
TOTAL APPROPRIATION	\$	4,949,000

(3) INSTITUTIONAL SERVICES

General Fund—State Appropriation (FY 1998)	\$	6,101,000
General Fund—State Appropriation (FY 1999)	\$	5,369,000
General Fund—Federal Appropriation	\$	19,556,000
General Fund—Private/Local Appropriation	\$	14,583,000
TOTAL APPROPRIATION	\$	45,609,000

NEW SECTION. Sec. 221. FOR THE DEPARTMENT OF HEALTH

General Fund—State Appropriation (FY 1998)	\$	53,955,000
General Fund—State Appropriation (FY 1999)	\$	57,462,000
General Fund—Federal Appropriation	\$	259,139,000
General Fund—Private/Local Appropriation	\$	24,351,000

Hospital Commission Account Appropriation	\$	3,089,000
Health Professions Account Appropriation	\$	36,038,000
Emergency Medical and Trauma Care Services Account Appropriation	\$	21,042,000
Safe Drinking Water Account Appropriation	\$	2,494,000
Drinking Water Assistance Account—Federal Appropriation	\$	5,385,000
Waterworks Operator Certification Appropriation	\$	588,000
Water Quality Account Appropriation	\$	3,065,000
Violence Reduction and Drug Education Account Appropriation	\$	469,000
State Toxics Control Account Appropriation	\$	2,854,000
Medical Test Site Licensure Account Appropriation	\$	1,624,000
Youth Tobacco Prevention Account Appropriation	\$	1,812,000
Health Services Account Appropriation	\$	24,224,000
TOTAL APPROPRIATION	\$	497,591,000

The appropriations in this section are subject to the following conditions and limitations:

(1) \$2,134,000 of the health professions account appropriation is provided solely for the development and implementation of a licensing and disciplinary management system. Expenditures are conditioned upon compliance with section 902 of this act. These funds shall not be expended without appropriate project approval by the department of information systems.

(2) Funding provided in this section for the drinking water program data management system shall not be expended without appropriate project approval by the department of information systems. Expenditures are conditioned upon compliance with section 902 of this act.

(3) The department is authorized to raise existing fees charged to the nursing professions and midwives, by the pharmacy board, and for boarding home licenses, in excess of the fiscal growth factor established by Initiative Measure No. 601, if necessary, to meet the actual costs of conducting business.

(4) \$1,633,000 of the general fund—state fiscal year 1998 appropriation and \$1,634,000 of the general fund—state fiscal year 1999 appropriation are provided solely for the implementation of the Puget Sound water work plan and agency action items, DOH-01, DOH-02, DOH-03, DOH-04, DOH-05, DOH-06, DOH-07, DOH-08, DOH-09, DOH-10, DOH-11, and DOH-12.

(5) \$10,000,000 of the health services account appropriation is provided solely for distribution to local health departments for distribution on a per capita basis. Prior to distributing these funds, the department shall adopt rules and procedures to ensure that these funds are not used to replace current local support for public health programs.

(6) \$500,000 of the general fund—state appropriation for fiscal year 1998 and \$500,000 of the general fund—state appropriation for fiscal year 1999 are provided

solely for operation of a youth suicide prevention program at the state level, including a state-wide public educational campaign to increase knowledge of suicide risk and ability to respond and provision of twenty-four hour crisis hotlines, staffed to provide suicidal youth and caregivers a source of instant help.

(7) The department of health shall not initiate any services that will require expenditure of state general fund moneys unless expressly authorized in this act or other law. The department may seek, receive, and spend, under RCW 43.79.260 through 43.79.282, federal moneys not anticipated in this act as long as the federal funding does not require expenditure of state moneys for the program in excess of amounts anticipated in this act. If the department receives unanticipated unrestricted federal moneys, those moneys shall be spent for services authorized in this act or in any other legislation that provides appropriation authority, and an equal amount of appropriated state moneys shall lapse. Upon the lapsing of any moneys under this subsection, the office of financial management shall notify the legislative fiscal committees. As used in this subsection, "unrestricted federal moneys" includes block grants and other funds that federal law does not require to be spent on specifically defined projects or matched on a formula basis by state funds.

(8) \$259,000 of the health professions account appropriation is provided solely to implement Engrossed House Bill No. 3901 (implementing welfare reform). If the bill is not enacted by June 30, 1997, the amounts provided in this subsection shall lapse.

(9) \$150,000 of the general fund—state fiscal year 1998 appropriation and \$150,000 of the general fund—state fiscal year 1999 appropriation are provided solely for community-based oral health grants that may fund sealant programs, education, prevention, and other oral health interventions. The grants may be awarded to state or federally funded community and migrant health centers, tribal clinics, or public health jurisdictions. Priority shall be given to communities with established oral health coalitions. Grant applications for oral health education and prevention grants shall include (a) an assessment of the community's oral health education and prevention needs; (b) identification of the population to be served; and (c) a description of the grant program's predicted outcomes.

(10) \$21,042,000 of the emergency medical and trauma care services account appropriation is provided solely for implementation of Substitute Senate Bill No. 5127 (trauma care services). If the bill is not enacted by June 30, 1997, the amount provided in this subsection shall lapse.

(11) \$500,000 of the general fund—state appropriation for fiscal year 1998 and \$500,000 of the general fund—state appropriation for fiscal year 1999 are provided solely for family support and provider training services for children with special health care needs.

(12) \$300,000 of the general fund—federal appropriation is provided solely for an abstinence education program which complies with P.L. 104-193. \$400,000 of the general fund—federal appropriation is provided solely for abstinence education

projects at the office of the superintendent of public instruction and shall be transferred to the office of the superintendent of public instruction for the 1998-99 school year. The department shall apply for abstinence education funds made available by the federal personal responsibility and work opportunity act of 1996 and implement a program that complies with the requirements of that act.

(13) \$50,000 of the general fund—state appropriation for fiscal year 1998 and \$50,000 of the general fund—state appropriation for fiscal year 1999 are provided solely for the implementation of Second Substitute House Bill No. 1191 (mandated health benefit review). If the bill is not enacted by June 30, 1997, the amounts provided in this section shall lapse.

(14) \$100,000 of the general fund—state appropriation for fiscal year 1998 and \$100,000 of the general fund—state appropriation for fiscal year 1999 are provided solely for the volunteer retired provider program. Funds shall be used to increase children's access to dental care services in rural and underserved communities by paying malpractice insurance and professional licensing fees for retired dentists participating in the program.

(15) \$852,000 of the drinking water assistance account—federal appropriation is provided solely for an interagency agreement with the department of community, trade, and economic development to administer, in cooperation with the public works board, loans to local governments and public water systems for projects and activities to protect and improve the state's drinking water facilities and resources.

(16) Amounts provided in this section are sufficient to operate the AIDS prescription drug program. To operate the program within the appropriated amount, the department shall limit new enrollments, manage access to the most expensive drug regimens, establish waiting lists and priority rankings, assist clients in accessing drug assistance programs sponsored by drug manufacturers, or pursue other means of managing expenditures by the program.

(17) Funding provided in this section is sufficient to implement section 8 of Engrossed Substitute House Bill No. 2264 (eliminating the health care policy board).

(18) \$4,150,000 of the health services account appropriation is provided solely for the Washington poison center.

***NEW SECTION. Sec. 222. FOR THE DEPARTMENT OF CORRECTIONS**

(1) ADMINISTRATION AND PROGRAM SUPPORT

General Fund Appropriation (FY 1998)	\$	13,926,000
General Fund Appropriation (FY 1999)	\$	13,910,000
Violence Reduction and Drug Enforcement Account		
Appropriation	\$	500,000
TOTAL APPROPRIATION	\$	28,336,000

The appropriations in this subsection are subject to the following conditions and limitations:

(a) \$187,000 of the general fund fiscal year 1998 appropriation and \$155,000 of the general fund fiscal year 1999 appropriation are provided solely for implementation of Substitute Senate Bill No. 5759 (risk classification). If the bill is not enacted by July 1, 1997, the amounts provided shall lapse.

(b) \$500,000 of the violence reduction and drug enforcement account appropriation is provided solely for a feasibility study regarding the replacement of the department's offender based tracking system.

(2) INSTITUTIONAL SERVICES

<i>General Fund—State Appropriation (FY 1998)</i>	\$	289,204,000
<i>General Fund—State Appropriation (FY 1999)</i>	\$	302,933,000
<i>General Fund—Federal Appropriation</i>	\$	18,097,000
<i>Industrial Insurance Premium Rebate Account</i>		
<i>Appropriation</i>	\$	673,000
<i>Violence Reduction and Drug Enforcement Account</i>		
<i>Appropriation</i>	\$	1,614,000
TOTAL APPROPRIATION	\$	612,521,000

The appropriations in this subsection are subject to the following conditions and limitations:

(a) *The department shall provide funding for the pet partnership program at the Washington corrections center for women at a level at least equal to that provided in the 1995-97 biennium.*

(b) *\$2,298,000 of the general fund—state fiscal year 1998 appropriation and \$5,414,000 of the general fund—state fiscal year 1999 appropriation are provided solely for the criminal justice costs associated with the implementation of RCW 13.04.030 as amended by Engrossed Third Substitute House Bill No. 3900 (revising the juvenile code). If RCW 13.04.030 is not amended by Engrossed Third Substitute House Bill No. 3900 by June 30, 1997, the amounts provided shall lapse.*

(c) *The department of corrections shall accomplish personnel reductions with the least possible impact on correctional custody staff, community custody staff, and correctional industries. For the purposes of this subsection, correctional custody staff means employees responsible for the direct supervision of offenders.*

(d) *It is the intent of the legislature that the department reduce health care expenditures in the 1997-99 biennium using the scenario identified in the health services delivery system study which limited health care costs to \$43,000,000 in fiscal year 1998 and \$40,700,000 in fiscal year 1999. The department shall consult with direct health care service providers and health care staff in implementing this scenario.*

(e) *\$296,000 of the general fund—state appropriation for fiscal year 1998 and \$297,000 of the general fund—state appropriation for fiscal year 1999 are provided solely to increase payment rates for contracted education providers. It*

is the legislature's intent that these amounts shall be used primarily to increase compensation for persons employed in direct, front-line service delivery.

(f) The department may expend funds generated by contractual agreements entered into for mitigation of severe overcrowding in local jails. If any funds are generated in excess of actual costs, they shall be deposited in the state general fund. Expenditures shall not exceed revenue generated by such agreements and shall be treated as recovery of costs.

(3) COMMUNITY CORRECTIONS

General Fund Appropriation (FY 1998)	\$	89,364,000
General Fund Appropriation (FY 1999)	\$	90,416,000
TOTAL APPROPRIATION	\$	179,780,000

The appropriations in this subsection are subject to the following conditions and limitations:

(a) \$14,000 of the general fund fiscal year 1998 appropriation and \$106,000 of the general fund fiscal year 1999 appropriation are provided solely for the criminal justice costs associated with the implementation of RCW 13.04.030 as amended by Engrossed Third Substitute House Bill No. 3900 (revising the juvenile code). If RCW 13.04.030 is not amended by Engrossed Third Substitute House Bill No. 3900 by June 30, 1997, the amounts provided shall lapse.

(b) The department of corrections shall accomplish personnel reductions with the least possible impact on correctional custody staff, community custody staff, and correctional industries. For the purposes of this subsection, correctional custody staff means employees responsible for the direct supervision of offenders.

(c) \$467,000 of the general fund appropriation for fiscal year 1998 and \$505,000 of the general fund appropriation for fiscal year 1999 are provided solely to increase payment rates for contracted education providers and contracted work release facilities. It is the legislature's intent that these amounts shall be used primarily to increase compensation for persons employed in direct, front-line service delivery.

(4) CORRECTIONAL INDUSTRIES

General Fund Appropriation (FY 1998)	\$	4,055,000
General Fund Appropriation (FY 1999)	\$	4,167,000
TOTAL APPROPRIATION	\$	8,222,000

The appropriations in this subsection are subject to the following conditions and limitations:

(a) \$100,000 of the general fund fiscal year 1998 appropriation and \$100,000 of the general fund fiscal year 1999 appropriation are provided solely for transfer to the jail industries board. The board shall use the amounts provided only for administrative expenses, equipment purchases, and technical assistance associated with advising cities and counties in developing, promoting, and implementing consistent, safe, and efficient offender work programs.

(b) \$50,000 of the general fund appropriation for fiscal year 1998 and \$50,000 of the general fund appropriation for fiscal year 1999 are provided solely for the correctional industries board of directors to hire one staff person, responsible directly to the board, to assist the board in fulfilling its duties.

(5) INTERAGENCY PAYMENTS

General Fund Appropriation (FY 1998)	\$	6,945,000
General Fund Appropriation (FY 1999)	\$	6,444,000
TOTAL APPROPRIATION	\$	13,389,000

*Sec. 222 was partially vetoed. See message at end of chapter.

NEW SECTION. Sec. 223. FOR THE DEPARTMENT OF SERVICES FOR THE BLIND

General Fund—State Appropriation (FY 1998)	\$	1,368,000
General Fund—State Appropriation (FY 1999)	\$	1,411,000
General Fund—Federal Appropriation	\$	10,454,000
General Fund—Private/Local Appropriation	\$	80,000
TOTAL APPROPRIATION	\$	13,313,000

NEW SECTION. Sec. 224. FOR THE SENTENCING GUIDELINES COMMISSION

General Fund Appropriation (FY 1998)	\$	714,000
General Fund Appropriation (FY 1999)	\$	713,000
TOTAL APPROPRIATION	\$	\$1,427,000

NEW SECTION. Sec. 225. FOR THE EMPLOYMENT SECURITY DEPARTMENT

General Fund—Federal Appropriation	\$	173,595,000
General Fund—Private/Local Appropriation	\$	24,842,000
Unemployment Compensation Administration Account— Federal Appropriation	\$	181,985,000
Administrative Contingency Account Appropriation	\$	12,579,000
Employment Service Administrative Account Appropriation	\$	13,176,000
Employment & Training Trust Account Appropriation	\$	600,000
TOTAL APPROPRIATION	\$	406,777,000

The appropriations in this section are subject to the following conditions and limitations:

(1) Expenditures of funds appropriated in this section for the information systems projects identified in agency budget requests as "claims and adjudication call centers", "data/wage quality initiative", and "one stop information connectivity" are conditioned upon compliance with section 902 of this act.

(2) \$600,000 of the employment and training trust account appropriation is provided solely for the account's share of unemployment insurance tax collection costs.

(3) \$1,126,000 of the general fund—federal appropriation is provided solely for the continuation of job placement centers colocated on community and technical college campuses.

(4) The employment security department shall spend no more than \$25,049,511 of the unemployment compensation administration account—federal appropriation for the general unemployment insurance development effort (GUIDE) project, except that the department may exceed this amount by up to \$2,600,000 to offset the cost associated with any vendor-caused delay. The additional spending authority is contingent upon the department fully recovering these moneys from any project vendors failing to perform in full. Authority to spend the amount provided by this subsection is conditioned on compliance with section 902 of this act.

(5) \$114,000 of the administrative contingency account appropriation is provided solely for the King county reemployment support center.

**PART III
NATURAL RESOURCES**

***NEW SECTION. Sec. 301. FOR THE COLUMBIA RIVER GORGE COMMISSION**

<i>General Fund—State Appropriation (FY 1998)</i>	\$	213,000
<i>General Fund—State Appropriation (FY 1999)</i>	\$	222,000
<i>General Fund—Private/Local Appropriation</i>	\$	435,000
TOTAL APPROPRIATION	\$	870,000

The appropriations in this section are subject to the following condition and limitation: \$120,000 of the general fund—state appropriation for fiscal year 1998, \$120,000 of the general fund—state appropriation for fiscal year 1999, and \$240,000 of the general fund—local appropriation are provided solely for each Columbia river gorge county to receive an \$80,000 grant for the purposes of implementing the scenic area management plan. If a Columbia river gorge county has not adopted an ordinance to implement the scenic area management plan in accordance with the national scenic area act (P.L. 99-663), then the grant funds for that county may be used by the commission to implement the plan for that county.

*Sec. 301 was vetoed. See message at end of chapter.

***NEW SECTION. Sec. 302. FOR THE DEPARTMENT OF ECOLOGY**

General Fund—State Appropriation (FY 1998)	\$	27,749,000
General Fund—State Appropriation (FY 1999)	\$	27,794,000
General Fund—Federal Appropriation	\$	45,315,000
General Fund—Private/Local Appropriation	\$	643,000
Special Grass Seed Burning Research Account		
Appropriation	\$	42,000
Reclamation Revolving Account Appropriation	\$	2,441,000
Flood Control Assistance Account Appropriation	\$	4,850,000

State Emergency Water Projects Revolving Account		
Appropriation	\$	319,000
Waste Reduction/Recycling/Litter Control		
Appropriation	\$	10,316,000
State and Local Improvements Revolving Account		
(Waste Facilities) Appropriation	\$	601,000
State and Local Improvements Revolving Account		
(Water Supply Facilities) Appropriation	\$	1,366,000
Basic Data Account Appropriation	\$	182,000
Vehicle Tire Recycling Account Appropriation	\$	1,194,000
Water Quality Account Appropriation	\$	2,892,000
Wood Stove Education and Enforcement Account		
Appropriation	\$	1,055,000
Worker and Community Right-to-Know Account		
Appropriation	\$	469,000
State Toxics Control Account Appropriation	\$	53,160,000
Local Toxics Control Account Appropriation	\$	4,342,000
Water Quality Permit Account Appropriation	\$	20,378,000
Underground Storage Tank Account Appropriation	\$	2,443,000
Solid Waste Management Account Appropriation	\$	1,021,000
Hazardous Waste Assistance Account Appropriation	\$	3,615,000
Air Pollution Control Account Appropriation	\$	16,224,000
Oil Spill Administration Account Appropriation	\$	6,958,000
Air Operating Permit Account Appropriation	\$	4,033,000
Freshwater Aquatic Weeds Account Appropriation	\$	1,829,000
Oil Spill Response Account Appropriation	\$	7,078,000
Metals Mining Account Appropriation	\$	42,000
Water Pollution Control Revolving Account—State		
Appropriation	\$	349,000
Water Pollution Control Revolving Account—Federal		
Appropriation	\$	1,726,000
Biosolids Permit Account Appropriation	\$	567,000
Environmental Excellence Account Appropriation	\$	247,000
TOTAL APPROPRIATION	\$	251,240,000

The appropriations in this section are subject to the following conditions and limitations:

- (1) \$3,211,000 of the general fund—state appropriation for fiscal year 1998, \$3,211,000 of the general fund—state appropriation for fiscal year 1999, \$394,000 of the general fund—federal appropriation, \$2,017,000 of the oil spill administration account, \$819,000 of the state toxics control account appropriation, and \$3,591,000 of the water quality permit fee account are provided solely for the implementation of the Puget Sound work plan and agency action items DOE-01, DOE-02, DOE-03, DOE-04, DOE-05, DOE-06, DOE-07, DOE-08, and DOE-09.

(2) \$2,000,000 of the state toxics control account appropriation is provided solely for the following purposes:

(a) To conduct remedial actions for sites for which there are no potentially liable persons, for which potentially liable persons cannot be found, or for which potentially liable persons are unable to pay for remedial actions; and

(b) To provide funding to assist potentially liable persons under RCW 70.105D.070(2)(d)(xi) to pay for the cost of the remedial actions; and

(c) To conduct remedial actions for sites for which potentially liable persons have refused to conduct remedial actions required by the department; and

(d) To contract for services as necessary to support remedial actions.

(3) *\$1,500,000 of the general fund—state appropriation for fiscal year 1998 and \$1,900,000 of the general fund—state appropriation for fiscal year 1999 are provided solely for the processing of water right permit applications, continued implementation of water resources data management systems, and providing technical and data support to local watershed planning efforts in accordance with sections 101 through 116 of Second Substitute House Bill No. 2054 (water resource management). If any of sections 101 through 116 of Second Substitute House Bill No. 2054 is not enacted by June 30, 1997, the amounts provided in this subsection shall lapse.*

(4) *\$2,500,000 of the general fund—state appropriation for fiscal year 1998 and \$2,500,000 of the general fund—state appropriation for fiscal year 1999 are appropriated for grants to local WRIA planning units established in accordance with sections 101 through 116 of Second Substitute House Bill No. 2054 (water resource management). If any of sections 101 through 116 of Second Substitute House Bill No. 2054 is not enacted by June 30, 1997, the amounts provided in this subsection shall lapse.*

(5) *\$200,000 of the general fund—state appropriation for fiscal year 1998 is provided solely for the implementation of Engrossed Substitute House Bill No. 1111 (water rights). If the bill is not enacted by June 30, 1997, the amount provided in this subsection shall lapse.*

(6) *\$200,000 of the general fund—state appropriation for fiscal year 1998 is provided solely for the implementation of Engrossed Substitute House Bill No. 1118 (reopening a water rights claim filing period). If the bill is not enacted by June 30, 1997, the amount provided in this subsection shall lapse.*

(7) \$3,600,000 of the general fund—state appropriation for fiscal year 1998 and \$3,600,000 of the general fund—state appropriation for fiscal year 1999 are provided solely for the auto emissions inspection and maintenance program. Expenditures of the amounts provided in this subsection are contingent upon a like amount being deposited in the general fund from the auto emission inspection fees in accordance with RCW 70.120.170(4).

(8) \$170,000 of the oil spill administration account appropriation is provided solely for implementation of the Puget Sound work plan action item UW-02 through a contract with the University of Washington's Sea Grant program in order

to develop an educational program that targets small spills from commercial fishing vessels, ferries, cruise ships, ports, and marinas.

(9) The merger of the office of marine safety into the department of ecology shall be accomplished in a manner that will maintain a priority focus on oil spill prevention, as well as maintain a strong oil spill response capability. The merged program shall be established to provide a high level of visibility and ensure that there shall not be a diminution of the existing level of effort from the merged programs.

(10) The entire environmental excellence account appropriation is provided solely for the implementation of Engrossed Second Substitute House Bill No. 1866 (environmental excellence). If the bill is not enacted by June 30, 1997, the amount provided in this subsection shall lapse. In implementing the bill, the department shall organize the needed expertise to process environmental excellence applications after an application has been received.

(11) \$200,000 of the freshwater aquatic weeds account appropriation is provided solely to address saltcedar weed problems.

(12) \$4,498,000 of the waste reduction/recycling/litter control account appropriation is provided for fiscal year 1998 to be expended in accordance with Second Substitute Senate Bill No. 5842 (litter control and recycling). From the amount provided for fiscal year 1998, the department shall provide \$352,000 through an interagency agreement to the department of corrections to hire correctional crews to remove litter in areas that are not accessible to youth crews. \$5,818,000 of the waste reduction/recycling/litter control account appropriation is provided for fiscal year 1999. The amount provided for fiscal year 1999 is to remain in unallotted status until the recommendations of the task force established in Second Substitute Senate Bill No. 5842 are acted upon by the legislature during the 1998 legislative session. If Substitute Senate Bill No. 5842 is not enacted by June 30, 1997, the amount provided for fiscal year 1999 shall lapse.

(13) The entire biosolids permit account appropriation is provided solely for implementation of Engrossed Senate Bill No. 5590 (biosolids management). If the bill is not enacted by June 30, 1997, the entire appropriation is null and void.

(14) \$29,000 of the general fund—state appropriation for fiscal year 1998 and \$99,000 of the general fund—state appropriation for fiscal year 1999 are provided solely for the implementation of Substitute House Bill No. 1985 (landscape management plans). If the bill is not enacted by June 30, 1997, the amounts provided in this subsection shall lapse.

(15) \$60,000 of the freshwater aquatic weeds account appropriation is provided solely for a grant to the department of fish and wildlife to control and eradicate purple loosestrife using the most cost-effective methods available, including chemical control where appropriate.

(16) \$250,000 of the flood control assistance account appropriation is provided solely as a reappropriation to complete the Skokomish valley flood reduction plan. The amount provided in this subsection shall be reduced by the

amount expended from this account for the Skokomish valley flood reduction plan during the biennium ending June 30, 1997.

(17) The number of special purpose vehicles in the department's fleet on July 1, 1997, shall be reduced by fifty percent as of June 30, 1999. Special purpose vehicles may be replaced by fuel efficient economy vehicles or not replaced at all depending on the vehicle requirements of the agency. An exception to this reduction in the number of special purpose vehicles is provided for those special purpose vehicles used by the department's youth corps program. Special purpose vehicle is defined as a four-wheel drive off-road motor vehicle.

(18) \$600,000 of the flood control assistance account appropriation is provided solely to complete flood control projects that were awarded funds during the 1995-97 biennium. These funds shall be spent only to complete projects that could not be completed during the 1995-97 biennium due to delays caused by weather or delays in the permitting process.

(19) \$113,000 of the general fund—state appropriation for fiscal year 1998 and \$112,000 of the general fund—state appropriation for fiscal year 1999 are provided solely for implementation of Substitute Senate Bill No. 5505 (assistance to water applicants). If the bill is not enacted by June 30, 1997, the amounts provided in this subsection shall lapse.

(20) \$70,000 of the general fund—state appropriation for fiscal year 1998 and \$70,000 of the general fund—state appropriation for fiscal year 1999 are provided solely for implementation of Substitute Senate Bill No. 5785 (consolidation of groundwater rights). If the bill is not enacted by June 30, 1997, the amounts provided in this subsection shall lapse.

(21) \$20,000 of the general fund—state appropriation for fiscal year 1998 and \$20,000 of the general fund—state appropriation for fiscal year 1999 are provided solely for implementation of Substitute Senate Bill No. 5276 (water right applications). If the bill is not enacted by June 30, 1997, the amounts provided in this subsection shall lapse.

(22) \$35,000 of the general fund—state appropriation for fiscal year 1998 and \$35,000 of the general fund—state appropriation for fiscal year 1999 are provided solely for implementation of Substitute Senate Bill No. 5030 (lakewater irrigation). If the bill is not enacted by June 30, 1997, the amounts provided in this subsection shall lapse.

(23) \$500,000 of the general fund—state appropriation for fiscal year 1998 and \$500,000 of the general fund—state appropriation for fiscal year 1999 are provided solely for the continuation of the southwest Washington coastal erosion study.

**Sec. 302 was partially vetoed. See message at end of chapter.*

NEW SECTION. Sec. 303. FOR THE STATE PARKS AND RECREATION COMMISSION

General Fund—State Appropriation (FY 1998)	\$	21,026,000
General Fund—State Appropriation (FY 1999)	\$	20,835,000
General Fund—Federal Appropriation	\$	2,428,000

General Fund—Private/Local Appropriation	\$	59,000
Winter Recreation Program Account Appropriation	\$	759,000
Off Road Vehicle Account Appropriation	\$	251,000
Snowmobile Account Appropriation	\$	2,290,000
Aquatic Lands Enhancement Account Appropriation	\$	321,000
Public Safety and Education Account Appropriation	\$	48,000
Industrial Insurance Premium Refund		
Appropriation	\$	10,000
Waste Reduction/Recycling/Litter Control		
Appropriation	\$	34,000
Water Trail Program Account Appropriation	\$	14,000
Parks Renewal and Stewardship Account Appropriation	\$	25,344,000
TOTAL APPROPRIATION	\$	73,419,000

The appropriations in this section are subject to the following conditions and limitations:

(1) \$189,000 of the aquatic lands enhancement account appropriation is provided solely for the implementation of the Puget Sound work plan agency action items P&RC-01 and P&RC-03.

(2) \$264,000 of the general fund—federal appropriation is provided for boater programs state-wide and for implementation of the Puget Sound work plan.

(3) \$45,000 of the general fund—state appropriation for fiscal year 1998 is provided solely for a feasibility study of a public/private effort to establish a reserve for recreation and environmental studies in southwest Kitsap county.

(4) Within the funds provided in this section, the state parks and recreation commission shall provide to the legislature a status report on implementation of the recommendations contained in the 1994 study on the restructuring of Washington state parks. This status report shall include an evaluation of the campsite reservation system including the identification of any incremental changes in revenues associated with implementation of the system and a progress report on other enterprise activities being undertaken by the commission. The report may also include recommendations on other revenue generating options. In preparing the report, the commission is encouraged to work with interested parties to develop a long-term strategy to support the park system. The commission shall provide this report by December 1, 1997.

(5) \$85,000 of the general fund—state appropriation for fiscal year 1998 and \$165,000 of the general fund—state appropriation for fiscal year 1999 are provided solely for development of underwater park programs and facilities. The department shall work with the underwater parks program task force to develop specific plans for the use of these funds.

NEW SECTION. Sec. 304. FOR THE INTERAGENCY COMMITTEE FOR OUTDOOR RECREATION

Firearms Range Account Appropriation	\$	46,000
Recreation Resources Account Appropriation	\$	2,352,000

NOVA Program Account Appropriation	\$	590,000
TOTAL APPROPRIATION	\$	2,988,000

The appropriations in this section are subject to the following conditions and limitations: Any proceeds from the sale of the PRISM software system shall be deposited into the recreation resources account.

NEW SECTION. Sec. 305. FOR THE ENVIRONMENTAL HEARINGS OFFICE

General Fund Appropriation (FY 1998)	\$	780,000
General Fund Appropriation (FY 1999)	\$	773,000
TOTAL APPROPRIATION	\$	1,553,000

The appropriations in this section are subject to the following conditions and limitations: \$4,000 of the general fund appropriation for fiscal year 1998 and \$4,000 of the general fund appropriation for fiscal year 1999 are provided solely to implement Substitute Senate Bill No. 5119 (forest practices appeals board). If this bill is not enacted by June 30, 1997, \$4,000 of the general fund appropriation for fiscal year 1998 and \$4,000 of the general fund appropriation for fiscal year 1999 shall lapse.

NEW SECTION. Sec. 306. FOR THE CONSERVATION COMMISSION

General Fund Appropriation (FY 1998)	\$	838,000
General Fund Appropriation (FY 1999)	\$	840,000
Water Quality Account Appropriation	\$	440,000
TOTAL APPROPRIATION	\$	2,118,000

The appropriations in this section are subject to the following conditions and limitations: \$181,000 of the general fund appropriation for fiscal year 1998, \$181,000 of the general fund appropriation for fiscal year 1999, and \$130,000 of the water quality account appropriation are provided solely for the implementation of the Puget Sound work plan agency action item CC-01.

***NEW SECTION. Sec. 307. FOR THE DEPARTMENT OF FISH AND WILDLIFE**

<i>General Fund—State Appropriation (FY 1998)</i>	<i>\$</i>	<i>36,049,000</i>
<i>General Fund—State Appropriation (FY 1999)</i>	<i>\$</i>	<i>36,571,000</i>
<i>General Fund—Federal Appropriation</i>	<i>\$</i>	<i>73,015,000</i>
<i>General Fund—Private/Local Appropriation</i>	<i>\$</i>	<i>26,758,000</i>
<i>Off Road Vehicle Account Appropriation</i>	<i>\$</i>	<i>488,000</i>
<i>Aquatic Lands Enhancement Account</i>		
<i>Appropriation</i>	<i>\$</i>	<i>5,593,000</i>
<i>Public Safety and Education Account</i>		
<i>Appropriation</i>	<i>\$</i>	<i>590,000</i>
<i>Industrial Insurance Premium Refund</i>		
<i>Appropriation</i>	<i>\$</i>	<i>120,000</i>
<i>Recreational Fisheries Enhancement Appropriation . . .</i>	<i>\$</i>	<i>2,387,000</i>

<i>Warm Water Game Fish Account Appropriation</i>	\$	2,419,000
<i>Wildlife Account Appropriation</i>	\$	52,372,000
<i>Game Special Wildlife Account—State</i>		
<i>Appropriation</i>	\$	1,911,000
<i>Game Special Wildlife Account—Federal</i>		
<i>Appropriation</i>	\$	10,844,000
<i>Game Special Wildlife Account—Private/Local</i>		
<i>Appropriation</i>	\$	350,000
<i>Oil Spill Administration Account Appropriation</i>	\$	843,000
<i>Environmental Excellence Account Appropriation</i>	\$	20,000
<i>Eastern Washington Pheasant Enhancement Account</i>		
<i>Appropriation</i>	\$	547,000
TOTAL APPROPRIATION	\$	250,877,000

The appropriations in this section are subject to the following conditions and limitations:

(1) \$1,181,000 of the general fund—state appropriation for fiscal year 1998 and \$1,181,000 of the general fund—state appropriation for fiscal year 1999 are provided solely for the implementation of the Puget Sound work plan agency action items DFW-01, DFW-03, DFW-04, and DFW-8 through DFW-15.

(2) \$188,000 of the general fund—state appropriation for fiscal year 1998 and \$155,000 of the general fund—state appropriation for fiscal year 1999 are provided solely for a maintenance and inspection program for department-owned dams. The department shall submit a report to the governor and the appropriate legislative committees by October 1, 1998, on the status of department-owned dams. This report shall provide a recommendation, including a cost estimate, on whether each facility should continue to be maintained or should be decommissioned.

(3) \$832,000 of the general fund—state appropriation for fiscal year 1998 and \$825,000 of the general fund—state appropriation for fiscal year 1999 are provided solely to implement salmon recovery activities and other actions required to respond to federal listings of salmon species under the endangered species act.

(4) \$350,000 of the wildlife account appropriation, \$72,000 of the general fund—state appropriation for fiscal year 1998, and \$73,000 of the general fund—state appropriation for fiscal year 1999 are provided solely for control and eradication of class B designate weeds on department owned and managed lands. The amounts from the general fund—state appropriations are provided solely for control of spartina.

(5) \$140,000 of the wildlife account appropriation is provided solely for a cooperative effort with the department of agriculture for research and eradication of purple loosestrife on state lands.

(6) In controlling weeds on state-owned lands, the department shall use the most cost-effective methods available, including chemical control where

appropriate, and the department shall report to the appropriate committees of the legislature by January 1, 1998, on control methods, costs, and acres treated during the previous year.

(7) A maximum of \$1,000,000 is provided from the wildlife fund for fiscal year 1998. The amount provided in this subsection is for the emergency feeding of deer and elk that may be starving and that are posing a risk to private property due to severe winter conditions during the winter of 1997-98. The amount expended under this subsection must not exceed the amount raised pursuant to section 3 of Substitute House Bill No. 1478. Of the amount expended under this subsection, not more than fifty percent may be from fee revenue generated pursuant to section 3 of Substitute House Bill No. 1478. If the bill is not enacted by June 30, 1997, the amount provided in this subsection shall lapse.

(8) \$193,000 of the general fund—state appropriation for fiscal year 1998, \$194,000 of the general fund—state appropriation for fiscal year 1999, and \$300,000 of the wildlife account appropriation are provided solely for the design and development of an automated license system.

(9) The department is directed to offer for sale its Cessna 421 aircraft by June 30, 1998. Proceeds from the sale shall be deposited in the wildlife account.

(10) \$500,000 of the general fund—state appropriation for fiscal year 1998 and \$500,000 of the general fund—state appropriation for fiscal year 1999 are provided solely to continue the department's habitat partnerships program during the 1997-99 biennium.

(11) \$350,000 of the general fund—state appropriation for fiscal year 1998 and \$350,000 of the general fund—state appropriation for fiscal year 1999 are provided solely for purchase of monitoring equipment necessary to fully implement mass marking of coho salmon.

(12) \$238,000 of the general fund—state appropriation for fiscal year 1998 and \$219,000 of the general fund—state appropriation for fiscal year 1999 are provided solely for the implementation of Substitute House Bill No. 1985 (landscape management plans). If the bill is not enacted by June 30, 1997, the amounts provided in this subsection shall lapse.

(13) \$150,000 of the general fund—state appropriation for fiscal year 1998 and \$150,000 of the general fund—state appropriation for fiscal year 1999 are provided solely for a contract with the United States department of agriculture to carry out animal damage control projects throughout the state related to cougars, bears, and coyotes.

(14) \$97,000 of the general fund—state appropriation for fiscal year 1998 and \$98,000 of the general fund—state appropriation for fiscal year 1999 are provided solely to implement animal damage control programs for Canada geese in the lower Columbia river basin.

(15) \$170,000 of the general fund—state appropriation for fiscal year 1998, \$170,000 of the general fund—state appropriation for fiscal year 1999, and

\$360,000 of the wildlife account appropriation are provided solely to hire additional enforcement officers to address problem wildlife throughout the state.

(16) \$197,000 of the general fund—state appropriation for fiscal year 1998 and \$196,000 of the general fund—state appropriation for fiscal year 1999 are provided solely to implement Substitute Senate Bill No. 5120 (remote site incubators). If the bill is not enacted by June 30, 1997, the amounts provided in this subsection shall lapse.

(17) \$133,000 of the general fund—state appropriation for fiscal year 1998 and \$133,000 of the general fund—state appropriation for fiscal year 1999 are provided solely to implement Substitute Senate Bill No. 5442 (flood control permitting). If the bill is not enacted by June 30, 1997, the amounts provided in this subsection shall lapse.

(18) \$105,000 of the recreational fisheries enhancement account appropriation is provided solely for implementation of Substitute Senate Bill No. 5886 (regional enhancement groups). If the bill is not enacted by June 30, 1997, the amounts provided in this subsection shall lapse.

(19) \$100,000 of the aquatic lands enhancement account appropriation is provided solely for grants to the regional fisheries enhancement groups.

(20) \$547,000 of the eastern Washington pheasant enhancement account appropriation is provided solely for implementation of Substitute Senate Bill No. 5104 (pheasant enhancement program). If the bill is not enacted by June 30, 1997, the amounts provided in this subsection shall lapse.

(21) \$150,000 of the general fund—state appropriation for fiscal year 1998 and \$150,000 of the general fund—state appropriation for fiscal year 1999 are provided solely to hire Washington conservation corps crews to maintain department-owned and managed lands.

(22) The entire environmental excellence account appropriation is provided solely for implementation of Engrossed Second Substitute House Bill No. 1866 (environmental excellence). If the bill is not enacted by June 30, 1997, the entire appropriation is null and void.

(23) \$156,000 of the recreational fisheries enhancement appropriation is provided solely for Substitute Senate Bill No. 5102 (fishing license surcharge). If the bill is not enacted by June 30, 1997, the amount provided in this subsection shall lapse.

(24) \$25,000 of the general fund—state appropriation for fiscal year 1998 and \$25,000 of the general fund—state appropriation for fiscal year 1999 are provided solely for staffing and operation of the Tenant Lake interpretive center.

*Sec. 307 was vetoed. See message at end of chapter.

NEW SECTION. Sec. 308. FOR THE DEPARTMENT OF NATURAL RESOURCES

General Fund—State Appropriation (FY 1998)	\$	25,117,000
General Fund—State Appropriation (FY 1999)	\$	25,518,000
General Fund—Federal Appropriation	\$	1,156,000

General Fund—Private/Local Appropriation	\$	422,000
Forest Development Account Appropriation	\$	49,923,000
Off Road Vehicle Account Appropriation	\$	3,628,000
Surveys and Maps Account Appropriation	\$	2,088,000
Aquatic Lands Enhancement Account Appropriation	\$	4,869,000
Resources Management Cost Account Appropriation	\$	89,613,000
Waste Reduction/Recycling/Litter Control		
Appropriation	\$	450,000
Surface Mining Reclamation Account Appropriation	\$	1,420,000
Aquatic Land Dredged Material Disposal Site Account		
Appropriation	\$	751,000
Natural Resources Conservation Areas Stewardship		
Account Appropriation	\$	77,000
Air Pollution Control Account Appropriation	\$	890,000
Metals Mining Account Appropriation	\$	62,000
TOTAL APPROPRIATION	\$	205,984,000

The appropriations in this section are subject to the following conditions and limitations:

(1) \$7,017,000 of the general fund—state appropriation for fiscal year 1998 and \$6,900,000 of the general fund—state appropriation for fiscal year 1999 are provided solely for emergency fire suppression.

(2) \$18,000 of the general fund—state appropriation for fiscal year 1998, \$18,000 of the general fund—state appropriation for fiscal year 1999, and \$957,000 of the aquatic lands enhancement account appropriation are provided solely for the implementation of the Puget Sound work plan agency action items DNR-01, DNR-02, and DNR-04.

(3) \$450,000 of the resource management cost account appropriation is provided solely for the control and eradication of class B designate weeds on state lands. The department shall use the most cost-effective methods available, including chemical control where appropriate, and report to the appropriate committees of the legislature by January 1, 1998, on control methods, costs, and acres treated during the previous year.

(4) \$2,682,000 of the general fund—state appropriation for fiscal year 1998 and \$3,063,000 of the general fund—state appropriation for fiscal year 1999 are provided solely for fire protection activities.

(5) \$541,000 of the general fund—state appropriation for fiscal year 1998 and \$549,000 of the general fund—state appropriation for fiscal year 1999 are provided solely for the stewardship of natural area preserves, natural resource conservation areas, and the operation of the natural heritage program.

(6) \$2,300,000 of the aquatic lands enhancement account appropriation is provided for the department's portion of the Eagle Harbor settlement.

(7) \$195,000 of the general fund—state appropriation for fiscal year 1998 and \$220,000 of the general fund—state appropriation for fiscal year 1999 are provided

solely for the implementation of Substitute House Bill No. 1985 (landscape management plans). If the bill is not enacted by June 30, 1997, the amounts provided in this subsection shall lapse.

(8) \$600,000 of the general fund—state appropriation for fiscal year 1998 and \$600,000 of the general fund—state appropriation for fiscal year 1999 are provided solely for the cooperative monitoring, evaluation, and research projects related to implementation of the timber-fish-wildlife agreement.

(9) \$6,568,000 of the forest development account appropriation is provided solely for silviculture activities on forest board lands. To the extent that forest board counties apply for reconveyance of lands pursuant to Substitute Senate Bill No. 5325 (county land transfers), the amount provided in this subsection shall be reduced by an amount equal to the estimated silvicultural expenditures planned in each county that applies for reconveyance.

NEW SECTION. Sec. 309. FOR THE DEPARTMENT OF AGRICULTURE

General Fund—State Appropriation (FY 1998)	\$	7,596,000
General Fund—State Appropriation (FY 1999)	\$	7,008,000
General Fund—Federal Appropriation	\$	4,716,000
General Fund—Private/Local Appropriation	\$	405,000
Aquatic Lands Enhancement Account Appropriation	\$	806,000
Industrial Insurance Premium Refund		
Appropriation	\$	184,000
State Toxics Control Account Appropriation	\$	1,338,000
TOTAL APPROPRIATION	\$	22,053,000

The appropriations in this section are subject to the following conditions and limitations:

(1) \$35,000 of the general fund—state appropriation for fiscal year 1998 and \$36,000 of the general fund—state appropriation for fiscal year 1999 are provided solely for technical assistance on pesticide management including the implementation of the Puget Sound work plan agency action item DOA-01.

(2) \$461,000 of the general fund—state appropriation for fiscal year 1998 and \$361,000 of the general fund—federal appropriation are provided solely to monitor and eradicate the Asian gypsy moth.

(3) \$138,000 of the general fund—state appropriation for fiscal year 1998 and \$138,000 of the general fund—state appropriation for fiscal year 1999 are provided solely for two additional staff positions in the plant protection program.

(4) \$12,000 of the general fund—state appropriation for fiscal year 1998 and \$13,000 of the general fund—state appropriation for fiscal year 1999 are provided solely for the implementation of Substitute Senate Bill No. 5077 (integrated pest management). If the bill is not enacted by June 30, 1997, the amount provided in this subsection shall lapse.

NEW SECTION. Sec. 310. FOR THE WASHINGTON POLLUTION LIABILITY REINSURANCE PROGRAM

Pollution Liability Insurance Program Trust Account

Appropriation \$ 909,000

**PART IV
TRANSPORTATION**

NEW SECTION. Sec. 401. FOR THE DEPARTMENT OF LICENSING

General Fund Appropriation (FY 1998)	\$	4,536,000
General Fund Appropriation (FY 1999)	\$	4,409,000
Architects' License Account Appropriation	\$	857,000
Cemetery Account Appropriation	\$	188,000
Professional Engineers' Account Appropriation	\$	2,674,000
Real Estate Commission Account Appropriation	\$	6,708,000
Master License Account Appropriation	\$	6,998,000
Uniform Commercial Code Account Appropriation	\$	4,291,000
Real Estate Education Account Appropriation	\$	606,000
Funeral Directors And Embalmers Account Appropriation	\$	409,000
TOTAL APPROPRIATION	\$	31,676,000

The appropriations in this section are subject to the following conditions and limitations:

(1) \$21,000 of the general fund fiscal year 1998 appropriation and \$22,000 of the general fund fiscal year 1999 appropriation are provided solely to implement House Bill No. 1827 or Senate Bill No. 5754 (boxing, martial arts, wrestling). If neither bill is enacted by June 30, 1997, the amounts provided in this subsection shall lapse.

(2) \$40,000 of the master license account appropriation is provided solely to implement Substitute Senate Bill No. 5483 (whitewater river outfitters). If the bill is not enacted by June 30, 1997, the amount provided in this subsection shall lapse.

(3) \$229,000 of the general fund fiscal year 1998 appropriation and \$195,000 of the general fund fiscal year 1999 appropriation are provided solely for the implementation of Senate Bill No. 5997 (cosmetology inspections). If the bill is not enacted by June 30, 1997, the amount provided in this subsection shall lapse.

(4) \$31,000 of the general fund fiscal year 1998 appropriation, \$1,000 of the general fund fiscal 1999 appropriation, \$7,000 of the architects' license account appropriation, \$18,000 of the professional engineers' account appropriation, \$14,000 of the real estate commission account appropriation, \$40,000 of the master license account appropriation, and \$3,000 of the funeral directors and embalmers account appropriation are provided solely for the implementation of Engrossed House Bill No. 3901 (implementing welfare reform). If the bill is not enacted by June 30, 1997, the amounts provided in this subsection shall lapse.

(5) \$17,000 of the professional engineers' account appropriation is provided solely to implement Senate Bill No. 5266 (engineers/land surveyors). If the bill is not enacted by June 30, 1997, the amount provided in this subsection shall lapse.

(6) \$110,000 of the general fund fiscal year 1998 appropriation is provided solely to implement Senate Bill No. 5998 (cosmetology advisory board). If the bill is not enacted by June 30, 1997, the amount provided in this subsection shall lapse.

(7) \$74,000 of the uniform commercial code account appropriation is provided solely to implement Engrossed Senate Bill No. 5163 (UCC filing). If the bill is not enacted by June 30, 1997, the amount provided in this subsection shall lapse.

(8) \$11,000 of the general fund fiscal year 1998 appropriation and \$2,000 of the general fund fiscal year 1999 appropriation are provided solely to implement Substitute House Bill No. 1748 or Substitute Senate Bill No. 5513 (vessel registration). If neither bill is enacted by June 30, 1997, the amount provided in this subsection shall lapse.

NEW SECTION. Sec. 402. FOR THE STATE PATROL

General Fund—State Appropriation (FY 1998)	\$	7,712,000
General Fund—State Appropriation (FY 1999)	\$	7,850,000
General Fund—Federal Appropriation	\$	3,990,000
General Fund—Private/Local Appropriation	\$	341,000
Public Safety and Education Account Appropriation	\$	4,652,000
County Criminal Justice Assistance Account		
Appropriation	\$	3,905,000
Municipal Criminal Justice Assistance Account		
Appropriation	\$	1,573,000
Fire Service Trust Account Appropriation	\$	92,000
Fire Service Training Account Appropriation	\$	1,762,000
State Toxics Control Account Appropriation	\$	439,000
Violence Reduction and Drug Enforcement Account		
Appropriation	\$	310,000
Fingerprint Identification Account Appropriation	\$	3,082,000
TOTAL APPROPRIATION	\$	35,708,000

The appropriations in this section are subject to the following conditions and limitations:

(1) \$254,000 of the fingerprint identification account appropriation is provided solely for an automated system that will facilitate the access of criminal history records remotely by computer or telephone for preemployment background checks and other non-law enforcement purposes. The agency shall submit an implementation status report to the office of financial management and the legislature by September 1, 1997.

(2) \$264,000 of the general fund—federal appropriation is provided solely for a feasibility study to develop a criminal investigation computer system. The study will report on the feasibility of developing a system that uses incident-based reporting as its foundation, consistent with FBI standards. The system will have

the capability of connecting with local law enforcement jurisdictions as well as fire protection agencies conducting arson investigations. The study will report on the system requirements for incorporating case management, intelligence data, imaging, and geographic information. The system will also provide links to existing crime information databases such as WASIS and WACIC. The agency shall submit a copy of the proposed study workplan to the office of financial management and the department of information services for approval prior to expenditure. A final report shall be submitted to the appropriate committees of the legislature, the office of financial management, and the department of information services no later than June 30, 1998.

**PART V
EDUCATION**

****NEW SECTION. Sec. 501. FOR THE SUPERINTENDENT OF PUBLIC INSTRUCTION—FOR STATE ADMINISTRATION***

<i>General Fund—State Appropriation (FY 1998)</i>	<i>\$</i>	<i>24,575,000</i>
<i>General Fund—State Appropriation (FY 1999)</i>	<i>\$</i>	<i>46,152,000</i>
<i>General Fund—Federal Appropriation</i>	<i>\$</i>	<i>49,439,000</i>
<i>Public Safety and Education Account</i>		
<i>Appropriation</i>	<i>\$</i>	<i>2,598,000</i>
<i>Health Services Account Appropriation</i>	<i>\$</i>	<i>400,000</i>
<i>Violence Reduction and Drug Enforcement Account</i>		
<i>Appropriation</i>	<i>\$</i>	<i>3,672,000</i>
<i>Education Savings Account Appropriation</i>	<i>\$</i>	<i>29,312,000</i>
<i>TOTAL APPROPRIATION</i>	<i>\$</i>	<i>156,148,000</i>

The appropriations in this section are subject to the following conditions and limitations:

(1) AGENCY OPERATIONS

(a) \$394,000 of the general fund—state appropriation for fiscal year 1998 and \$394,000 of the general fund—state appropriation for fiscal year 1999 are provided solely for the operation and expenses of the state board of education, including basic education assistance activities.

(b)(i) \$250,000 of the general fund—state appropriation for fiscal year 1998 and \$250,000 of the general fund—state appropriation for fiscal year 1999 are provided solely for enhancing computer systems and support in the office of superintendent of public instruction. These amounts shall be used to: Make a database of school information available electronically to schools, state government, and the general public; reduce agency and school district administrative costs through more effective use of technology; and replace paper reporting and publication to the extent feasible with electronic media. The superintendent, in cooperation with the commission on student learning, shall develop a state student record system including elements reflecting student achievement. The system shall be made available to the office of financial

management and the legislature with suitable safeguards of student confidentiality. The superintendent shall report to the office of financial management and the legislative fiscal committees by December 1 of each year of the biennium on the progress and plans for the expenditure of these amounts.

(ii) The superintendent, in cooperation with the commission on student learning, shall develop a feasibility plan for a state student record system, including elements reflecting student academic achievement on goals 1 and 2 under RCW 28A.150.210. The feasibility plan shall be made available to the office of financial management and the fiscal and education committees of the legislature for approval before a student records database is established, and shall identify data elements to be collected and suitable safeguards of student confidentiality and proper use of database records, with particular attention to eliminating unnecessary and intrusive data about nonacademic related information.

(c) \$348,000 of the public safety and education account appropriation is provided solely for administration of the traffic safety education program, including in-service training related to instruction in the risks of driving while under the influence of alcohol and other drugs.

(d) \$50,000 of the general fund—state appropriation for fiscal year 1998 and \$50,000 of the general fund—state appropriation for fiscal year 1999 are provided solely to implement Substitute Senate Bill No. 5394 or Substitute House Bill No. 1776 (school audit resolutions). If neither bill is enacted by June 30, 1997, the amounts provided in this subsection shall lapse.

(e) The superintendent of public instruction shall not accept, allocate, or expend any federal funds to implement the federal goals 2000 program.

(2) STATE-WIDE PROGRAMS

(a) \$2,174,000 of the general fund—state appropriation is provided for in-service training and educational programs conducted by the Pacific Science Center.

(b) \$63,000 of the general fund—state appropriation is provided for operation of the Cispus environmental learning center.

(c) \$2,754,000 of the general fund—state appropriation is provided for educational centers, including state support activities.

(d) \$2,500,000 of the general fund—state fiscal year 1998 appropriation and \$2,500,000 of the general fund—state fiscal year 1999 appropriation are for initiatives to improve reading in early grades as identified in legislation enacted by the 1997 legislature, including Second Substitute Senate Bill No. 5508 and Engrossed Second Substitute House Bill No. 2042, including section 4 of the bill. Amounts appropriated in this subsection 2(d) shall lapse unless both bills are enacted as passed by the legislature.

(e) \$3,672,000 of the violence reduction and drug enforcement account appropriation and \$2,250,000 of the public safety education account appropriation are provided solely for matching grants to enhance security in

schools. Not more than seventy-five percent of a district's total expenditures for school security in any school year may be paid from a grant under this subsection. The grants shall be expended solely for the costs of employing or contracting for building security monitors in schools during school hours and school events. Of the amount provided in this subsection, at least \$2,850,000 shall be spent for grants to districts that, during the 1988-89 school year, employed or contracted for security monitors in schools during school hours. However, these grants may be used only for increases in school district expenditures for school security over expenditure levels for the 1988-89 school year.

(f) \$200,000 of the general fund—state appropriation for fiscal year 1998, \$200,000 of the general fund—state appropriation for fiscal year 1999, and \$400,000 of the general fund—federal appropriation transferred from the department of health are provided solely for a program that provides grants to school districts for media campaigns promoting sexual abstinence and addressing the importance of delaying sexual activity, pregnancy, and childbearing until individuals are ready to nurture and support their children. Grants to the school districts shall be for projects that are substantially designed and produced by students. The grants shall require a local private sector match equal to one-half of the state grant, which may include in-kind contribution of technical or other assistance from consultants or firms involved in public relations, advertising broadcasting, and graphics or video production or other related fields.

(g) \$1,500,000 of the general fund—state appropriation for fiscal year 1998 and \$1,500,000 of the general fund—state appropriation for fiscal year 1999 are provided solely for school district petitions to juvenile court for truant students as provided in RCW 28A.225.030 and 28A.225.035. Allocation of this money to school districts shall be based on the number of petitions filed.

(h) \$300,000 of the general fund—state appropriation is provided for alcohol and drug prevention programs pursuant to RCW 66.08.180.

(i)(i) \$5,000,000 of the general fund—state appropriation and \$14,656,000 of the education savings account appropriation for fiscal year 1998 and \$5,000,000 of the general fund—state appropriation and \$14,656,000 of the education savings account appropriation for fiscal year 1999 are provided solely for matching grants and related state activities to provide school district consortia with programs utilizing technology to improve learning. A maximum of \$100,000 each fiscal year of this amount is provided for administrative support and oversight of the K-20 network by the superintendent of public instruction. The superintendent of public instruction shall convene a technology grants committee representing private sector technology, school districts, and educational service districts to recommend to the superintendent grant proposals that have the best plans for improving student learning through innovative curriculum using technology as a learning tool and evaluating the effectiveness

of the curriculum innovations. After considering the technology grants committee recommendations, the superintendent shall make matching grant awards, including granting at least fifteen percent of funds on the basis of criteria in (ii)(A) through (C) of this subsection (2)(h).

(ii) Priority for award of funds will be to (A) school districts most in need of assistance due to financial limits, (B) school districts least prepared to take advantage of technology as a means of improving student learning, and (C) school districts in economically distressed areas. The superintendent of public instruction, in consultation with the technology grants committee, shall propose options to the committee for identifying and prioritizing districts according to criteria in (i) and (ii) of this subsection (2)(i).

(iii) Options for review criteria to be considered by the superintendent of public instruction include, but are not limited to, free and reduced lunches, levy revenues, ending fund balances, equipment inventories, and surveys of technology preparedness. An "economically distressed area" is (A) a county with an unemployment rate that is at least twenty percent above the state-wide average for the previous three years; (B) a county that has experienced sudden and severe or long-term and severe loss of employment, or erosion of its economic base resulting in decline of its dominant industries; or (C) a district within a county which (I) has at least seventy percent of its families and unrelated individuals with incomes below eighty percent of the county's median income for families and unrelated individuals; and (II) has an unemployment rate which is at least forty percent higher than the county's unemployment rate.

(j) \$50,000 of the general fund—state appropriations is provided as matching funds for district contributions to provide analysis of the efficiency of school district business practices. The superintendent of public instruction shall establish criteria, make awards, and provide a report to the fiscal committees of the legislature by December 15, 1997, on the progress and details of analysis funded under this subsection (2)(j).

(k) \$1,816,000 of the general fund—state fiscal year 1998 appropriation and \$3,378,000 of the general fund—state fiscal year 1999 appropriation are provided solely to implement Engrossed Second Substitute House Bill No. 2019, Substitute Senate Bill No. 5764, or Senate Bill No. 7901 (charter schools). If none of the bills is enacted by June 30, 1997, the amounts provided in this subsection shall lapse.

(i) The fiscal year 1998 amount appropriated in this subsection is provided for expenditure as follows:

- (A) A maximum of \$300,000 for the appeals process;*
- (B) A maximum of \$75,000 for the study of charter schools;*
- (C) A maximum of \$530,000 for startup loans; and*
- (D) \$911,000 for apportionment to charter schools based on enrollment and other workload factors.*

(ii) The fiscal year 1999 amount appropriated in this subsection is provided for expenditure as follows:

(A) A maximum of \$300,000 for the appeals process;

(B) A maximum of \$75,000 for the study of charter schools;

(C) A maximum of \$532,000 for startup loans; and

(D) \$2,471,000 for apportionment to charter schools based on enrollment and other workload factors.

(l) \$19,977,000 of the general fund—state appropriation for fiscal year 1999 is provided solely for the purchase of classroom instructional materials and supplies. The superintendent shall allocate the funds at a maximum rate of \$20.82 per full-time equivalent student, beginning September 1, 1998, and ending June 30, 1999. The expenditure of the funds shall be determined at each school site by the school building staff, parents, and the community. School districts shall distribute all funds received to school buildings without deduction.

(m) \$15,000 of the general fund—state appropriation is provided solely to assist local districts vocational education programs in applying for low frequency FM radio licenses with the federal communications commission.

(n) \$35,000 of the general fund—state appropriation is provided solely to the state board of education to design a program to encourage high school students and other adults to pursue careers as vocational education teachers in the subject matter of agriculture.

(o) \$25,000 of the general fund—state appropriation for fiscal year 1998 and \$25,000 of the general fund—state appropriation for fiscal year 1999 are provided solely for allocation to the primary coordinators of the state geographic alliance to improve the teaching of geography in schools.

(p) \$1,000,000 of the general fund—state appropriation is provided for state administrative costs and start-up grants for alternative programs and services that improve instruction and learning for at-risk students consistent with the objectives of Engrossed Substitute House Bill No. 1378 (educational opportunities). Each grant application shall contain proposed performance indicators and an evaluation plan to measure the success of the program and its impact on improved student learning. Applications shall contain the applicant's plan for maintaining the program and/or services after the grant period, shall address the needs of students who cannot be accommodated within the framework of existing school programs or services and shall address how the applicant will serve any student within the proposed program's target age range regardless of the reason for truancy, suspension, expulsion, or other disciplinary action. Up to \$50,000 per year may be used by the superintendent of public instruction for grant administration. The superintendent shall submit an evaluation of the alternative program start-up grants provided under this section, and section 501(2)(q), chapter 283, Laws of 1996, to the fiscal and education committees of the legislature by November 15, 1998. Grants shall be awarded

to applicants showing the greatest potential for improved student learning for at-risk students including:

- (i) Students who have been suspended, expelled, or are subject to other disciplinary actions;*
- (ii) Students with unexcused absences who need intervention from community truancy boards or family support programs;*
- (iii) Students who have left school; and*
- (iv) Students involved with the court system.*

The office of the superintendent of public instruction shall prepare a report describing student recruitment, program offerings, staffing practices, and available indicators of program effectiveness of alternative education programs funded with state and, to the extent information is available, local funds. The report shall contain a plan for conducting an evaluation of the educational effectiveness of alternative education programs.

*Sec. 501 was vetoed. See message at end of chapter.

NEW SECTION. Sec. 502. FOR THE SUPERINTENDENT OF PUBLIC INSTRUCTION—FOR GENERAL APPORTIONMENT (BASIC EDUCATION)

General Fund Appropriation (FY 1998)	\$	3,429,727,000
General Fund Appropriation (FY 1999)	\$	3,511,157,000
TOTAL APPROPRIATION	\$	6,940,884,000

The appropriations in this section are subject to the following conditions and limitations:

(1) The appropriation for fiscal year 1998 includes such funds as are necessary for the remaining months of the 1996-97 school year.

(2) Allocations for certificated staff salaries for the 1997-98 and 1998-99 school years shall be determined using formula-generated staff units calculated pursuant to this subsection. Staff allocations for small school enrollments in (d) through (f) of this subsection shall be reduced for vocational full-time equivalent enrollments. Staff allocations for small school enrollments in grades K-6 shall be the greater of that generated under (a) of this subsection, or under (d) and (e) of this subsection. Certificated staffing allocations shall be as follows:

(a) On the basis of each 1,000 average annual full-time equivalent enrollments, excluding full-time equivalent enrollment otherwise recognized for certificated staff unit allocations under (c) through (f) of this subsection:

(i) Four certificated administrative staff units per thousand full-time equivalent students in grades K-12;

(ii) 49 certificated instructional staff units per thousand full-time equivalent students in grades K-3;

(iii) An additional 5.3 certificated instructional staff units for grades K-3. Any funds allocated for these additional certificated units shall not be considered as basic education funding;

(A) Funds provided under this subsection (2)(a)(iii) in excess of the amount required to maintain the statutory minimum ratio established under RCW 28A.150.260(2)(b) shall be allocated only if the district documents an actual ratio equal to or greater than 54.3 certificated instructional staff per thousand full-time equivalent students in grades K-3. For any school district documenting a lower certificated instructional staff ratio, the allocation shall be based on the district's actual grades K-3 certificated instructional staff ratio achieved in that school year, or the statutory minimum ratio established under RCW 28A.150.260(2)(b), if greater;

(B) Districts at or above 51.0 certificated instructional staff per one thousand full-time equivalent students in grades K-3 may dedicate up to 1.3 of the 54.3 funding ratio to employ additional classified instructional assistants assigned to basic education classrooms in grades K-3. For purposes of documenting a district's staff ratio under this section, funds used by the district to employ additional classified instructional assistants shall be converted to a certificated staff equivalent and added to the district's actual certificated instructional staff ratio. Additional classified instructional assistants, for the purposes of this subsection, shall be determined using the 1989-90 school year as the base year;

(C) Any district maintaining a ratio equal to or greater than 54.3 certificated instructional staff per thousand full-time equivalent students in grades K-3 may use allocations generated under this subsection (2)(a)(iii) in excess of that required to maintain the minimum ratio established under RCW 28A.150.260(2)(b) to employ additional basic education certificated instructional staff or classified instructional assistants in grades 4-6. Funds allocated under this subsection (2)(a)(iii) shall only be expended to reduce class size in grades K-6. No more than 1.3 of the certificated instructional funding ratio amount may be expended for provision of classified instructional assistants; and

(iv) Forty-six certificated instructional staff units per thousand full-time equivalent students in grades 4-12;

(b) For school districts with a minimum enrollment of 250 full-time equivalent students whose full-time equivalent student enrollment count in a given month exceeds the first of the month full-time equivalent enrollment count by 5 percent, an additional state allocation of 110 percent of the share that such increased enrollment would have generated had such additional full-time equivalent students been included in the normal enrollment count for that particular month;

(c) On the basis of full-time equivalent enrollment in:

(i) Vocational education programs approved by the superintendent of public instruction, a maximum of 0.92 certificated instructional staff units and 0.08 certificated administrative staff units for each 18.3 full-time equivalent vocational students. Beginning with the 1998-99 school year, districts documenting staffing ratios of less than 1 certificated staff per 18.3 students shall be allocated the greater of the total ratio in subsections (2)(a)(i) and (iv) of this section or the actual documented ratio;

(ii) Skills center programs approved by the superintendent of public instruction, 0.92 certificated instructional staff units and 0.08 certificated administrative units for each 16.67 full-time equivalent vocational students;

(iii) Indirect cost charges, as defined by the superintendent of public instruction, to vocational-secondary programs shall not exceed 10 percent; and

(iv) Vocational full-time equivalent enrollment shall be reported on the same monthly basis as the enrollment for students eligible for basic support, and payments shall be adjusted for reported vocational enrollments on the same monthly basis as those adjustments for enrollment for students eligible for basic support.

(d) For districts enrolling not more than twenty-five average annual full-time equivalent students in grades K-8, and for small school plants within any school district which have been judged to be remote and necessary by the state board of education and enroll not more than twenty-five average annual full-time equivalent students in grades K-8:

(i) For those enrolling no students in grades 7 and 8, 1.76 certificated instructional staff units and 0.24 certificated administrative staff units for enrollment of not more than five students, plus one-twentieth of a certificated instructional staff unit for each additional student enrolled; and

(ii) For those enrolling students in grades 7 or 8, 1.68 certificated instructional staff units and 0.32 certificated administrative staff units for enrollment of not more than five students, plus one-tenth of a certificated instructional staff unit for each additional student enrolled;

(e) For specified enrollments in districts enrolling more than twenty-five but not more than one hundred average annual full-time equivalent students in grades K-8, and for small school plants within any school district which enroll more than twenty-five average annual full-time equivalent students in grades K-8 and have been judged to be remote and necessary by the state board of education:

(i) For enrollment of up to sixty annual average full-time equivalent students in grades K-6, 2.76 certificated instructional staff units and 0.24 certificated administrative staff units; and

(ii) For enrollment of up to twenty annual average full-time equivalent students in grades 7 and 8, 0.92 certificated instructional staff units and 0.08 certificated administrative staff units;

(f) For districts operating no more than two high schools with enrollments of less than three hundred average annual full-time equivalent students, for enrollment in grades 9-12 in each such school, other than alternative schools:

(i) For remote and necessary schools enrolling students in any grades 9-12 but no more than twenty-five average annual full-time equivalent students in grades K-12, four and one-half certificated instructional staff units and one-quarter of a certificated administrative staff unit;

(ii) For all other small high schools under this subsection, nine certificated instructional staff units and one-half of a certificated administrative staff unit for

the first sixty average annual full time equivalent students, and additional staff units based on a ratio of 0.8732 certificated instructional staff units and 0.1268 certificated administrative staff units per each additional forty-three and one-half average annual full time equivalent students.

Units calculated under (f)(ii) of this subsection shall be reduced by certificated staff units at the rate of forty-six certificated instructional staff units and four certificated administrative staff units per thousand vocational full-time equivalent students.

(g) For each nonhigh school district having an enrollment of more than seventy annual average full-time equivalent students and less than one hundred eighty students, operating a grades K-8 program or a grades 1-8 program, an additional one-half of a certificated instructional staff unit; and

(h) For each nonhigh school district having an enrollment of more than fifty annual average full-time equivalent students and less than one hundred eighty students, operating a grades K-6 program or a grades 1-6 program, an additional one-half of a certificated instructional staff unit.

(3) Allocations for classified salaries for the 1997-98 and 1998-99 school years shall be calculated using formula-generated classified staff units determined as follows:

(a) For enrollments generating certificated staff unit allocations under subsection (2) (d) through (h) of this section, one classified staff unit for each three certificated staff units allocated under such subsections;

(b) For all other enrollment in grades K-12, including vocational full-time equivalent enrollments, one classified staff unit for each sixty average annual full-time equivalent students; and

(c) For each nonhigh school district with an enrollment of more than fifty annual average full-time equivalent students and less than one hundred eighty students, an additional one-half of a classified staff unit.

(4) Fringe benefit allocations shall be calculated at a rate of 20.22 percent in the 1997-98 and 1998-99 school years for certificated salary allocations provided under subsection (2) of this section, and a rate of 18.65 percent in the 1997-98 and 1998-99 school years for classified salary allocations provided under subsection (3) of this section.

(5) Insurance benefit allocations shall be calculated at the maintenance rate specified in section 504(2) of this act, based on the number of benefit units determined as follows:

(a) The number of certificated staff units determined in subsection (2) of this section; and

(b) The number of classified staff units determined in subsection (3) of this section multiplied by 1.152. This factor is intended to adjust allocations so that, for the purposes of distributing insurance benefits, full-time equivalent classified employees may be calculated on the basis of 1440 hours of work per year, with no individual employee counted as more than one full-time equivalent.

(6)(a) For nonemployee-related costs associated with each certificated staff unit allocated under subsection (2) (a), (b), and (d) through (h) of this section, there shall be provided a maximum of \$7,950 per certificated staff unit in the 1997-98 school year and a maximum of \$8,165 per certificated staff unit in the 1998-99 school year.

(b) For nonemployee-related costs associated with each vocational certificated staff unit allocated under subsection (2)(c) of this section, there shall be provided a maximum of \$15,147 per certificated staff unit in the 1997-98 school year and a maximum of \$15,556 per certificated staff unit in the 1998-99 school year.

(7) Allocations for substitute costs for classroom teachers shall be distributed at a maintenance rate of \$354.64 per allocated classroom teachers exclusive of salary increase amounts provided in section 504 of this act. Solely for the purposes of this subsection, allocated classroom teachers shall be equal to the number of certificated instructional staff units allocated under subsection (2) of this section, multiplied by the ratio between the number of actual basic education certificated teachers and the number of actual basic education certificated instructional staff reported state-wide for the 1996-97 school year.

(8) Any school district board of directors may petition the superintendent of public instruction by submission of a resolution adopted in a public meeting to reduce or delay any portion of its basic education allocation for any school year. The superintendent of public instruction shall approve such reduction or delay if it does not impair the district's financial condition. Any delay shall not be for more than two school years. Any reduction or delay shall have no impact on levy authority pursuant to RCW 84.52.0531 and local effort assistance pursuant to chapter 28A.500 RCW.

(9) The superintendent may distribute a maximum of \$6,124,000 outside the basic education formula during fiscal years 1998 and 1999 as follows:

(a) For fire protection for school districts located in a fire protection district as now or hereafter established pursuant to chapter 52.04 RCW, a maximum of \$447,000 may be expended in fiscal year 1998 and a maximum of \$459,000 may be expended in fiscal year 1999;

(b) For summer vocational programs at skills centers, a maximum of \$1,948,000 may be expended each fiscal year;

(c) A maximum of \$321,000 may be expended for school district emergencies; and

(d) A maximum of \$500,000 per fiscal year may be expended for programs providing skills training for secondary students who are enrolled in extended day school-to-work programs, as approved by the superintendent of public instruction. The funds shall be allocated at a rate not to exceed \$500 per full-time equivalent student enrolled in those programs.

(10) For the purposes of RCW 84.52.0531, the increase per full-time equivalent student in state basic education appropriations provided under this act, including appropriations for salary and benefits increases, is 2.5 percent from the

1996-97 school year to the 1997-98 school year, and 1.1 percent from the 1997-98 school year to the 1998-99 school year.

(11) If two or more school districts consolidate and each district was receiving additional basic education formula staff units pursuant to subsection (2) (b) through (h) of this section, the following shall apply:

(a) For three school years following consolidation, the number of basic education formula staff units shall not be less than the number of basic education formula staff units received by the districts in the school year prior to the consolidation; and

(b) For the fourth through eighth school years following consolidation, the difference between the basic education formula staff units received by the districts for the school year prior to consolidation and the basic education formula staff units after consolidation pursuant to subsection (2) (a) through (h) of this section shall be reduced in increments of twenty percent per year.

***NEW SECTION. Sec. 503. FOR THE SUPERINTENDENT OF PUBLIC INSTRUCTION—BASIC EDUCATION EMPLOYEE COMPENSATION**

(1) The following calculations determine the salaries used in the general fund allocations for certificated instructional, certificated administrative, and classified staff units under section 502 of this act:

(a) Salary allocations for certificated instructional staff units shall be determined for each district by multiplying the district's certificated instructional derived base salary shown on LEAP Document 12D, by the district's average staff mix factor for basic education and special education certificated instructional staff in that school year, computed using LEAP Document 1A; and

(b) Salary allocations for certificated administrative staff units and classified staff units for each district shall be based on the district's certificated administrative and classified salary allocation amounts shown on LEAP Document 12D.

(2) For the purposes of this section:

(a) "Basic education certificated instructional staff" is defined as provided in RCW 28A.150.100 and "special education certificated staff" means staff assigned to the state-supported special education program pursuant to chapter 28A.155 RCW in positions requiring a certificate;

(b) "LEAP Document 1A" means the computerized tabulation establishing staff mix factors for certificated instructional staff according to education and years of experience, as developed by the legislative evaluation and accountability program committee on April 8, 1991, at 13:35 hours; and

(c) "LEAP Document 12D" means the computerized tabulation of 1997-98 and 1998-99 school year salary allocations for basic education certificated administrative staff and basic education classified staff and derived base salaries for basic education certificated instructional staff as developed by the legislative

evaluation and accountability program committee on March 21, 1997 at 16:37 hours.

(3) Incremental fringe benefit factors shall be applied to salary adjustments at a rate of 19.58 percent for certificated staff and 15.15 percent for classified staff for both years of the biennium.

(4)(a) Pursuant to RCW 28A.150.410, the following state-wide salary allocation schedules for certificated instructional staff are established for basic education salary allocations:

**STATE-WIDE SALARY ALLOCATION SCHEDULE
FOR THE 1997-98 AND 1998-99 SCHOOL YEARS**

<i>Years of Service</i>	<i>BA</i>	<i>BA+15</i>	<i>BA+30</i>	<i>BA+45</i>	<i>BA+90</i>
0	22,950	23,570	24,212	24,855	26,920
1	23,702	24,342	25,005	25,690	27,816
2	24,469	25,129	25,812	26,563	28,725
3	25,275	25,955	26,657	27,450	29,650
4	26,095	26,818	27,540	28,375	30,632
5	26,953	27,695	28,437	29,336	31,629
6	27,847	28,586	29,370	30,333	32,661
7	28,756	29,513	30,316	31,341	33,727
8	29,678	30,477	31,299	32,408	34,827
9		31,475	32,337	33,487	35,962
10			33,388	34,621	37,129
11				35,788	38,351
12				36,918	39,605
13					40,890
14					42,182
15 or more					43,279

<i>Years of Service</i>	<i>BA+135</i>	<i>MA</i>	<i>MA+45</i>	<i>MA+90 or PHD</i>
0	28,251	27,516	29,581	30,912
1	29,165	28,351	30,477	31,825
2	30,115	29,224	31,386	32,774
3	31,100	30,111	32,311	33,761
4	32,123	31,036	33,293	34,783
5	33,180	31,996	34,290	35,840
6	34,250	32,994	35,322	36,911
7	35,377	34,002	36,388	38,038
8	36,537	35,069	37,488	39,198
9	37,730	36,147	38,623	40,391
10	38,956	37,282	39,790	41,617
11	40,214	38,449	41,012	42,875

12	41,525	39,662	42,266	44,186
13	42,867	40,917	43,551	45,528
14	44,260	42,210	44,927	46,921
15 or more	45,411	43,307	46,095	48,141

(b) As used in this subsection, the column headings "BA+(N)" refer to the number of credits earned since receiving the baccalaureate degree.

(c) For credits earned after the baccalaureate degree but before the masters degree, any credits in excess of forty-five credits may be counted after the masters degree. Thus, as used in this subsection, the column headings "MA+(N)" refer to the total of:

- (i) Credits earned since receiving the masters degree; and*
- (ii) Any credits in excess of forty-five credits that were earned after the baccalaureate degree but before the masters degree.*

(5) For the purposes of this section:

- (a) "BA" means a baccalaureate degree.*
- (b) "MA" means a masters degree.*
- (c) "PHD" means a doctorate degree.*
- (d) "Years of service" shall be calculated under the same rules adopted by the superintendent of public instruction.*

(e) "Credits" means college quarter hour credits and equivalent in-service credits computed in accordance with RCW 28A.415.020.

(6) No more than ninety college quarter-hour credits received by any employee after the baccalaureate degree may be used to determine compensation allocations under the state salary allocation schedule and LEAP documents referenced in this act, or any replacement schedules and documents, unless:

- (a) The employee has a masters degree; or*
- (b) The credits were used in generating state salary allocations before January 1, 1992.*

(7)(a) Credits earned by certificated instructional staff after September 1, 1995, shall be counted only if the content of the course: (i) Is consistent with the school district's strategic plan for improving student learning; (ii) is consistent with a school-based plan for improving student learning as required by the annual school performance report, under RCW 28A.320.205, for the school in which the individual is assigned; (iii) pertains to the individual's current assignment or expected assignment for the following school year; (iv) is necessary for obtaining an endorsement as prescribed by the state board of education; (v) is specifically required for obtaining advanced levels of certification; or (vi) is included in a college or university degree program that pertains to the individual's current assignment, or potential future assignment, as a certificated instructional staff.

(b) Once credits earned by certificated instructional staff have been determined to meet one or more of the criteria in (a) of this subsection, the credits shall be counted even if the individual transfers to other school districts.

(8) *The salary allocation schedules established in this section are for allocation purposes only except as provided in RCW 28A.400.200(2).*

**Sec. 503 was vetoed. See message at end of chapter.*

****NEW SECTION. Sec. 504. FOR THE SUPERINTENDENT OF PUBLIC INSTRUCTION—FOR SCHOOL EMPLOYEE COMPENSATION ADJUSTMENTS***

<i>General Fund Appropriation (FY 1998)</i>	\$	79,975,000
<i>General Fund Appropriation (FY 1999)</i>	\$	116,311,000
TOTAL APPROPRIATION	\$	196,286,000

The appropriations in this section are subject to the following conditions and limitations:

(1) \$176,535,000 is provided for a cost of living adjustment of 3.0 percent effective September 1, 1997, for state formula staff units. The appropriations include associated incremental fringe benefit allocations at rates of 19.58 percent for certificated staff and 15.15 percent for classified staff.

(a) The appropriations in this section include the increased portion of salaries and incremental fringe benefits for all relevant state-funded school programs in part V of this act. Salary adjustments for state employees in the office of superintendent of public instruction and the education reform program are provided in part VII of this act. Increases for general apportionment (basic education) are based on the salary allocation schedules and methodology in section 503 of this act. Increases for special education result from increases in each district's basic education allocation per student. Increases for educational service districts and institutional education programs are determined by the superintendent of public instruction using the methodology for general apportionment salaries and benefits in section 503 of this act.

(b) The appropriations in this section provide salary increase and incremental fringe benefit allocations based on formula adjustments as follows:

(i) For pupil transportation, an increase of \$0.60 per weighted pupil-mile for the 1997-98 school year and maintained for the 1998-99 school year;

(ii) For education of highly capable students, an increase of \$6.81 per formula student for the 1997-98 school year and maintained for the 1998-99 school year; and

(iii) For transitional bilingual education, an increase of \$17.69 per eligible bilingual student for the 1997-98 school year and maintained for the 1998-99 school year; and

(iv) For learning assistance, an increase of \$8.74 per entitlement unit for the 1997-98 school year and maintained for the 1998-99 school year.

(c) The appropriations in this section include \$912,000 for salary increase adjustments for substitute teachers at a rate of \$10.64 per unit in the 1997-98 school year and maintained in the 1998-99 school year.

(2) \$19,751,000 is provided for adjustments to insurance benefit allocations. The maintenance rate for insurance benefit allocations is \$314.51 per month for

the 1997-98 and 1998-99 school years. The appropriations in this section provide increases of \$2.83 per month for the 1997-98 school year and \$18.41 per month for the 1998-99 school year at the following rates:

(a) For pupil transportation, an increase of \$0.03 per weighted pupil-mile for the 1997-98 school year and \$0.19 for the 1998-99 school year;

(b) For education of highly capable students, an increase of \$0.20 per formula student for the 1997-98 school year and \$1.35 for the 1998-99 school year;

(c) For transitional bilingual education, an increase of \$.46 per eligible bilingual student for the 1997-98 school year and \$3.44 for the 1998-99 school year; and

(d) For learning assistance, an increase of \$.36 per funded unit for the 1997-98 school year and \$2.70 for the 1998-99 school year.

(3) The rates specified in this section are subject to revision each year by the legislature.

(4)(a) For the 1997-98 school year, the superintendent shall prepare a report showing the allowable derived base salary for certificated instructional staff in accordance with RCW 28A.400.200 and LEAP Document 12D, and the actual derived base salary paid by each school district as shown on the S-275 report and shall make the report available to the fiscal committees of the legislature no later than February 15, 1998.

(b) For the 1998-99 school year, the superintendent shall reduce the percent of salary increase funds provided in section 504 of this act by the percentage by which a district exceeds the allowable derived base salary for certificated instructional staff as shown on LEAP Document 12D.

(5) Cost-of-living funds provided to school districts under this section for classified staff shall be distributed to each and every formula funded employee at 3.0 percent, effective September 1, 1997.

**Sec. 504 was vetoed. See message at end of chapter.*

NEW SECTION. Sec. 505. FOR THE SUPERINTENDENT OF PUBLIC INSTRUCTION—FOR PUPIL TRANSPORTATION

General Fund Appropriation (FY 1998)	\$	174,344,000
General Fund Appropriation (FY 1999)	\$	179,560,000
TOTAL APPROPRIATION	\$	353,904,000

The appropriations in this section are subject to the following conditions and limitations:

(1) The appropriation for fiscal year 1998 includes such funds as are necessary for the remaining months of the 1996-97 school year.

(2) A maximum of \$1,451,000 may be expended for regional transportation coordinators and related activities. The transportation coordinators shall ensure that data submitted by school districts for state transportation funding shall, to the greatest extent practical, reflect the actual transportation activity of each district.

(3) \$30,000 of the fiscal year 1998 appropriation and \$40,000 of the fiscal year 1999 appropriation are provided solely for the transportation of students enrolled in "choice" programs. Transportation shall be limited to low-income students who are transferring to "choice" programs solely for educational reasons.

(4) Allocations for transportation of students shall be based on reimbursement rates of \$34.47 per weighted mile in the 1997-98 school year and \$34.76 per weighted mile in the 1998-99 school year exclusive of salary and benefit adjustments provided in section 504 of this act. Allocations for transportation of students transported more than one radius mile shall be based on weighted miles as determined by superintendent of public instruction times the per mile reimbursement rates for the school year pursuant to the formulas adopted by the superintendent of public instruction. Allocations for transportation of students living within one radius mile shall be based on the number of enrolled students in grades kindergarten through five living within one radius mile of their assigned school times the per mile reimbursement rate for the school year times 1.29.

NEW SECTION. Sec. 506. FOR THE SUPERINTENDENT OF PUBLIC INSTRUCTION—FOR SCHOOL FOOD SERVICE PROGRAMS

General Fund—State Appropriation (FY 1998)	\$	3,075,000
General Fund—State Appropriation (FY 1999)	\$	3,075,000
General Fund—Federal Appropriation	\$	194,483,000
TOTAL APPROPRIATION	\$	200,633,000

The appropriations in this section are subject to the following conditions and limitations:

- (1) \$6,000,000 of the general fund—state appropriations are provided for state matching money for federal child nutrition programs.
- (2) \$150,000 of the general fund—state appropriations are provided for summer food programs for children in low-income areas.

NEW SECTION. Sec. 507. FOR THE SUPERINTENDENT OF PUBLIC INSTRUCTION—FOR SPECIAL EDUCATION PROGRAMS

General Fund—State Appropriation (FY 1998)	\$	370,486,000
General Fund—State Appropriation (FY 1999)	\$	374,327,000
General Fund—Federal Appropriation	\$	135,106,000
TOTAL APPROPRIATION	\$	879,919,000

The appropriations in this section are subject to the following conditions and limitations:

- (1) The appropriation for fiscal year 1998 includes such funds as are necessary for the remaining months of the 1996-97 school year.
- (2) The superintendent of public instruction shall distribute state funds to school districts based on two categories, the optional birth through age two program for special education eligible developmentally delayed infants and toddlers, and the mandatory special education program for special education eligible students ages three to twenty-one. A "special education eligible student"

means a student receiving specially designed instruction in accordance with a properly formulated individualized education program.

(3) For the 1997-98 and 1998-99 school years, the superintendent shall distribute state funds to each district based on the sum of:

(a) A district's annual average headcount enrollment of developmentally delayed infants and toddlers ages birth through two, times the district's average basic education allocation per full-time equivalent student, times 1.15; and

(b) A district's annual average full-time equivalent basic education enrollment times the funded enrollment percent determined pursuant to subsection (4)(c) of this section, times the district's average basic education allocation per full-time equivalent student times 0.9309.

(4) The definitions in this subsection apply throughout this section.

(a) "Average basic education allocation per full-time equivalent student" for a district shall be based on the staffing ratios required by RCW 28A.150.260 (i.e., 49/1000 certificated instructional staff in grades K-3, and 46/1000 in grades 4-12) and shall not include enhancements for K-3, secondary vocational education, or small schools.

(b) "Annual average full-time equivalent basic education enrollment" means the resident enrollment including students enrolled through choice (RCW 28A.225.225) and students from nonhigh districts (RCW 28A.225.210) and excluding students residing in another district enrolled as part of an interdistrict cooperative program (RCW 28A.225.250).

(c) "Enrollment percent" means the district's resident special education annual average enrollment including those students counted under the special education demonstration projects, excluding the birth through age two enrollment, as a percent of the district's annual average full-time equivalent basic education enrollment. For the 1997-98 and the 1998-99 school years, each district's funded enrollment percent shall be:

(i) For districts whose enrollment percent for 1994-95 was at or below 12.7 percent, the lesser of the district's actual enrollment percent for the school year for which the allocation is being determined or 12.7 percent.

(ii) For districts whose enrollment percent for 1994-95 was above 12.7 percent, the lesser of:

(A) The district's actual enrollment percent for the school year for which the special education allocation is being determined; or

(B) The district's actual enrollment percent for the school year immediately prior to the school year for which the special education allocation is being determined if greater than 12.7 percent; or

(C) For 1997-98, the 1994-95 enrollment percent reduced by 75 percent of the difference between the district's 1994-95 enrollment percent and 12.7 percent and for 1998-99, 12.7 percent.

(5) At the request of any interdistrict cooperative of at least 15 districts in which all excess cost services for special education students of the districts are

provided by the cooperative, the maximum enrollment percent shall be 12.7, and shall be calculated in the aggregate rather than individual district units. For purposes of this subsection (4) of this section, the average basic education allocation per full-time equivalent student shall be calculated in the aggregate rather than individual district units.

(6) A maximum of \$12,000,000 of the general fund—state appropriation for fiscal year 1998 and a maximum of \$12,000,000 of the general fund—state appropriation for fiscal year 1999 are provided as safety net funding for districts with demonstrated needs for state special education funding beyond the amounts provided in subsection (3) of this section. Safety net funding shall be awarded by the state safety net oversight committee.

(a) The safety net oversight committee shall first consider the needs of districts adversely affected by the 1995 change in the special education funding formula. Awards shall be based on the amount required to maintain the 1994-95 state special education excess cost allocation to the school district in aggregate or on a dollar per funded student basis.

(b) The committee shall then consider unusual needs of districts due to a special education population which differs significantly from the assumptions of the state funding formula. Awards shall be made to districts that convincingly demonstrate need due to the concentration and/or severity of disabilities in the district. Differences in program costs attributable to district philosophy or service delivery style are not a basis for safety net awards.

(7) Prior to June 1st of each year, the superintendent shall make available to each school district from available data the district's maximum funded enrollment percent for the coming school year.

(8) The superintendent of public instruction may adopt such rules and procedures as are necessary to administer the special education funding and safety net award process. Prior to revising any standards, procedures, or rules in place for the 1996-97 school year, the superintendent shall consult with the office of financial management and the fiscal committees of the legislature.

(9) The safety net oversight committee appointed by the superintendent of public instruction shall consist of:

- (a) Staff of the office of superintendent of public instruction;
- (b) Staff of the office of the state auditor;
- (c) Staff from the office of the financial management; and
- (d) One or more representatives from school districts or educational service districts knowledgeable of special education programs and funding.

(10) A maximum of \$4,500,000 of the general fund—federal appropriation shall be expended for safety net funding to meet the extraordinary needs of one or more individual special education students.

(11) A maximum of \$678,000 may be expended from the general fund—state appropriations to fund 5.43 full-time equivalent teachers and 2.1 full-time equivalent aides at children's orthopedic hospital and medical center. This amount

is in lieu of money provided through the home and hospital allocation and the special education program.

(12) A maximum of \$1,000,000 of the general fund—federal appropriation is provided for projects to provide special education students with appropriate job and independent living skills, including work experience where possible, to facilitate their successful transition out of the public school system. The funds provided by this subsection shall be from federal discretionary grants.

(13) A school district may carry over up to 10 percent of general fund—state funds allocated under this program; however, carry over funds shall be expended in the special education program.

(14) Beginning in the 1997-98 school year, the superintendent shall increase the percentage of federal flow-through to school districts to at least 84 percent. In addition to other purposes, school districts may use increased federal funds for high cost students, for purchasing regional special education services from educational service districts, and for staff development activities particularly relating to inclusion issues.

(15) Up to one percent of the general fund—federal appropriation shall be expended by the superintendent for projects related to use of inclusion strategies by school districts for provision of special education services. The superintendent shall prepare an information database on laws, best practices, examples of programs, and recommended resources. The information may be disseminated in a variety of ways, including workshops and other staff development activities.

(16) Amounts appropriated within this section are sufficient to fund section 5 of Second Substitute House Bill No. 1709 (mandate on school districts).

NEW SECTION. Sec. 508. FOR THE SUPERINTENDENT OF PUBLIC INSTRUCTION—FOR TRAFFIC SAFETY EDUCATION PROGRAMS

Public Safety and Education Account

Appropriation \$ 17,179,000

The appropriation in this section is subject to the following conditions and limitations:

(1) The appropriation includes such funds as are necessary for the remaining months of the 1996-97 school year.

(2) A maximum of \$507,000 shall be expended for regional traffic safety education coordinators.

(3) The maximum basic state allocation per student completing the program shall be \$137.16 in the 1997-98 and 1998-99 school years.

(4) Additional allocations to provide tuition assistance for students from low-income families who complete the program shall be a maximum of \$66.81 per eligible student in the 1997-98 and 1998-99 school years.

NEW SECTION. Sec. 509. FOR THE SUPERINTENDENT OF PUBLIC INSTRUCTION—FOR EDUCATIONAL SERVICE DISTRICTS

General Fund Appropriation (FY 1998) \$ 4,511,000
General Fund Appropriation (FY 1999) \$ 4,510,000

TOTAL APPROPRIATION \$ 9,021,000

The appropriations in this section are subject to the following conditions and limitations:

(1) The educational service districts shall continue to furnish financial services required by the superintendent of public instruction and RCW 28A.310.190 (3) and (4).

(2) \$250,000 of the general fund appropriation for fiscal year 1998 and \$250,000 of the general fund appropriation for fiscal year 1999 are provided solely for student teaching centers as provided in RCW 28A.415.100.

(3) A maximum of \$500,000 is provided for centers for the improvement of teaching pursuant to RCW 28A.415.010.

***NEW SECTION. Sec. 510. FOR THE SUPERINTENDENT OF PUBLIC INSTRUCTION—FOR LOCAL EFFORT ASSISTANCE**

General Fund Appropriation (FY 1998)	\$	84,598,000
General Fund Appropriation (FY 1999)	\$	89,354,000
TOTAL APPROPRIATION	\$	173,952,000

*Sec. 510 was vetoed. See message at end of chapter.

NEW SECTION. Sec. 511. FOR THE SUPERINTENDENT OF PUBLIC INSTRUCTION—FOR THE ELEMENTARY AND SECONDARY SCHOOL IMPROVEMENT ACT

General Fund—Federal Appropriation \$ 255,987,000

NEW SECTION. Sec. 512. FOR THE SUPERINTENDENT OF PUBLIC INSTRUCTION—FOR INSTITUTIONAL EDUCATION PROGRAMS

General Fund—State Appropriation (FY 1998)	\$	18,327,000
General Fund—State Appropriation (FY 1999)	\$	19,131,000
General Fund—Federal Appropriation	\$	8,548,000
TOTAL APPROPRIATION	\$	46,006,000

The appropriations in this section are subject to the following conditions and limitations:

(1) The general fund—state appropriation for fiscal year 1998 includes such funds as are necessary for the remaining months of the 1996-97 school year.

(2) State funding provided under this section is based on salaries and other expenditures for a 220-day school year. The superintendent of public instruction shall monitor school district expenditure plans for institutional education programs to ensure that districts plan for a full-time summer program.

(3) State funding for each institutional education program shall be based on the institution's annual average full-time equivalent student enrollment. Staffing ratios for each category of institution shall remain the same as those funded in the 1995-97 biennium.

(4) \$758,000 of the general fund—state fiscal year 1998 appropriation and \$704,000 of the general fund—state fiscal year 1999 appropriation are provided solely for the implementation of Engrossed Third Substitute House Bill No. 3900

(revising the juvenile code). If the bill is not enacted by June 30, 1997, the amounts provided in this subsection shall lapse.

NEW SECTION. Sec. 513. FOR THE SUPERINTENDENT OF PUBLIC INSTRUCTION—FOR PROGRAMS FOR HIGHLY CAPABLE STUDENTS

General Fund Appropriation (FY 1998)	\$	5,752,000
General Fund Appropriation (FY 1999)	\$	6,176,000
TOTAL APPROPRIATION	\$	11,928,000

The appropriations in this section are subject to the following conditions and limitations:

(1) The appropriation for fiscal year 1998 includes such funds as are necessary for the remaining months of the 1996-97 school year.

(2) Allocations for school district programs for highly capable students shall be distributed at a maximum rate of \$311.12 per funded student for the 1997-98 school year and \$311.58 per funded student for the 1998-99 school year, exclusive of salary and benefit adjustments pursuant to section 504 of this act. The number of funded students shall be a maximum of two percent of each district's full-time equivalent basic education enrollment.

(3) \$350,000 of the appropriation is for the centrum program at Fort Worden state park.

(4) \$186,000 of the appropriation is for the odyssey of the mind and future problem-solving programs.

***NEW SECTION. Sec. 514. FOR THE SUPERINTENDENT OF PUBLIC INSTRUCTION—EDUCATION REFORM PROGRAMS**

General Fund Appropriation (FY 1998)	\$	18,905,000
General Fund Appropriation (FY 1999)	\$	21,868,000
TOTAL APPROPRIATION	\$	40,773,000

The appropriations in this section are subject to the following conditions and limitations:

(1) \$18,103,000 is provided for the operation of the commission on student learning and the development and implementation of student assessments. The commission shall cooperate with the superintendent of public instruction in defining measures of student achievement to be included in the student record system developed by the superintendent pursuant to section 501(1)(b) of this act. The timelines for development of assessments are funded in accordance with the timelines proposed in Engrossed Second Substitute House Bill No. 1777.

(2) \$2,190,000 is provided solely for training of paraprofessional classroom assistants and certificated staff who work with classroom assistants as provided in RCW 28A.415.310.

(3) \$2,970,000 is provided for mentor teacher assistance, including state support activities, under RCW 28A.415.250 and 28A.415.260. Funds for the teacher assistance program shall be allocated to school districts based on the number of beginning teachers.

(4) \$4,050,000 is provided for improving technology infrastructure, monitoring and reporting on school district technology development, promoting standards for school district technology, promoting statewide coordination and planning for technology development, and providing regional educational technology support centers, including state support activities, under chapter 28A.650 RCW.

(5) \$7,200,000 is provided for grants to school districts to provide a continuum of care for children and families to help children become ready to learn. Grant proposals from school districts shall contain local plans designed collaboratively with community service providers. If a continuum of care program exists in the area in which the school district is located, the local plan shall provide for coordination with existing programs to the greatest extent possible. Grant funds shall be allocated pursuant to RCW 70.190.040.

(6) \$5,000,000 is provided solely for the meals for kids program under RCW 28A.235.145 through 28A.235.155.

(7) \$1,260,000 is provided for technical assistance related to education reform through the office of the superintendent of public instruction, in consultation with the commission on student learning, as specified in RCW 28A.300.130 (center for the improvement of student learning).

(8) The superintendent of public instruction shall not accept, allocate, or expend any federal funds to implement the federal goals 2000 program.

**Sec. 514 was vetoed. See message at end of chapter.*

***NEW SECTION. Sec. 515. FOR THE SUPERINTENDENT OF PUBLIC INSTRUCTION—FOR TRANSITIONAL BILINGUAL PROGRAMS**

General Fund Appropriation (FY 1998)	\$	31,146,000
General Fund Appropriation (FY 1999)	\$	33,414,000
TOTAL APPROPRIATION	\$	64,560,000

The appropriations in this section are subject to the following conditions and limitations:

(1) The appropriation for fiscal year 1998 provides such funds as are necessary for the remaining months of the 1996-97 school year.

(2) The superintendent shall distribute a maximum of \$643.78 per eligible bilingual student in the 1997-98 school year, exclusive of salary and benefit adjustments provided in section 504 of this act.

(3) *A student shall be eligible for funding under this section if the student is enrolled in grades K-12 pursuant to WAC 392-121-106 and is receiving specialized instruction pursuant to chapter 28A.180 RCW.*

(4) *The superintendent shall distribute a maximum of \$643.78 per eligible weighted bilingual student in the 1998-99 school year exclusive of salary and benefit adjustments provided in section 504 of this act.*

(5) *The following factors shall be used to calculate weightings for the 1998-99 school year.*

(a) Grades Level

- (i) K-535
- (ii) 6-850
- (iii) 9-1272

(b) Time in Program

- (i) Up to 1 year82
- (ii) 1 to 2 years62
- (iii) 2 to 3 years41
- (iv) more than 3 years21

(c) The grade level weight and time in program weight shall be summed for each eligible student and the result shall be multiplied by the rate per weighted student specified in subsection (3) of this section.

(d) Time in program under (b) of this subsection shall be calculated in accordance with WAC 392-160-035.

*Sec. 515 was partially vetoed. See message at end of chapter.

NEW SECTION. Sec. 516. FOR THE SUPERINTENDENT OF PUBLIC INSTRUCTION—FOR THE LEARNING ASSISTANCE PROGRAM

General Fund Appropriation (FY 1998)	\$	60,309,000
General Fund Appropriation (FY 1999)	\$	60,862,000
TOTAL APPROPRIATION	\$	121,171,000

The appropriations in this section are subject to the following conditions and limitations:

(1) The appropriation for fiscal year 1998 provides such funds as are necessary for the remaining months of the 1996-97 school year.

(2) For making the calculation of the percentage of students scoring in the lowest quartile as compared with national norms, beginning with the 1991-92 school year, the superintendent shall multiply each school district's 4th and 8th grade test results by 0.86.

(3) Funding for school district learning assistance programs shall be allocated at maximum rates of \$378.33 per funded unit for the 1997-98 school year and \$379.47 per funded unit for the 1998-99 school year exclusive of salary and benefit adjustments provided in section 504 of this act. School districts may carryover up to 10 percent of funds allocated under this program; however, carryover funds shall be expended for the learning assistance program.

(a) A school district's funded units for the 1997-98 and 1998-99 school years shall be the sum of the following:

(i) The district's full-time equivalent enrollment in kindergarten through 6th grade, times the 5-year average 4th grade test result as adjusted pursuant to subsection (2) of this section, times 0.92; and

(ii) The district's full-time equivalent enrollment in grades 7 through 9, times the 5-year average 8th grade test result as adjusted pursuant to subsection (2) of this section, times 0.92; and

(iii) If in the prior school year the district's percentage of October headcount enrollment in grades K-12 eligible for free and reduced price lunch exceeded the state average, subtract the state average percentage of students eligible for free and reduced price lunch from the district's percentage and multiply the result by the district's K-12 annual average full-time equivalent enrollment for the current school year times 22.30 percent.

****NEW SECTION. Sec. 517. FOR THE SUPERINTENDENT OF PUBLIC INSTRUCTION—LOCAL ENHANCEMENT FUNDS***

<i>General Fund Appropriation (FY 1998)</i>	\$	45,404,000
<i>General Fund Appropriation (FY 1999)</i>	\$	51,375,000
<i>TOTAL APPROPRIATION</i>	\$	96,779,000

The appropriations in this section are subject to the following conditions and limitations:

(1) A maximum of \$40,841,000 is provided for learning improvement allocations to school districts to enhance the ability of instructional staff to teach and assess the essential academic learning requirements for reading, writing, communication, and math in accordance with the timelines and requirements established under RCW 28A.630.885. However, special emphasis shall be given to the successful teaching of reading. Allocations under this section shall be subject to the following conditions and limitations:

(a) In accordance with the timetable for the implementation of the assessment system by the commission on student learning, the allocations for the 1997-98 and 1998-99 school years shall be at a maximum annual rate per full-time equivalent student of \$30 for students enrolled in grades K-4, \$24 for students enrolled in grades 5-7, and \$18 for students enrolled in grades 8-12. Allocations shall be made on the monthly apportionment schedule provided in RCW 28A.510.250.

(b) A district receiving learning improvement allocations shall:

(i) Develop and keep on file at each building a student learning improvement plan to achieve the student learning goals and essential academic learning requirements and to implement the assessment system as it is developed. The plan shall delineate how the learning improvement allocations will be used to accomplish the foregoing. The plan shall be made available to the public upon request;

(ii) Maintain a policy regarding the involvement of school staff, parents, and community members in instructional decisions;

(iii) File a report by October 1, 1998, and October 1, 1999, with the office of the superintendent of public instruction, in a format developed by the superintendent that: Enumerates the activities funded by these allocations; the amount expended for each activity; describes how the activity improved understanding, teaching, and assessment of the essential academic learning requirements by instructional staff; and identifies any amounts expended from this allocation for supplemental contracts; and

(iv) Provide parents and the local community with specific information on the use of this allocation by including in the annual performance report required in RCW 28A.320.205, information on how funds allocated under this subsection were spent and the results achieved.

(c) The superintendent of public instruction shall compile and analyze the school district reports and present the results to the office of financial management and the appropriate committees of the legislature no later than November 15, 1998, and November 15, 1999.

(2) \$55,937,000 is provided for local education program enhancements to meet educational needs as identified by the school district, including alternative education programs. This amount includes such amounts as are necessary for the remainder of the 1996-97 school year. Allocations for the 1997-98 and 1998-99 school year shall be at a maximum annual rate of \$29.86 per full-time equivalent student as determined pursuant to subsection (3) of this section. Allocations shall be made on the monthly apportionment payment schedule provided in RCW 28A.510.250.

(3) Allocations provided under this section shall be based on school district annual average full-time equivalent enrollment in grades kindergarten through twelve: PROVIDED, That for school districts enrolling not more than one hundred average annual full-time equivalent students, and for small school plants within any school district designated as remote and necessary schools, the allocations shall be as follows:

(a) Enrollment of not more than 60 average annual full-time equivalent students in grades kindergarten through six shall generate funding based on sixty full-time equivalent students;

(b) Enrollment of not more than 20 average annual full-time equivalent students in grades seven and eight shall generate funding based on twenty full-time equivalent students; and

(c) Enrollment of not more than 60 average annual full-time equivalent students in grades nine through twelve shall generate funding based on sixty full-time equivalent students.

(4) Funding provided pursuant to this section does not fall within the definition of basic education for purposes of Article IX of the state Constitution and the state's funding duty thereunder.

(5) Receipt by a school district of one-fourth of the district's allocation of funds under this section, shall be conditioned on a finding by the superintendent that:

(a) The district is enrolled as a medicaid service provider and is actively pursuing federal matching funds for medical services provided through special education programs, pursuant to RCW 74.09.5241 through 74.09.5256 (Title XIX funding); and

(b) The district is filing truancy petitions as required under chapter 312, Laws of 1995 and RCW 28A.225.030.

*Sec. 517 was vetoed. See message at end of chapter.

**PART VI
HIGHER EDUCATION**

***NEW SECTION. Sec. 601.** *The appropriations in sections 603 through 609 of this act are subject to the following conditions and limitations:*

(1) "Institutions" means the institutions of higher education receiving appropriations under sections 603 through 609 of this act.

(2)(a) The salary increases provided or referenced in this subsection shall be the allowable salary increases provided at institutions of higher education, excluding increases associated with normally occurring promotions and increases related to faculty and professional staff retention, and excluding increases associated with employees under the jurisdiction of chapter 41.56 RCW pursuant to the provisions of RCW 28B.16.015.

(b) Each institution of higher education shall provide to each classified staff employee as defined by the office of financial management a salary increase of 3.0 percent on July 1, 1997. Each institution of higher education shall provide to instructional and research faculty, exempt professional staff, academic administrators, academic librarians, counselors, teaching and research assistants as classified by the office of financial management, and all other nonclassified staff, including those employees under RCW 28B.16.015, an average salary increase of 3.0 percent on July 1, 1997. For employees under the jurisdiction of chapter 41.56 RCW pursuant to the provisions of RCW 28B.16.015, distribution of the salary increases will be in accordance with the applicable collective bargaining agreement. However, an increase shall not be provided to any classified employee whose salary is above the approved salary range maximum for the class to which the employee's position is allocated. To collect consistent data for use by the legislature, the office of financial management, and other state agencies for policy and planning purposes, institutions of higher education shall report personnel data to be used in the department of personnel's human resource data warehouse in compliance with uniform reporting procedures established by the department of personnel.

(c) Each institution of higher education receiving appropriations under sections 604 through 609 of this act may provide to instructional and research faculty, exempt professional staff, academic administrators, academic librarians, counselors, teaching and research assistants, as classified by the office of financial management, and all other nonclassified staff, but not including employees under RCW 28B.16.015, an additional average salary increase of 1.0 percent on July 1, 1997, and an average salary increase of 2.0 percent on July 1, 1998. Any salary increases authorized under this subsection (2)(c) shall not be included in an institution's salary base. It is the intent of the legislature that general fund—state support for an institution shall not increase during the current or any future biennium as a result of any salary increases authorized under this subsection (2)(c).

(d) Specific salary increases authorized in sections 603 through 609 of this act are in addition to any salary increase provided in this subsection.

(3)(a) Each institution receiving appropriations under sections 604 through 609 of this act shall submit plans for achieving measurable and specific improvements in academic years 1997-98 and 1998-99 to the higher education coordinating board. The plans, to be prepared at the direction of the board, shall be submitted by August 15, 1997 (for academic year 1997-98) and August 15, 1998 (for academic year 1998-99). The following measures and goals will be used for the 1997-99 biennium:

	Goal
<i>(i) Undergraduate graduation efficiency index:</i>	
<i>For students beginning as freshmen</i>	95
<i>For transfer students</i>	90
<i>(ii) Undergraduate student retention, defined as the percentage of all undergraduate students who return for the next year at the same institution, measured from fall to fall:</i>	
<i>Research universities</i>	95%
<i>Comprehensive universities and college</i>	90%
<i>(iii) Graduation rates, defined as the percentage of an entering freshmen class at each institution that graduates within five years:</i>	
<i>Research universities</i>	65%
<i>Comprehensive universities and college</i>	55%
<i>(iv) A measure of faculty productivity, with goals and targets in accord with the legislative intent to achieve measurable and specific improvements, to be determined by the higher education coordinating board, in consultation with the institutions receiving appropriations under sections 604 through 609 of this act.</i>	
<i>(v) An additional measure and goal to be selected by the higher education coordinating board for each institution, in consultation with each institution.</i>	

(b) Academic year 1995-96 shall be the baseline year against which performance in academic year 1997-98 shall be measured. Academic year 1997-98 shall be the baseline year against which performance in academic year 1998-99 shall be measured. The difference between each institution's baseline year and the state-wide performance goals shall be calculated and shall be the performance gap for each institution for each measure for each year. The plan for each institution shall set as a performance target the closing of its performance gap for each measure by ten percent in each year. Each institution shall report to the higher education coordinating board on its actual performance achievement for each measure for academic year 1997-98 by October 15, 1998.

(4) The state board for community and technical colleges shall develop an implementation plan for measurable and specific improvements in productivity, efficiency, and student retention in academic years 1997-98 and 1998-99

consistent with the performance management system developed by the work force training and education coordinating board and for the following long-term performance goals:

	Goal
(a) Hourly wages for vocational graduates	\$12/hour
(b) Academic students transferring to Washington higher education institutions	67%
(c) Core course completion rates	85%
(d) Graduation efficiency index	95

(5) The state's public institutions of higher education increasingly are being called upon to become more efficient in conducting the business operations necessary to support the carrying out of their academic missions. The legislature recognizes that state laws and regulations may have the unintended effect of acting as barriers to efficient operation in some instances, and desires to encourage the institutions of higher education to think beyond the constraints of current law in identifying opportunities for improved efficiency. Accordingly, the legislature requests that the institutions of higher education, working together through the council of presidents' office and the state board for community and technical colleges, identify opportunities for changes in state law that would form the basis for a new efficiency compact with the state, for consideration no later than the 1999 legislative session.

**Sec. 601 was vetoed. See message at end of chapter.*

***NEW SECTION.** *Sec. 602. (1) The appropriations in sections 603 through 609 of this act provide state general fund support or employment and training trust account support for full-time equivalent student enrollments at each institution of higher education. Listed below are the annual full-time equivalent student enrollments by institution assumed in this act.*

	<i>1997-98</i>	<i>1998-99</i>
	<i>Annual</i>	<i>Annual</i>
	<i>Average</i>	<i>Average</i>
<i>University of Washington</i>		
<i>Main campus</i>	<i>31,297</i>	<i>31,527</i>
<i>Tacoma branch</i>	<i>775</i>	<i>895</i>
<i>Bothell branch</i>	<i>847</i>	<i>992</i>
<i>Washington State University</i>		
<i>Main campus</i>	<i>17,403</i>	<i>17,723</i>
<i>Spokane branch</i>	<i>352</i>	<i>442</i>
<i>Tri-Cities branch</i>	<i>754</i>	<i>814</i>
<i>Vancouver branch</i>	<i>851</i>	<i>971</i>
<i>Central Washington University</i>	<i>7,346</i>	<i>7,446</i>

<i>Eastern Washington University</i>	7,739	7,739
<i>The Evergreen State College</i>	3,496	3,576
<i>Western Washington University</i>	10,188	10,338
<i>State Board for Community and Technical Colleges</i>	116,426	118,526
<i>Higher Education Coordinating Board</i>	50	50

(2) The legislature intends to reduce general fund—state support for student enrollments by average instructional funding as calculated by the higher education coordinating board for enrollments below the budgeted levels in subsection (1) of this section, except that, for campuses with less than 1,500 budgeted full-time equivalent (FTE) student enrollments, enrollment targets shall be set at 95 percent of the budgeted enrollment level, and except that underenrollment at Eastern Washington University shall be administered in accordance with section 606(5) of this act.

*Sec. 602 was vetoed. See message at end of chapter.

***NEW SECTION. Sec. 603. FOR THE STATE BOARD FOR COMMUNITY AND TECHNICAL COLLEGES**

<i>General Fund—State Appropriation (FY 1998)</i>	\$ 380,591,000
<i>General Fund—State Appropriation (FY 1999)</i>	\$ 418,661,000
<i>General Fund—Federal Appropriation</i>	\$ 11,404,000
<i>Employment and Training Trust Account</i>	
<i>Appropriation</i>	\$ 26,346,000
TOTAL APPROPRIATION	\$ 837,002,000

The appropriations in this section are subject to the following conditions and limitations:

(1) \$2,718,000 of the general fund—state appropriation for fiscal year 1998 and \$4,079,000 of the general fund—state appropriation for fiscal year 1999 shall be held in reserve by the board. These funds are provided for improvements in productivity, efficiency, and student retention. The board may approve the fiscal year 1998 allocation of funds under this subsection upon completion of an implementation plan. The implementation plan shall be submitted by the board to the appropriate legislative committees and the office of financial management in accordance with section 601(4) of this act by September 1, 1997. The board may approve the fiscal year 1999 allocation of funds under this subsection based on the board's evaluation of:

(a) College performance compared to the goals for productivity, efficiency, and student retention as submitted in the plan required in section 601(4) of this act; and

(b) The quality and effectiveness of the strategies the colleges propose to achieve continued improvement in quality and efficiency during the 1998-99 academic year.

(2) \$1,253,000 of the general fund—state appropriation for fiscal year 1998, \$27,461,000 of the general fund—state appropriation for fiscal year 1999, and the entire employment and training trust account appropriation are provided solely as special funds for training and related support services, including financial aid, child care, and transportation, as specified in chapter 226, Laws of 1993 (employment and training for unemployed workers) and Substitute House Bill No. 2214.

(a) Funding is provided to support up to 7,200 full-time equivalent students in each fiscal year.

(b) The state board for community and technical colleges shall submit a plan for the allocation of the full-time equivalent students provided in this subsection to the workforce training and education coordinating board for review and approval.

(3) \$1,441,000 of the general fund—state appropriation for fiscal year 1998 and \$1,441,000 of the general fund—state appropriation for fiscal year 1999 are provided solely for 500 FTE enrollment slots to implement RCW 28B.50.259 (timber-dependent communities).

(4) \$1,862,500 of the general fund—state appropriation for fiscal year 1998 and \$1,862,500 of the general fund—state appropriation for fiscal year 1999 are provided solely for assessment of student outcomes at community and technical colleges.

(5) \$706,000 of the general fund—state appropriation for fiscal year 1998 and \$706,000 of general fund—state appropriation for fiscal year 1999 are provided solely to recruit and retain minority students and faculty.

(6) Up to \$1,035,000 of the general fund—state appropriation for fiscal year 1998 and up to \$2,102,000 of the general fund—state appropriation for fiscal year 1999 may be used in combination with salary and benefit savings from faculty turnover to provide faculty salary increments and associated benefits. To the extent general salary increase funding is used to pay faculty increments, the general salary increase shall be reduced by the same amount.

(7) To address part-time faculty salary disparities and to increase the ratio of full-time to part-time faculty instructors, the board shall provide salary increases to part-time instructors or hire additional full-time instructional staff under the following conditions and limitations: (a) The amount used for such purposes shall not exceed an amount equivalent to an additional salary increase of 1.0 percent on July 1, 1997, and an additional salary increase of 2.0 percent on July 1, 1998, for instructional faculty as classified by the office of financial management; and (b) at least \$2,934,000 shall be spent for the purposes of this subsection.

(8) \$83,000 of the general fund—state appropriation for fiscal year 1998 and \$1,567,000 of the general fund—state appropriation for fiscal year 1999 are provided for personnel and expenses to develop curricula, library resources, and operations of Cascadia Community College. It is the legislature's intent to use

the opportunity provided by the establishment of the new institution to conduct a pilot project of budgeting based on instructional standards and outcomes. The college shall use a portion of the available funds to develop a set of measurable standards and outcomes as the basis for budget development in the 1999-01 biennium.

(9) The technical colleges may increase tuition and fees to conform with the percentage increase in community college operating fees enacted by the 1997 legislature. The community colleges may charge up to the maximum level authorized for services and activities fees in RCW 28B.15.069.

(10) Community and technical colleges with below-average faculty salaries may use funds identified by the state board in the 1997-98 and 1998-99 operating allocations to increase faculty salaries no higher than the system-wide average.

**Sec. 603 was vetoed. See message at end of chapter.*

****NEW SECTION. Sec. 604. FOR UNIVERSITY OF WASHINGTON***

<i>General Fund Appropriation (FY 1998)</i>	<i>.....</i>	<i>\$</i>	<i>283,923,000</i>
<i>General Fund Appropriation (FY 1999)</i>	<i>.....</i>	<i>\$</i>	<i>289,807,000</i>
<i>Death Investigations Account Appropriation</i>	<i>.....</i>	<i>\$</i>	<i>1,810,000</i>
<i>Industrial Insurance Premium Refund Account</i>			
<i>Appropriation</i>	<i>.....</i>	<i>\$</i>	<i>514,000</i>
<i>Accident Account Appropriation</i>	<i>.....</i>	<i>\$</i>	<i>4,969,000</i>
<i>Medical Aid Account Appropriation</i>	<i>.....</i>	<i>\$</i>	<i>4,989,000</i>
<i>TOTAL APPROPRIATION</i>	<i>.....</i>	<i>\$</i>	<i>586,012,000</i>

The appropriations in this section are subject to the following conditions and limitations:

(1) \$2,019,000 of the general fund appropriation for fiscal year 1998 and \$3,029,000 of the general fund appropriation for fiscal year 1999 shall be placed in reserve. The office of financial management shall approve the allotment of amounts under this subsection upon notification by the higher education coordinating board. These amounts are provided for the preparation of plans and for the achievement of measurable and specific improvements towards performance and accountability goals as outlined in section 60i(3) of this act.

(2) \$800,000 of the general fund appropriation for fiscal year 1998 and \$1,896,000 of the general fund appropriation for fiscal year 1999 are provided solely to support additional upper-division and graduate level enrollments at the Tacoma branch campus above the 1996-97 budgeted FTE level.

(3) \$593,000 of the general fund appropriation for fiscal year 1998 and \$1,547,000 of the general fund appropriation for fiscal year 1999 are provided solely to support additional upper-division and graduate level enrollments at the Bothell branch campus above the 1996-97 budgeted FTE level.

(4) \$186,000 of the general fund appropriation for fiscal year 1998 and \$186,000 of the general fund appropriation for fiscal year 1999 are provided solely for assessment of student outcomes.

(5) \$324,000 of the general fund appropriation for fiscal year 1998 and \$324,000 of the general fund appropriation for fiscal year 1999 are provided solely to recruit and retain minority students and faculty.

(6) \$130,000 of the general fund appropriation for fiscal year 1998 and \$130,000 of the general fund appropriation for fiscal year 1999 are provided solely for the implementation of the Puget Sound work plan agency action item UW-01.

(7) \$1,200,000 of the general fund appropriation for fiscal year 1998 and \$1,200,000 of the general fund appropriation for fiscal year 1999 are provided solely for competitively offered faculty recruitment and retention salary adjustments. The university shall provide a report in their 1999-01 biennial operating budget request submittal on the effective expenditure of funds for the purposes of this subsection.

(8) \$47,000 of the fiscal year 1998 general fund appropriation and \$47,000 of the fiscal year 1999 general fund appropriation are provided solely to employ a fossil preparator/educator in the Burke Museum. The entire amounts provided in this subsection shall be provided directly to the Burke Museum.

(9) \$75,000 of the general fund appropriation for fiscal year 1998 and \$75,000 of the general fund appropriation for fiscal year 1999 are provided solely for enhancements to research capabilities at the Olympic natural resources center.

*Sec. 604 was vetoed. See message at end of chapter.

***NEW SECTION. Sec. 605. FOR WASHINGTON STATE UNIVERSITY**

General Fund Appropriation (FY 1998)	\$	166,644,000
General Fund Appropriation (FY 1999)	\$	172,819,000
Air Pollution Control Account Appropriation	\$	206,000
TOTAL APPROPRIATION	\$	339,669,000

The appropriations in this section are subject to the following conditions and limitations:

(1) \$1,204,000 of the general fund appropriation for fiscal year 1998 and \$1,807,000 of the general fund appropriation for fiscal year 1999 shall be placed in reserve. The office of financial management shall approve the allotment of amounts under this subsection upon notification by the higher education coordinating board. These amounts are provided for the preparation of plans and for the achievement of measurable and specific improvements towards performance and accountability goals as outlined in section 601(3) of this act.

(2) \$1,059,000 of the general fund appropriation for fiscal year 1999 is provided solely to support additional upper-division and graduate level enrollments at the Vancouver branch campus above the 1996-97 budgeted FTE level.

(3) \$263,000 of the general fund appropriation for fiscal year 1998 and \$789,000 of the general fund appropriation for fiscal year 1999 are provided

solely to support additional upper-division and graduate level enrollments at the Tri-Cities branch campus above the 1996-97 budgeted FTE level.

(4) \$971,000 of the general fund appropriation for fiscal year 1999 is provided solely to support additional upper-division and graduate level enrollments at the Spokane branch campus above the 1996-97 budgeted FTE level.

(5) \$186,000 of the general fund appropriation for fiscal year 1998 and \$186,000 of the general fund appropriation for fiscal year 1999 are provided solely for assessment of student outcomes.

(6) \$140,000 of the general fund appropriation for fiscal year 1998 and \$140,000 of the general fund appropriation for fiscal year 1999 are provided solely to recruit and retain minority students and faculty.

(7) \$157,000 of the general fund appropriation for fiscal year 1998 and \$157,000 of the general fund appropriation for fiscal year 1999 are provided solely for the implementation of the Puget Sound work plan agency action item WSU-01.

(8) \$600,000 of the general fund appropriation for fiscal year 1998 and \$600,000 of the general fund appropriation for fiscal year 1999 are provided solely for competitively offered faculty recruitment and retention salary adjustments. The university shall provide a report in their 1999-01 biennial operating budget request submittal on the effective expenditure of funds for the purposes of this subsection.

(9) \$50,000 of the general fund appropriation for fiscal year 1998 and \$50,000 of the general fund appropriation for fiscal year 1999 are provided solely for yellow star thistle research.

(10) \$55,000 of the general fund appropriation for fiscal year 1998 and \$55,000 of the general fund appropriation for fiscal year 1999 are provided solely for the Goldendale distance learning center.

**Sec. 605 was vetoed. See message at end of chapter.*

***NEW SECTION. Sec. 606. FOR EASTERN WASHINGTON UNIVERSITY**

General Fund Appropriation (FY 1998)	\$	39,211,000
General Fund Appropriation (FY 1999)	\$	39,489,000
TOTAL APPROPRIATION	\$	78,700,000

The appropriations in this section are subject to the following conditions and limitations:

(1) \$285,000 of the general fund appropriation for fiscal year 1998 and \$428,000 of the general fund appropriation for fiscal year 1999 shall be placed in reserve. The office of financial management shall approve the allotment of amounts under this subsection upon notification by the higher education coordinating board. These amounts are provided for the preparation of plans and for the achievement of measurable and specific improvements towards performance and accountability goals as outlined in section 601(3) of this act.

(2) \$186,000 of the general fund appropriation for fiscal year 1998 and \$186,000 of the general fund appropriation for fiscal year 1999 are provided solely for assessment of student outcomes.

(3) \$93,000 of the general fund appropriation for fiscal year 1998 and \$93,000 of the general fund appropriation for fiscal year 1999 are provided solely to recruit and retain minority students and faculty.

(4) \$53,000 of the general fund—state appropriation for fiscal year 1998 and \$54,000 of the general fund—state appropriation for fiscal year 1999 are provided solely for competitively offered faculty recruitment and retention salary adjustments. The university shall provide a report in their 1999-01 biennial operating budget request submittal on the effective expenditure of funds for the purposes of this subsection.

(5) \$3,188,000 of the general fund appropriation for fiscal year 1998 and \$3,188,000 of the general fund appropriation for fiscal year 1999 shall be placed in reserve pending attainment of budgeted enrollments of 6,942 FTEs. The office of financial management shall approve the allotment of funds under this subsection at the annual rate of \$4,000 for annual student FTEs in excess of 6,942 based on tenth day quarterly enrollment and the office of financial management's quarterly budget driver report. In addition, allotments of reserve funds in this section shall be approved by the office of financial management upon approval by the higher education coordinating board for (a) actions that will result in additional enrollment growth, and (b) contractual obligations in fiscal year 1998 to the extent such funds are required.

*Sec. 606 was vetoed. See message at end of chapter.

***NEW SECTION. Sec. 607. FOR CENTRAL WASHINGTON UNIVERSITY**

<i>General Fund Appropriation (FY 1998)</i>	\$	37,214,000
<i>General Fund Appropriation (FY 1999)</i>	\$	38,616,000
TOTAL APPROPRIATION	\$	75,830,000

The appropriations in this section are subject to the following conditions and limitations:

(1) \$269,000 of the general fund appropriation for fiscal year 1998 and \$403,000 of the general fund appropriation for fiscal year 1999 shall be placed in reserve. The office of financial management shall approve the allotment of amounts under this subsection upon notification by the higher education coordinating board. These amounts are provided for the preparation of plans and for the achievement of measurable and specific improvements towards performance and accountability goals as outlined in section 601(3) of this act.

(2) \$186,000 of the general fund appropriation for fiscal year 1998 and \$186,000 of the general fund appropriation for fiscal year 1999 are provided solely for assessment of student outcomes.

(3) \$70,000 of the general fund appropriation for fiscal year 1998 and \$70,000 of the general fund appropriation for fiscal year 1999 are provided solely to recruit and retain minority students and faculty.

(4) \$51,000 of the general fund appropriation for fiscal year 1998 and \$51,000 of the general fund appropriation for fiscal year 1999 are provided solely for competitively offered faculty recruitment and retention salary adjustments. The college shall provide a report in their 1999-01 biennial operating budget request submittal on the effective expenditure of funds for the purposes of this subsection.

*Sec. 607 was vetoed. See message at end of chapter.

***NEW SECTION, Sec. 608. FOR THE EVERGREEN STATE COLLEGE**

General Fund Appropriation (FY 1998)	\$	20,151,000
General Fund Appropriation (FY 1999)	\$	20,518,000
TOTAL APPROPRIATION	\$	40,669,000

The appropriations in this section is subject to the following conditions and limitations:

(1) \$144,000 of the general fund appropriation for fiscal year 1998 and \$217,000 of the general fund appropriation for fiscal year 1999 shall be placed in reserve. The office of financial management shall approve the allotment of amounts under this subsection upon notification by the higher education coordinating board. These amounts are provided for the preparation of plans and for the achievement of measurable and specific improvements towards performance and accountability goals as outlined in section 601(3) of this act.

(2) \$186,000 of the general fund appropriation for fiscal year 1998 and \$186,000 of the general fund appropriation for fiscal year 1999 are provided solely for assessment of student outcomes.

(3) \$47,000 of the general fund appropriation for fiscal year 1998 and \$47,000 of the general fund appropriation for fiscal year 1999 are provided solely to recruit and retain minority students and faculty.

(4) \$29,000 of the general fund appropriation for fiscal year 1998 and \$29,000 of the general fund appropriation for fiscal year 1999 are provided solely for competitively offered faculty recruitment and retention salary adjustments. The college shall provide a report in their 1999-01 biennial operating budget request submittal on the effective expenditure of funds for the purposes of this subsection.

*Sec. 608 was vetoed. See message at end of chapter.

***NEW SECTION, Sec. 609. FOR WESTERN WASHINGTON UNIVERSITY**

General Fund Appropriation (FY 1998)	\$	47,822,000
General Fund Appropriation (FY 1999)	\$	48,855,000
TOTAL APPROPRIATION	\$	96,677,000

The appropriations in this section are subject to the following conditions and limitations:

(1) \$342,000 of the general fund appropriation for fiscal year 1998 and \$514,000 of the general fund appropriation for fiscal year 1999 shall be placed in reserve. The office of financial management shall approve the allotment of amounts under this subsection upon notification by the higher education coordinating board. These amounts are provided for the preparation of plans and for the achievement of measurable and specific improvements towards performance and accountability goals as outlined in section 601(3) of this act.

(2) \$186,000 of the general fund appropriation for fiscal year 1998 and \$186,000 of the general fund appropriation for fiscal year 1999 are provided solely for assessment of student outcomes.

(3) \$93,000 of the general fund appropriation for fiscal year 1998 and \$93,000 of the general fund appropriation for fiscal year 1999 are provided solely to recruit and retain minority students and faculty.

(4) \$66,000 of the general fund appropriation for fiscal year 1998 and \$67,000 of the general fund appropriation for fiscal year 1999 are provided solely for competitively offered faculty recruitment and retention salary adjustments. The university shall provide a report in their 1999-01 biennial operating budget request submittal on the effective expenditure of funds for the purposes of this subsection.

*Sec. 609 was vetoed. See message at end of chapter.

***NEW SECTION. Sec. 610. FOR THE HIGHER EDUCATION COORDINATING BOARD—POLICY COORDINATION AND ADMINISTRATION**

General Fund—State Appropriation (FY 1998)	\$	2,734,000
General Fund—State Appropriation (FY 1999)	\$	2,615,000
General Fund—Federal Appropriation	\$	693,000
TOTAL APPROPRIATION	\$	6,042,000

The appropriations in this section are provided to carry out the accountability, performance measurement, policy coordination, planning, studies and administrative functions of the board and are subject to the following conditions and limitations:

(1) The board shall review, recommend changes if necessary, and approve plans defined in section 601(3)(a) of this act for achieving measurable and specific improvements in academic years 1997-98 and 1998-99. The plans shall be reported to the office of financial management and the appropriate legislative committees by October of each year. By October 1, 1997, the board shall notify the office of financial management to allot institutions' fiscal year 1998 performance funds held in reserve, based upon the adequacy of plans prepared by the institutions.

(2) The board shall develop criteria to assess institutions' performance and shall use those criteria in determining the allotment of performance and accountability funds. The board shall evaluate each institution's achievement of performance targets for the 1997-98 academic year and, by December 1, 1998,

the board shall notify the office of financial management to allot institutions' fiscal year 1999 performance funds held in reserve, based upon each institution's performance.

(3) By January, 1999, the board shall recommend to the office of financial management and appropriate legislative committees any recommended additions, deletions, or revisions to the performance and accountability measures in sections 601(3) of this act as part of the next master plan for higher education. The recommendations shall be developed in consultation with the institutions of higher education and may include additional performance indicators to measure successful student learning and other student outcomes for possible inclusion in the 1999-01 operating budget.

(4) \$280,000 of the general fund—state appropriation for fiscal year 1998 and \$280,000 of the general fund—state appropriation for fiscal year 1999 are provided solely for enrollment to implement RCW 28B.80.570 through 28B.80.585 (rural natural resources impact areas). The number of students served shall be 50 full-time equivalent students per fiscal year. The board shall ensure that enrollments reported under this subsection meet the criteria outlined in RCW 28B.80.570 through 28B.80.585.

(5) \$70,000 of the general fund—state appropriation for fiscal year 1998 and \$70,000 of the general fund—state appropriation for fiscal year 1999 are provided to develop a competency based admissions system for higher education institutions. The board shall complete the competency based admissions system and issue a report outlining the competency based admissions system by January 1999.

(6) \$500,000 of the general fund—state appropriation for fiscal year 1998 and \$500,000 of the general fund—state appropriation for fiscal year 1999 are provided solely for activities related to higher education facilities planning, project monitoring, and access issues related to capital facilities. Of this amount, \$50,000 is provided for a study of higher education needs of Okanogan county and surrounding communities with consideration given to alternative approaches to educational service delivery, facility expansion, relocation or partnership, and long-term growth and future educational demands of the region.

(7) \$150,000 of the general fund—state appropriation for fiscal year 1998 is provided solely as one-time funding for computer upgrades.

*Sec. 610 was partially vetoed. See message at end of chapter.

****NEW SECTION. Sec. 611. FOR THE HIGHER EDUCATION COORDINATING BOARD—FINANCIAL AID AND GRANT PROGRAMS***

<i>General Fund—State Appropriation (FY 1998)</i>	<i>\$</i>	<i>86,369,000</i>
<i>General Fund—State Appropriation (FY 1999)</i>	<i>\$</i>	<i>93,209,000</i>
<i>General Fund—Federal Appropriation</i>	<i>\$</i>	<i>8,255,000</i>
<i>TOTAL APPROPRIATION</i>	<i>\$</i>	<i>187,833,000</i>

The appropriations in this section are subject to the following conditions and limitations:

(1) \$527,000 of the general fund—state appropriation for fiscal year 1998 and \$526,000 of the general fund—state appropriation for fiscal year 1999 are provided solely for the displaced homemakers program.

(2) \$216,000 of the general fund—state appropriation for fiscal year 1998 and \$220,000 of the general fund—state appropriation for fiscal year 1999 are provided solely for the western interstate commission for higher education.

(3) \$118,000 of the general fund—state appropriation for fiscal year 1998 and \$118,000 of the general fund—state appropriation for fiscal year 1999 are provided solely for the health personnel resources plan.

(4) \$1,000,000 of the general fund—state appropriation for fiscal year 1998 and \$1,000,000 of the general fund—state appropriation for fiscal year 1999 are provided solely for the scholarships and loans program under chapter 28B.115 RCW, the health professional conditional scholarship program. This amount shall be deposited to the health professional loan repayment and scholarship trust fund to carry out the purposes of the program.

(5) \$83,783,000 of the general fund—state appropriation for fiscal year 1998 and \$90,728,000 of the general fund—state appropriation for fiscal year 1999 are provided solely for student financial aid, including all administrative costs. The amounts in (a), (b), and (c) of this subsection are sufficient to implement Second Substitute House Bill No. 1851 (higher education financial aid). Of these amounts:

(a) \$64,262,000 of the general fund—state appropriation for fiscal year 1998 and \$70,964,000 of the general fund—state appropriation for fiscal year 1999 are provided solely for the state need grant program.

(i) Unless an alternative method for distribution of the state need grant is enacted which distributes grants based on tuition costs, for the purposes of determination of eligibility for state need grants for the 1998-99 academic year, the higher education coordinating board shall establish family income equivalencies for independent students having financial responsibility for children and independent students with no financial responsibility for children, respectively, based on the United States bureau of labor statistics' low budget standard for persons in the 20-35 year age group, in accordance with the recommendations of the 1996 student financial aid policy advisory committee.

(ii) After April 1 of each fiscal year, up to one percent of the annual appropriation for the state need grant program may be transferred to the state work study program.

(b) \$15,350,000 of the general fund—state appropriation for fiscal year 1998 and \$15,350,000 of the general fund—state appropriation for fiscal year 1999 are provided solely for the state work study program. After April 1 of each fiscal year, up to one percent of the annual appropriation for the state work study program may be transferred to the state need grant program;

(c) \$2,422,000 of the general fund—state appropriation for fiscal year 1998 and \$2,422,000 of the general fund—state appropriation for fiscal year 1999 are

provided solely for educational opportunity grants. For the purpose of establishing eligibility for the equal opportunity grant program for placebound students under RCW 28B.101.020, Thurston county lies within the branch campus service area of the Tacoma branch campus of the University of Washington;

(d) A maximum of 2.1 percent of the general fund—state appropriation for fiscal year 1998 and 2.1 percent of the general fund—state appropriation for fiscal year 1999 may be expended for financial aid administration, excluding the four percent state work study program administrative allowance provision;

(e) \$230,000 of the general fund—state appropriation for fiscal year 1998 and \$201,000 of the general fund—state appropriation for fiscal year 1999 are provided solely for the educator's excellence awards. Any educator's excellence moneys not awarded by April 1st of each year may be transferred by the board to either the Washington scholars program or, in consultation with the workforce training and education coordinating board, to the Washington award for vocational excellence;

(f) \$1,012,000 of the general fund—state appropriation for fiscal year 1998 and \$1,266,000 of the general fund—state appropriation for fiscal year 1999 are provided solely to implement the Washington scholars program. Any Washington scholars program moneys not awarded by April 1st of each year may be transferred by the board to either the educator's excellence awards or, in consultation with the workforce training and education coordinating board, to the Washington award for vocational excellence;

(g) \$456,000 of the general fund—state appropriation for fiscal year 1998 and \$474,000 of the general fund—state appropriation for fiscal year 1999 are provided solely to implement Washington award for vocational excellence program. Any Washington award for vocational program moneys not awarded by April 1st of each year may be transferred by the board to either the educator's excellence awards or the Washington scholars program;

(h) \$51,000 of the general fund—state appropriation for fiscal year 1998 and \$51,000 of the general fund—state appropriation for fiscal year 1999 are provided solely for community scholarship matching grants of \$2,000 each. To be eligible for the matching grant, a nonprofit community organization organized under section 501(c)(3) of the internal revenue code must demonstrate that it has raised \$2,000 in new moneys for college scholarships after the effective date of this act. No organization may receive more than one \$2,000 matching grant; and

(6) \$175,000 of the general fund—state appropriation for fiscal year 1998 and \$175,000 of the general fund—state appropriation for fiscal year 1999 are provided solely to implement Engrossed Second Substitute House Bill No. 1372 or Second Substitute Senate Bill No. 5106 (Washington advanced college tuition payment program). If neither Engrossed Second Substitute House Bill No. 1372

nor Second Substitute Senate Bill No. 5106 is enacted by June 30, 1997, the amounts provided in this subsection shall lapse.

(7) \$187,000 of the general fund—state appropriation for fiscal year 1998 and \$188,000 of the general fund—state appropriation for fiscal year 1999 are provided solely for a demonstration project in the 1997-99 biennium to provide undergraduate fellowships based upon the graduate fellowship program.

(8) Funding is provided in this section for the development of three models for tuition charges for distance learning programs. Institutions involved in distance education or extended learning shall provide information to the board on the usage, cost, and revenue generated by such programs.

*Sec. 611 was vetoed. See message at end of chapter.

NEW SECTION. Sec. 612. FOR THE JOINT CENTER FOR HIGHER EDUCATION

General Fund Appropriation (FY 1998)	\$	1,469,000
General Fund Appropriation (FY 1999)	\$	1,470,000
TOTAL APPROPRIATION	\$	2,939,000

NEW SECTION. Sec. 613. FOR THE WORK FORCE TRAINING AND EDUCATION COORDINATING BOARD

General Fund—State Appropriation (FY 1998)	\$	1,636,000
General Fund—State Appropriation (FY 1999)	\$	1,642,000
General Fund—Federal Appropriation	\$	34,378,000
TOTAL APPROPRIATION	\$	37,656,000

NEW SECTION. Sec. 614. FOR WASHINGTON STATE LIBRARY

General Fund—State Appropriation (FY 1998)	\$	7,483,000
General Fund—State Appropriation (FY 1999)	\$	7,281,000
General Fund—Federal Appropriation	\$	4,847,000
TOTAL APPROPRIATION	\$	19,611,000

The appropriations in this section are subject to the following conditions and limitations:

(1) At least \$2,524,000 shall be expended for a contract with the Seattle public library for library services for the Washington book and braille library.

(2) \$198,000 of the general fund—state appropriation for fiscal year 1998 is provided solely for the state library to continue the government information locator service in accordance with chapter 171, Laws of 1996. The state library, in consultation with interested parties, shall prepare an evaluation of the government information locator service by October 1, 1997. The evaluation shall include a cost-benefit analysis, a determination of fiscal impacts to the state, and programmatic information. The evaluation report shall be provided to the appropriate legislative fiscal committees.

NEW SECTION. Sec. 615. FOR THE WASHINGTON STATE ARTS COMMISSION

General Fund—State Appropriation (FY 1998)	\$	2,015,000
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General Fund—State Appropriation (FY 1999)	\$	2,013,000
General Fund—Federal Appropriation	\$	690,000
TOTAL APPROPRIATION	\$	4,718,000

NEW SECTION. Sec. 616. FOR THE WASHINGTON STATE HISTORICAL SOCIETY

General Fund Appropriation (FY 1998)	\$	2,502,000
General Fund Appropriation (FY 1999)	\$	2,531,000
TOTAL APPROPRIATION	\$	5,033,000

The appropriations in this section are subject to the following conditions and limitations: \$216,200 of the general fund appropriation for fiscal year 1998 and \$216,200 of the general fund appropriation for fiscal year 1999 are provided solely for exhibit and educational programming.

NEW SECTION. Sec. 617. FOR THE EASTERN WASHINGTON STATE HISTORICAL SOCIETY

General Fund Appropriation (FY 1998)	\$	741,000
General Fund Appropriation (FY 1999)	\$	1,022,000
TOTAL APPROPRIATION	\$	1,763,000

The appropriations in this section are subject to the following conditions and limitations: \$275,000 of the general fund appropriation for fiscal year 1999 is provided solely for exhibit design and planning.

NEW SECTION. Sec. 618. FOR THE STATE SCHOOL FOR THE BLIND

General Fund—State Appropriation (FY 1998)	\$	3,714,000
General Fund—State Appropriation (FY 1999)	\$	3,738,000
General Fund—Private/Local Appropriation	\$	192,000
TOTAL APPROPRIATION	\$	7,644,000

NEW SECTION. Sec. 619. FOR THE STATE SCHOOL FOR THE DEAF

General Fund Appropriation (FY 1998)	\$	6,458,000
General Fund Appropriation (FY 1999)	\$	6,459,000
TOTAL APPROPRIATION	\$	12,917,000

**PART VII
SPECIAL APPROPRIATIONS**

NEW SECTION. Sec. 701. FOR THE STATE TREASURER—BOND RETIREMENT AND INTEREST, AND ONGOING BOND REGISTRATION AND TRANSFER CHARGES: FOR GENERAL FUND BOND DEBT

General Fund Appropriation (FY 1998)	\$	447,283,000
General Fund Appropriation (FY 1999)	\$	485,077,000
General Fund Bonds Subject to the Limit Bond Retirement Account Appropriation	\$	932,360,000

TOTAL APPROPRIATION \$ 1,864,720,000

The appropriations in this section are subject to the following conditions and limitations: The general fund appropriation is for deposit into the general fund bonds subject to the limit bond retirement account.

NEW SECTION. Sec. 702. FOR THE STATE TREASURER—BOND RETIREMENT AND INTEREST, AND ONGOING BOND REGISTRATION AND TRANSFER CHARGES: FOR GENERAL OBLIGATION DEBT TO BE REIMBURSED BY ENTERPRISE ACTIVITIES

State Convention & Trade Center Account

Appropriation	\$	34,081,000
Accident Account Appropriation	\$	5,108,000
Medical Aid Account Appropriation	\$	5,108,000
TOTAL APPROPRIATION	\$	44,297,000

NEW SECTION. Sec. 703. FOR THE STATE TREASURER—BOND RETIREMENT AND INTEREST, AND ONGOING BOND REGISTRATION AND TRANSFER CHARGES: FOR GENERAL OBLIGATION DEBT TO BE REIMBURSED AS PRESCRIBED BY STATUTE

General Fund Appropriation (FY 1998)	\$	23,096,000
General Fund Appropriation (FY 1999)	\$	25,603,000
General Fund Bonds Excluded from the Limit		
Bond Retirement Account Appropriation	\$	48,699,000
Reimbursable Bonds Excluded from the Limit Bond		
Retirement Account Appropriation	\$	104,933,000
Reimbursable Bonds Subject to the Limit Bond		
Retirement Account Appropriation	\$	402,000
TOTAL APPROPRIATION	\$	202,733,000

The appropriations in this section are subject to the following conditions and limitations: The general fund appropriation is for deposit into the general fund bonds excluded from the limit bond retirement account.

NEW SECTION. Sec. 704. FOR THE STATE TREASURER—BOND RETIREMENT AND INTEREST, AND ONGOING BOND REGISTRATION AND TRANSFER CHARGES: FOR DEBT TO BE PAID BY STATUTORILY PRESCRIBED REVENUE

Revenue Bonds Excluded from the Limit Bond

Retirement Account Appropriation	\$	2,451,000
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NEW SECTION. Sec. 705. FOR THE STATE TREASURER—BOND RETIREMENT AND INTEREST, AND ONGOING BOND REGISTRATION AND TRANSFER CHARGES: FOR BOND SALE EXPENSES

General Fund Appropriation (FY 1998)	\$	475,000
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General Fund Appropriation (FY 1999)	\$	475,000
Higher Education Construction Account Appropriation ..	\$	215,000
State Building Construction Account Appropriation	\$	6,374,000
Public Safety Reimbursable Bond Account Appropriation	\$	8,000
TOTAL APPROPRIATION	\$	7,547,000

Total Bond Retirement and Interest Appropriations
 contained in sections 701 through 705 of this
 act \$ 2,121,748,000

**NEW SECTION. Sec. 706. FOR THE GOVERNOR—FOR TRANSFER
 TO THE TORT CLAIMS REVOLVING FUND**

General Fund Appropriation (FY 1998)	\$	1,250,000
General Fund Appropriation (FY 1999)	\$	1,250,000
TOTAL APPROPRIATION	\$	2,500,000

**NEW SECTION. Sec. 707. FOR THE GOVERNOR—AMERICANS
 WITH DISABILITIES ACT**

Americans with Disabilities Special Revolving Fund
 Appropriation \$ 426,000

The appropriation in this section is subject to the following conditions and
 limitations:

(1) The appropriation shall be used solely to fund requests from state agencies
 complying with the program requirements of the federal Americans with
 disabilities act. This appropriation will be administered by the office of financial
 management and will be apportioned to agencies meeting distribution criteria.

(2) To facilitate payment from special funds dedicated to agency programs
 receiving allocations under this section, the state treasurer is directed to transfer
 sufficient moneys from the special funds to the Americans with disabilities special
 revolving fund, hereby created in the state treasury, in accordance with schedules
 provided by the office of financial management.

**NEW SECTION. Sec. 708. FOR THE GOVERNOR—TORT DEFENSE
 SERVICES**

General Fund Appropriation (FY 1998)	\$	1,257,000
General Fund Appropriation (FY 1999)	\$	1,257,000
Special Fund Agency Tort Defense Services		
Revolving Fund Appropriation	\$	2,513,000
TOTAL APPROPRIATION	\$	5,027,000

The appropriations in this section are subject to the following conditions and
 limitations: To facilitate payment of tort defense services from special funds, the
 state treasurer is directed to transfer sufficient moneys from each special fund to
 the special fund agency tort defense services revolving fund, in accordance with
 schedules provided by the office of financial management. The governor shall
 distribute the moneys appropriated in this section to agencies to pay for tort
 defense services.

NEW SECTION. Sec. 709. FOR THE OFFICE OF FINANCIAL MANAGEMENT—EMERGENCY FUND

General Fund Appropriation (FY 1998)	\$	500,000
General Fund Appropriation (FY 1999)	\$	500,000
TOTAL APPROPRIATION	\$	1,000,000

The appropriation in this section is for the governor's emergency fund for the critically necessary work of any agency.

NEW SECTION. Sec. 710. FOR THE OFFICE OF FINANCIAL MANAGEMENT—YEAR 2000 ALLOCATIONS

General Fund—State Appropriation (FY 1998)	\$	3,380,000
General Fund—State Appropriation (FY 1999)	\$	1,960,000
General Fund—Federal Appropriation	\$	2,883,000
Liquor Revolving Account Appropriation	\$	131,000
Health Care Authority Administrative Account Appropriation	\$	631,000
Accident Account Appropriation	\$	1,102,000
Medical Aid Account Appropriation	\$	1,102,000
Unemployment Compensation Administration Account— Federal Appropriation	\$	1,313,000
Administrative Contingency Account Appropriation	\$	948,000
Employment Services Administrative Account Appropriation	\$	500,000
Forest Development Account Appropriation	\$	156,000
Off Road Vehicle Account Appropriation	\$	7,000
Surveys and Maps Account Appropriation	\$	1,000
Aquatic Lands Enhancement Account Appropriation	\$	8,000
Resource Management Cost Account Appropriation	\$	348,000
TOTAL APPROPRIATION	\$	14,470,000

The appropriations in this section are subject to the following conditions and limitations:

(1) The appropriations will be allocated by the office of financial management to agencies to complete Year 2000 date conversion maintenance on their computer systems. Agencies shall submit their estimated costs of conversion to the office of financial management by July 1, 1997.

(2) Up to \$10,000,000 of the cash balance of the data processing revolving account may be expended on agency Year 2000 date conversion costs. The \$10,000,000 will be taken from the cash balances of the data processing revolving account's two major users, as follows: \$7,000,000 from the department of information services and \$3,000,000 from the office of financial management. The office of financial management in consultation with the department of information services shall allocate these funds as needed to complete the date conversion projects.

(3) Agencies receiving these allocations shall report at a minimum to the information services board and to the governor every six months on the progress of Year 2000 maintenance efforts.

NEW SECTION. Sec. 711. BELATED CLAIMS. The agencies and institutions of the state may expend moneys appropriated in this act, upon approval of the office of financial management, for the payment of supplies and services furnished to the agency or institution in prior fiscal biennia.

NEW SECTION. Sec. 712. FOR THE GOVERNOR—COMPENSATION—INSURANCE BENEFITS

General Fund—State Appropriation (FY 1998)	\$	823,000
General Fund—State Appropriation (FY 1999)	\$	6,257,000
General Fund—Federal Appropriation	\$	2,431,000
General Fund—Private/Local Appropriation	\$	146,000
Salary and Insurance Increase Revolving Account		
Appropriation	\$	5,465,000
TOTAL APPROPRIATION	\$	15,122,000

The appropriations in this section are subject to the following conditions and limitations:

(1)(a) The monthly contribution for insurance benefit premiums shall not exceed \$312.35 per eligible employee for fiscal year 1998, and \$331.31 for fiscal year 1999.

(b) The monthly contribution for the operating costs of the health care authority shall not exceed \$4.99 per eligible employee for fiscal year 1998, and \$4.44 for fiscal year 1999.

(c) Surplus moneys accruing to the public employees' and retirees' insurance account due to lower-than-projected insurance costs may not be reallocated by the health care authority to increase the actuarial value of public employee insurance plans. Such funds shall be held in reserve in the public employees' and retirees' insurance account and may not be expended without prior legislative authorization.

(d) In order to achieve the level of funding provided for health benefits, the public employees' benefits board may require employee premium co-payments, increase point-of-service cost sharing, and/or implement managed competition.

(2) To facilitate the transfer of moneys from dedicated funds and accounts, the state treasurer is directed to transfer sufficient moneys from each dedicated fund or account to the special fund salary and insurance contribution increase revolving fund in accordance with schedules provided by the office of financial management.

(3) The health care authority, subject to the approval of the public employees' benefits board, shall provide subsidies for health benefit premiums to eligible retired or disabled public employees and school district employees who are eligible for parts A and B of medicare, pursuant to RCW 41.05.085. From January 1, 1998, through December 31, 1998, the subsidy shall be \$41.26 per month. Starting January 1, 1999, the subsidy shall be \$43.16 per month.

(4) Technical colleges, school districts, and educational service districts shall remit to the health care authority for deposit in the public employees' and retirees' insurance account established in RCW 41.05.120:

(a) For each full-time employee, \$14.80 per month beginning September 1, 1997;

(b) For each part-time employee who, at the time of the remittance, is employed in an eligible position as defined in RCW 41.32.010 or 41.40.010 and is eligible for employer fringe benefit contributions for basic benefits, \$14.80 each month beginning September 1, 1997, prorated by the proportion of employer fringe benefit contributions for a full-time employee that the part-time employee receives.

The remittance requirements specified in this subsection shall not apply to employees of a technical college, school district, or educational service district who purchase insurance benefits through contracts with the health care authority.

(5) The salary and insurance revolving account appropriation includes amounts sufficient to fund health benefits for ferry workers at the premium levels specified in subsection (1) of this section, consistent with the 1997-99 transportation appropriations act.

NEW SECTION. Sec. 713. FOR THE DEPARTMENT OF RETIREMENT SYSTEMS—CONTRIBUTIONS TO RETIREMENT SYSTEMS

The appropriations in this section are subject to the following conditions and limitations: The appropriations shall be made on a monthly basis consistent with chapter 41.45 RCW.

(1) There is appropriated for state contributions to the law enforcement officers' and fire fighters' retirement system:

General Fund Appropriation (FY 1998)	\$	68,350,000
General Fund Appropriation (FY 1999)	\$	72,750,000

Of the appropriations in this subsection, \$50,000 of the general fund fiscal year 1998 appropriation and \$50,000 of the general fund fiscal year 1999 appropriation are provided solely for House Bill No. 1099 (LEOFF retirement plan I). If the bill is not enacted by June 30, 1997, these amounts shall lapse.

(2) There is appropriated for contributions to the judicial retirement system:

General Fund Appropriation (FY 1998)	\$	8,500,000
General Fund Appropriation (FY 1999)	\$	8,500,000

(3) There is appropriated for contributions to the judges retirement system:

General Fund Appropriation (FY 1998)	\$	750,000
General Fund Appropriation (FY 1999)	\$	750,000
TOTAL APPROPRIATION	\$	159,600,000

***NEW SECTION. Sec. 714. SALARY COST OF LIVING ADJUSTMENT**

<i>General Fund—State Appropriation (FY 1998)</i>	<i>\$</i>	<i>31,031,000</i>
<i>General Fund—State Appropriation (FY 1999)</i>	<i>\$</i>	<i>31,421,000</i>
<i>General Fund—Federal Appropriation</i>	<i>\$</i>	<i>17,578,000</i>

Salary and Insurance Increase Revolving Account

Appropriation	\$	48,678,000
TOTAL APPROPRIATION	\$	128,708,000

The appropriations in this section shall be expended solely for the purposes designated in this section and are subject to the conditions and limitations in this section:

(1) In addition to the purposes set forth in subsections (2) and (3) of this section, appropriations in this section are provided solely for a 3.0 percent salary increase effective July 1, 1997, for all classified employees, including those employees in the Washington management service, and exempt employees under the jurisdiction of the personnel resources board.

(2) The appropriations in this section are sufficient to fund a 3.0 percent salary increase effective July 1, 1997, for general government, legislative, and judicial employees exempt from merit system rules whose salaries are not set by the commission on salaries for elected officials.

(3) The salary and insurance increase revolving account appropriation in this section includes funds sufficient to fund a 3.0 percent salary increase effective July 1, 1997, for ferry workers consistent with the 1997-99 transportation appropriations act.

(4) No salary increase may be paid under this section to any person whose salary has been Y-rated pursuant to rules adopted by the personnel resources board.

*Sec. 714 was vetoed. See message at end of chapter.

**NEW SECTION. Sec. 715. FOR THE ATTORNEY GENERAL—
SALARY ADJUSTMENTS**

General Fund Appropriation (FY 1998)	\$	250,000
General Fund Appropriation (FY 1999)	\$	250,000
Attorney General Salary Increase Revolving Account Appropriation	\$	500,000
TOTAL APPROPRIATION	\$	1,000,000

The appropriations in this section are subject to the following conditions and limitations:

(1) The appropriations are provided solely for increases in salaries and related benefits of assistant attorneys general. The attorney general shall distribute these funds in a manner that will maintain or increase the quality and experience of the attorney general's staff. Market value, specialization, retention, and performance (including billable hours) shall be the factors in determining the distribution of these funds.

(2) To facilitate the transfer of moneys from dedicated funds and accounts, state agencies are directed to transfer sufficient moneys from each dedicated fund or account to the attorney general salary increase revolving account, hereby created in the state treasury, in accordance with schedules provided by the office of financial management.

***NEW SECTION. Sec. 716. FOR THE OFFICE OF FINANCIAL MANAGEMENT—COMPENSATION ACTIONS OF PERSONNEL RESOURCES BOARD**

<i>General Fund Appropriation (FY 1998)</i>	\$	5,289,000
<i>General Fund Appropriation (FY 1999)</i>	\$	10,642,000
<i>Salary and Insurance Increase Revolving</i>		
<i>Account Appropriation</i>	\$	8,862,000
TOTAL APPROPRIATION	\$	24,793,000

The appropriations in this section shall be expended solely for the purposes designated in this section and are subject to the conditions and limitations in this section.

(1) Funding is provided to fully implement the recommendations of the Washington personnel resources board consistent with the provisions of chapter 319, Laws of 1996.

(2) Implementation of the salary adjustments for the various clerical classes, physicians, dental classifications, pharmacists, maintenance custodians, medical records technicians, fish/wildlife biologists, fish/wildlife enforcement, habitat technicians, and fiscal technician classifications will be effective July 1, 1997. Implementation of the salary adjustments for safety classifications, park rangers, park aides, correctional officers/sergeants, community corrections specialists, tax information specialists, industrial relations specialists, electrical classifications at the department of labor and industries, fingerprint technicians, some labor relations classifications, health benefits specialists, foresters/land managers, and liquor enforcement officers will be effective July 1, 1998.

*Sec. 716 was vetoed. See message at end of chapter.

NEW SECTION. Sec. 717. INCENTIVE SAVINGS—FY 1998. The sum of seventy-five million dollars or so much thereof as may be available on June 30, 1998, from the total amount of unspent fiscal year 1998 state general fund appropriations is appropriated for the purposes of House Bill No. 2240 or Substitute Senate Bill No. 6045 in the manner provided in this section.

(1) Of the total appropriated amount, one-half of that portion that is attributable to incentive savings, not to exceed twenty-five million dollars, is appropriated to the savings incentive account for the purpose of improving the quality, efficiency, and effectiveness of agency services, and credited to the agency that generated the savings.

(2) The remainder of the total amount, not to exceed seventy million dollars, is appropriated to the education savings account for the purpose of common school construction projects and education technology.

(3) For purposes of this section, the total amount of unspent state general fund appropriations does not include the appropriations made in this section or any amounts included in across-the-board allotment reductions under RCW 43.88.110.

NEW SECTION. Sec. 718. INCENTIVE SAVINGS—FY 1999. The sum of seventy-five million dollars or so much thereof as may be available on June 30, 1999, from the total amount of unspent fiscal year 1999 state general fund appropriations is appropriated for the purposes of House Bill No. 2240 or Substitute Senate Bill No. 6045 in the manner provided in this section.

(1) Of the total appropriated amount, one-half of that portion that is attributable to incentive savings, not to exceed twenty-five million dollars, is appropriated to the savings incentive account for the purpose of improving the quality, efficiency, and effectiveness of agency services, and credited to the agency that generated the savings.

(2) The remainder of the total amount, not to exceed seventy million dollars, is appropriated to the education savings account for the purpose of common school construction projects and education technology.

(3) For purposes of this section, the total amount of unspent state general fund appropriations does not include the appropriations made in this section or any amounts included in across-the-board allotment reductions under RCW 43.88.110.

***NEW SECTION. Sec. 719. FOR THE OFFICE OF FINANCIAL MANAGEMENT—REGULATORY REFORM**

General Fund—State Appropriation (FY 1998)	\$	1,821,000
General Fund—State Appropriation (FY 1999)	\$	1,549,000
General Fund—Federal Appropriation	\$	475,000
General Fund—Private/Local Appropriation	\$	136,000
Insurance Commissioner's Regulatory Account		
Appropriation	\$	375,000
Accident Account Appropriation	\$	482,000
Medical Aid Account Appropriation	\$	520,000
Electrical License Account Appropriation	\$	123,000
Health Professions Account Appropriation	\$	581,000
Unemployment Compensation Administration Account—		
Federal Appropriation	\$	220,000
State Toxics Control Account Appropriation	\$	164,000
Water Quality Permit Account Appropriation	\$	64,000
Air Pollution Control Account Appropriation	\$	54,000
Flood Control Assistance Account Appropriation	\$	33,000
Waste Reduction/Recycling/Litter Control		
Appropriation	\$	18,000
Oil Spill Administration Account Appropriation	\$	18,000
Water Quality Account Appropriation	\$	15,000
Air Operating Permit Account Appropriation	\$	15,000
Architects' License Account Appropriation	\$	46,000
Cemetery Account Appropriation	\$	31,000
Professional Engineers' Account Appropriation	\$	41,000
Real Estate Commission Account Appropriation	\$	71,000

Master License Account Appropriation	\$	59,000
Uniform Commercial Code Account Appropriation	\$	95,000
Funeral Directors And Embalmers Account		
Appropriation	\$	33,000
TOTAL APPROPRIATION	\$	7,039,000

The appropriations in this section shall be expended solely for the purposes designated in this section and are subject to the following conditions and limitations in this section:

(1) The funds appropriated in this section are provided solely for implementing the rules review provisions of Engrossed Second Substitute House Bill No. 1032 (regulatory reform) and Engrossed Substitute Senate Bill No. 5105 (state/federal rules).

(2) The office of financial management shall allocate the funds provided in this section to agencies that are subject to the significant legislative rule making requirements of RCW 34.05.328 as amended by Engrossed Second Substitute House Bill No. 1032 (regulatory reform).

(3) Agencies shall submit their expenditure plans for implementing the rules review requirements of Engrossed Second Substitute House Bill No. 1032 (regulatory reform) and Engrossed Substitute Senate Bill No. 5105 (state/federal rules) to the office of financial management by July 1, 1997. Upon granting approval of the agency's plan, the office of financial management shall allocate the funding necessary to carry out the review of existing agency rules.

(4) If neither bill is enacted by June 30, 1997, the amounts appropriated in this section shall lapse.

*Sec. 719 was partially vetoed. See message at end of chapter.

**PART VIII
OTHER TRANSFERS AND APPROPRIATIONS**

NEW SECTION. Sec. 801. FOR THE STATE TREASURER—STATE REVENUES FOR DISTRIBUTION

General Fund Appropriation for fire insurance premiums distribution	\$	6,617,250
General Fund Appropriation for public utility district excise tax distribution	\$	35,183,803
General Fund Appropriation for prosecuting attorneys salaries	\$	2,960,000
General Fund Appropriation for motor vehicle excise tax distribution	\$	84,721,573
General Fund Appropriation for local mass transit assistance	\$	383,208,166
General Fund Appropriation for camper and travel trailer excise tax distribution	\$	3,904,937
General Fund Appropriation for boating safety/education and law enforcement		

distribution	\$	3,616,000
Aquatic Lands Enhancement Account Appropriation for harbor improvement revenue distribution	\$	142,000
Liquor Excise Tax Account Appropriation for liquor excise tax distribution	\$	22,287,746
Liquor Revolving Fund Appropriation for liquor profits distribution	\$	36,989,000
Timber Tax Distribution Account Appropriation for distribution to "Timber" counties	\$	107,146,000
Municipal Sales and Use Tax Equalization Account Appropriation	\$	66,860,014
County Sales and Use Tax Equalization Account Appropriation	\$	11,843,224
Death Investigations Account Appropriation for distribution to counties for publicly funded autopsies	\$	1,266,000
County Criminal Justice Account Appropriation	\$	80,552,471
Municipal Criminal Justice Account Appropriation	\$	32,042,450
County Public Health Account Appropriation	\$	43,773,588
TOTAL APPROPRIATION	\$	923,114,222

The total expenditures from the state treasury under the appropriations in this section shall not exceed the funds available under statutory distributions for the stated purposes.

**NEW SECTION. Sec. 802. FOR THE STATE TREASURER—
FEDERAL REVENUES FOR DISTRIBUTION**

Forest Reserve Fund Appropriation for federal forest reserve fund distribution	\$	58,801,910
General Fund Appropriation for federal flood control funds distribution	\$	4,000
General Fund Appropriation for federal grazing fees distribution	\$	52,000
General Fund Appropriation for distribution of federal funds to counties in conformance with P.L. 97-99 Federal Aid to Counties	\$	885,916
TOTAL APPROPRIATION	\$	59,743,826

The total expenditures from the state treasury under the appropriations in this section shall not exceed the funds available under statutory distributions for the stated purposes.

**NEW SECTION. Sec. 803. FOR THE STATE TREASURER—
TRANSFERS**

General Fund: For transfer to the Water Quality Account	\$	26,607,000
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General Fund: For transfer to the Flood Control Assistance Account	\$	4,000,000
State Convention and Trade Center Account: For transfer to the State Convention and Trade Center Operations Account	\$	3,877,000
Water Quality Account: For transfer to the Water Pollution Control Account. Transfers shall be made at intervals coinciding with deposits of federal capitalization grant money into the account. The amounts transferred shall not exceed the match required for each federal deposit	\$	21,688,000
State Treasurer's Service Account: For transfer to the general fund on or before June 30, 1999 an amount up to \$3,600,000 in excess of the cash requirements of the State Treasurer's Service Account	\$	3,600,000
Health Services Account: For transfer to the County Public Health Account	\$	2,250,000
Public Works Assistance Account: For transfer to the Drinking Water Assistance Account	\$	9,949,000

NEW SECTION. Sec. 804. FOR THE DEPARTMENT OF RETIREMENT SYSTEMS—TRANSFERS

General Fund Appropriation: For transfer to the department of retirement systems expense fund for the administrative expenses of the judicial retirement system	\$	16,000
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**PART IX
MISCELLANEOUS**

NEW SECTION. Sec. 901. EXPENDITURE AUTHORIZATIONS. The appropriations contained in this act are maximum expenditure authorizations. Pursuant to RCW 43.88.037, moneys disbursed from the treasury on the basis of a formal loan agreement shall be recorded as loans receivable and not as expenditures for accounting purposes. To the extent that moneys are disbursed on a loan basis, the corresponding appropriation shall be reduced by the amount of loan moneys disbursed from the treasury during the 1997-99 biennium.

NEW SECTION. Sec. 902. INFORMATION SYSTEMS PROJECTS. Agencies shall comply with the following requirements regarding information systems projects when specifically directed to do so by this act.

(1) The agency shall produce a feasibility study for each information systems project in accordance with published department of information services instructions. In addition to department of information services requirements, the

study shall examine and evaluate the costs and benefits of maintaining the status quo and the costs and benefits of the proposed project. The study shall identify when and in what amount any fiscal savings will accrue, and what programs or fund sources will be affected.

(2) The agency shall produce a project management plan for each project. The plan or plans shall address all factors critical to successful completion of each project. The plan shall include, but is not limited to, the following elements: A description of the problem or opportunity that the information systems project is intended to address; a statement of project objectives and assumptions; definition of phases, tasks, and activities to be accomplished and the estimated cost of each phase; a description of how the agency will facilitate responsibilities of oversight agencies; a description of key decision points in the project life cycle; a description of variance control measures; a definitive schedule that shows the elapsed time estimated to complete the project and when each task is to be started and completed; and a description of resource requirements to accomplish the activities within specified time, cost, and functionality constraints.

(3) A copy of each feasibility study and project management plan shall be provided to the department of information services, the office of financial management, and legislative fiscal committees. Authority to expend any funds for individual information systems projects is conditioned on approval of the relevant feasibility study and project management plan by the department of information services and the office of financial management.

(4) A project status report shall be submitted to the department of information services, the office of financial management, and legislative fiscal committees for each project prior to reaching key decision points identified in the project management plan. Project status reports shall examine and evaluate project management, accomplishments, budget, action to address variances, risk management, costs and benefits analysis, and other aspects critical to completion of a project.

Work shall not commence on any task in a subsequent phase of a project until the status report for the preceding key decision point has been approved by the department of information services and the office of financial management.

(5) If a project review is requested in accordance with department of information services policies, the reviews shall examine and evaluate: System requirements specifications; scope; system architecture; change controls; documentation; user involvement; training; availability and capability of resources; programming languages and techniques; system inputs and outputs; plans for testing, conversion, implementation, and postimplementation; and other aspects critical to successful construction, integration, and implementation of automated systems. Copies of project review written reports shall be forwarded to the office of financial management and appropriate legislative committees by the agency.

(6) A written postimplementation review report shall be prepared by the agency for each information systems project in accordance with published

department of information services instructions. In addition to the information requested pursuant to the department of information services instructions, the postimplementation report shall evaluate the degree to which a project accomplished its major objectives including, but not limited to, a comparison of original cost and benefit estimates to actual costs and benefits achieved. Copies of the postimplementation review report shall be provided to the department of information services, the office of financial management, and appropriate legislative committees.

NEW SECTION. Sec. 903. VIDEO TELECOMMUNICATIONS. The department of information services shall act as lead agency in coordinating video telecommunications services for state agencies. As lead agency, the department shall develop standards and common specifications for leased and purchased telecommunications equipment and assist state agencies in developing a video telecommunications expenditure plan. No agency may spend any portion of any appropriation in this act for new video telecommunication equipment, new video telecommunication transmission, or new video telecommunication programming, or for expanding current video telecommunication systems without first complying with chapter 43.105 RCW, including but not limited to, RCW 43.105.041(2), and without first submitting a video telecommunications expenditure plan, in accordance with the policies of the department of information services, for review and assessment by the department of information services under RCW 43.105.052. Prior to any such expenditure by a public school, a video telecommunications expenditure plan shall be approved by the superintendent of public instruction. The office of the superintendent of public instruction shall submit the plans to the department of information services in a form prescribed by the department. The office of the superintendent of public instruction shall coordinate the use of video telecommunications in public schools by providing educational information to local school districts and shall assist local school districts and educational service districts in telecommunications planning and curriculum development. Prior to any such expenditure by a public institution of postsecondary education, a telecommunications expenditure plan shall be approved by the higher education coordinating board. The higher education coordinating board shall coordinate the use of video telecommunications for instruction and instructional support in postsecondary education, including the review and approval of instructional telecommunications course offerings.

NEW SECTION. Sec. 904. EMERGENCY FUND ALLOCATIONS. Whenever allocations are made from the governor's emergency fund appropriation to an agency that is financed in whole or in part by other than general fund moneys, the director of financial management may direct the repayment of such allocated amount to the general fund from any balance in the fund or funds which finance the agency. No appropriation shall be necessary to effect such repayment.

NEW SECTION. Sec. 905. STATUTORY APPROPRIATIONS. In addition to the amounts appropriated in this act for revenues for distribution, state

contributions to the law enforcement officers' and fire fighters' retirement system, and bond retirement and interest including ongoing bond registration and transfer charges, transfers, interest on registered warrants, and certificates of indebtedness, there is also appropriated such further amounts as may be required or available for these purposes under any statutory formula or under chapter 39.96 RCW or any proper bond covenant made under law.

NEW SECTION. Sec. 906. BOND EXPENSES. In addition to such other appropriations as are made by this act, there is hereby appropriated to the state finance committee from legally available bond proceeds in the applicable construction or building funds and accounts such amounts as are necessary to pay the expenses incurred in the issuance and sale of the subject bonds.

NEW SECTION. Sec. 907. LEGISLATIVE FACILITIES. Notwithstanding RCW 43.01.090, the house of representatives, the senate, and the permanent statutory committees shall pay expenses quarterly to the department of general administration facilities and services revolving fund for services rendered by the department for operations, maintenance, and supplies relating to buildings, structures, and facilities used by the legislature for the biennium beginning July 1, 1997.

NEW SECTION. Sec. 908. AGENCY RECOVERIES. Except as otherwise provided by law, recoveries of amounts expended pursuant to an appropriation, including but not limited to, payments for material supplied or services rendered under chapter 39.34 RCW, may be expended as part of the original appropriation of the fund to which such recoveries belong, without further or additional appropriation. Such expenditures shall be subject to conditions and procedures prescribed by the director of financial management. The director may authorize expenditure with respect to recoveries accrued but not received, in accordance with generally accepted accounting principles, except that such recoveries shall not be included in revenues or expended against an appropriation for a subsequent fiscal period. This section does not apply to the repayment of loans, except for loans between state agencies.

NEW SECTION. Sec. 909. GENERALLY ACCEPTED ACCOUNTING PRINCIPLES. The appropriations of moneys and the designation of funds and accounts by this and other acts of the 1997 legislature shall be construed in a manner consistent with legislation enacted by the 1985, 1987, 1989, 1991, 1993, and 1995 legislatures to conform state funds and accounts with generally accepted accounting principles.

Sec. 910. RCW 43.08.250 and 199c c 283 s 901 are each amended to read as follows:

The money received by the state treasurer from fees, fines, forfeitures, penalties, reimbursements or assessments by any court organized under Title 3 or 35 RCW, or chapter 2.08 RCW, shall be deposited in the public safety and education account which is hereby created in the state treasury. The legislature

shall appropriate the funds in the account to promote traffic safety education, highway safety, criminal justice training, crime victims' compensation, judicial education, the judicial information system, civil representation of indigent persons, winter recreation parking, and state game programs. During the fiscal biennium ending June 30, ((1997)) 1999, the legislature may appropriate moneys from the public safety and education account for purposes of appellate indigent defense, the criminal litigation unit of the attorney general's office, the treatment alternatives to street crimes program, crime victims advocacy programs, justice information network telecommunication planning, sexual assault treatment, operations of the office of administrator for the courts, security in the common schools, ((programs for alternative dispute resolution of farmworker employment claims;)) criminal justice data collection, and Washington state patrol criminal justice activities.

Sec. 911. RCW 82.44.110 and 1995 1st sp.s. c 15 s 2 and 1995 c 398 s 14 are each reenacted and amended to read as follows:

The county auditor shall regularly, when remitting license fee receipts, pay over and account to the director of licensing for the excise taxes collected under the provisions of this chapter. The director shall forthwith transmit the excise taxes to the state treasurer.

(1) The state treasurer shall deposit the excise taxes collected under RCW 82.44.020(1) as follows:

(a) 1.60 percent into the motor vehicle fund to defray administrative and other expenses incurred by the department in the collection of the excise tax.

(b) 8.15 percent into the Puget Sound capital construction account in the motor vehicle fund.

(c) 4.07 percent into the Puget Sound ferry operations account in the motor vehicle fund.

(d) 5.88 percent into the general fund to be distributed under RCW 82.44.155.

(e) 4.75 percent into the municipal sales and use tax equalization account in the general fund created in RCW 82.14.210.

(f) 1.60 percent into the county sales and use tax equalization account in the general fund created in RCW 82.14.200.

(g) 62.6440 percent into the general fund through June 30, 1995, and 57.6440 percent into the general fund beginning July 1, 1995.

(h) 5 percent into the transportation fund created in RCW 82.44.180 beginning July 1, 1995.

(i) 5.9686 percent into the county criminal justice assistance account created in RCW 82.14.310.

(j) 1.1937 percent into the municipal criminal justice assistance account for distribution under RCW 82.14.320.

(k) 1.1937 percent into the municipal criminal justice assistance account for distribution under RCW 82.14.330.

(l) 2.95 percent into the county public health account created in RCW 70.05.125.

Notwithstanding (i) through (k) of this subsection, no more than sixty million dollars shall be deposited into the accounts specified in (i) through (k) of this subsection for the period January 1, 1994, through June 30, 1995. Not more than five percent of the funds deposited to these accounts shall be available for appropriations for enhancements to the state patrol crime laboratory system and the continuing costs related to these enhancements. Motor vehicle excise tax funds appropriated for such enhancements shall not supplant existing funds from the state general fund. For the fiscal year ending June 30, 1998, and for each fiscal year thereafter, the amounts deposited into the accounts specified in (i) through (k) of this subsection shall not increase by more than the amounts deposited into those accounts in the previous fiscal year increased by the implicit price deflator for the previous fiscal year. Any revenues in excess of this amount shall be deposited into the ((general fund)) violence reduction and drug enforcement account during the 1997-99 fiscal biennium.

(2) The state treasurer shall deposit the excise taxes collected under RCW 82.44.020(2) into the transportation fund.

(3) The state treasurer shall deposit the excise tax imposed by RCW 82.44.020(3) into the air pollution control account created by RCW 70.94.015.

Sec. 912. RCW 69.50.520 and 1995 2nd sp.s. c 18 s 919 are each amended to read as follows:

The violence reduction and drug enforcement account is created in the state treasury. All designated receipts from RCW 9.41.110(7), 66.24.210(4), 66.24.290(3), 69.50.505(h)(1), 82.08.150(5), 82.24.020(2), 82.64.020, and section 420, chapter 271, Laws of 1989 shall be deposited into the account. Expenditures from the account may be used only for funding services and programs under chapter 271, Laws of 1989 and chapter 7, Laws of 1994 sp. sess., including state incarceration costs. During the 1997-1999 biennium, funds from the account may also be used to implement Engrossed Third Substitute House Bill No. 3900 (juvenile code revisions), including local government costs, and costs associated with conducting a feasibility study of the department of corrections' offender-based tracking system. After July 1, ((1997)) 1999, at least seven and one-half percent of expenditures from the account shall be used for providing grants to community networks under chapter 70.190 RCW by the family policy council.

Sec. 913. RCW 79.24.580 and 1995 2nd sp.s. c 18 s 923 are each amended to read as follows:

After deduction for management costs as provided in RCW 79.64.040 and payments to towns under RCW 79.92.110(2), all moneys received by the state from the sale or lease of state-owned aquatic lands and from the sale of valuable material from state-owned aquatic lands shall be deposited in the aquatic lands enhancement account which is hereby created in the state treasury. After appropriation, these funds shall be used solely for aquatic lands enhancement projects; for the purchase, improvement, or protection of aquatic lands for public purposes; for providing and improving access to such lands; and for volunteer cooperative fish and game

projects. (~~During the fiscal biennium ending June 30, 1995, the funds may be appropriated for shellfish management, enforcement, and enhancement and for developing and implementing plans for population monitoring and restoration of native wild salmon stock.~~) During the fiscal biennium ending June 30, ((1997)) 1999, the funds may be appropriated for boating safety, shellfish management, enforcement, and enhancement and for developing and implementing plans for population monitoring and restoration of native wild salmon stock.

Sec. 914. RCW 86.26.007 and 1996 c 283 s 903 are each amended to read as follows:

The flood control assistance account is hereby established in the state treasury. At the beginning of the 1997-99 fiscal biennium and each biennium thereafter the state treasurer shall transfer four million dollars from the general fund to the flood control assistance account (~~(an amount of money which, when combined with money remaining in the account from the previous biennium, will equal four million dollars)~~). Moneys in the flood control assistance account may be spent only after appropriation for purposes specified under this chapter or, during the (~~(1995-97 biennium, for state and local response and recovery costs associated with federal emergency management agency (FEMA) disaster number 1079 (November/December 1995 storms), FEMA disaster number 1100 (February 1996 floods), and for prior biennia disaster recovery costs. To the extent that moneys in the flood control assistance account are not appropriated during the 1995-97 fiscal biennium for flood control assistance, the legislature may direct their transfer to the state general fund)~~) 1997-99 fiscal biennium, for transfer to the disaster response account.

NEW SECTION. **Sec. 915.** Within amounts appropriated in this act, the following state agencies or institutions shall implement sections 3, 4, and 5 of Substitute Senate Bill No. 5077 (integrated pest management):

- (1) The department of agriculture;
- (2) The state noxious weed control board;
- (3) The department of ecology;
- (4) The department of fish and wildlife;
- (5) The parks and recreation commission;
- (6) The department of natural resources;
- (7) The department of corrections;
- (8) The department of general administration; and
- (9) Each state institution of higher education, for the institution's own building and grounds maintenance.

***NEW SECTION.** **Sec. 916.** *No funding appropriated in this act shall be expended to support the governor's council on environmental education.*

*Sec. 916 was vetoed. See message at end of chapter.

NEW SECTION. **Sec. 917.** If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

NEW SECTION. **Sec. 918.** This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect July 1, 1997.

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WORK FORCE TRAINING AND EDUCATION COORDINATING BOARD 843

Passed the Senate April 19, 1997.

Passed the House April 17, 1997.

Approved by the Governor April 23, 1997, with the exception of certain items that were vetoed.

Filed in Office of Secretary of State April 23, 1997.

Note: Governor's explanation of partial veto is as follows:

"I am returning herewith, without my approval as to sections 125; 202; 203; 207(1); 207(6); 211(3); 212(2); 213(1); 214; 222(2); 301; 302(3); 302(4); 302(5); 302(6); 302(17); 302(19); 302(20); 302(21); 302(22); 307; 501; 503; 504; 510; 514; 515(3); 515(4); 515(5); 517; 601; 602; 603; 604; 605; 606; 607; 608; 609; 610(1); 610(2); 610(3); 611; 714; 716; 719(lines 6-26); and 916, Substitute Senate Bill No. 6062 entitled:

"AN ACT Relating to fiscal matters;"

On April 20 the Legislature approved Substitute Senate Bill 6062 providing a state operating budget for the 1997-99 Biennium. Today, with my partial veto, I am returning that budget for further deliberation.

In March, I proposed a \$19.2 billion state operating budget designed to create a world class education system, protect working families and the environment, and increase accountability in all areas of government. By controlling growth in many programs and eliminating others altogether, the budget I proposed made hard choices that held growth in state spending to its lowest percentage in 25 years, and stayed within the spending limits established by Initiative 601.

Significant parts of the Legislature's budget match the priorities expressed in my budget proposal, while other sections represent reasonable compromises that ensure the efficient delivery of quality services to the citizens of Washington. However, the Legislature's budget is different in two important ways. First, it falls short in providing the excellence we all want for our education system. And secondly, it unnecessarily reduces funding for critical services that help working families, protect abused and neglected children, and safeguard our environment and our economy.

The Legislature has taken the unprecedented action of sending me this budget with sufficient time remaining in the session so that we may resolve our differences and adjourn within the 105 days of this regular session. In the exercise of my veto authority I have acted swiftly, but in a restrained and constructive manner to preserve that opportunity for a timely adjournment.

The issues in contention are limited and can be resolved quickly if the Legislature so chooses. I have focused my attention, and my veto, on several high priorities that I have emphasized from the beginning of my administration: public education, support for working families, services for children and other vulnerable populations, juvenile justice funding, the environment, and fair compensation for teachers and other government employees.

K-12 Education

The state's education reform effort is left without sufficient funding for student learning improvement grants or federal Goals 2000 programs. We are asking teachers to teach to a higher standard and to rigorously assess student achievement by those standards. These funds are a critical component of successful implementation of reform. In addition, the Legislature eliminated support for several targeted state programs that are part of ongoing education reform, including school-to-work grants and funding for internships for principals and superintendents.

The Legislature's proposal increases state matching assistance for property-poor school districts (levy equalization) by only about \$4.5 million per year, and only for some of the districts now eligible for that assistance. This is not a sufficient enhancement in assistance for school districts whose ability to raise local levies is hindered by high property tax rates.

The Legislature also eliminated funding for several programs targeted to serve students in school districts with culturally diverse student populations or special learning needs. It eliminates funding for language instruction for preschool students from homes where English is not the primary language, and proposes a new way to distribute funds for bilingual education without adequate evaluation of the possible impacts of such a change. Eliminating funds for students with special needs forces schools and teachers to divert resources from other students.

Therefore, I have vetoed targeted sections of the Superintendent of Public Instruction budget so that the Legislature can improve its level of funding commitment to K-12 education programs in these and other areas.

Higher Education

While I applaud the Legislature's commitment to access through increased enrollment at colleges and universities, another critical element of accessibility is affordability. This budget provides insufficient funding to increase financial aid for the state's growing higher education population and threatens to limit access to a public higher education by students with low incomes and limited resources.

To recruit and retain quality personnel for the critical mission of educating our state's population into the twenty-first century, the operating budget should include state funding to raise university faculty salaries to levels competitive with peer institutions, mitigate salary disparities for community and technical college part-time faculty, and provide adequate cost-of-living increases for all education employees.

The Legislature needs to create a more effective approach to accountability for higher education institutions. Performance measures, numeric goals and annual improvement targets should not be established through a political process, but with careful deliberation and collaboration between higher education institutions and the Higher Education Coordinating Board and State Board for Community and Technical Colleges. The Legislature's timeline for release of incentive funds is unworkable.

I remain strongly committed to holding institutions of higher education accountable, including financial incentives for improved performance, and I look forward to working with the Legislature to develop a strong but realistic policy.

Finally, while I support the notion of holding institutions financially accountable for meeting a reasonable enrollment target, the sanction proposed by the Legislature is unworkable.

In order to address these and other issues, funding for each institution must be altered, and therefore I have vetoed most sections of the higher education budget.

Support for Working Families

The budget provides low levels of financial aid and support services for dislocated and unemployed workers and for low-income students in work-based learning programs. Community and technical colleges must continue to improve opportunities and assistance for parents who need to get off welfare and low-wage workers who need to improve their job skills.

The Basic Health Plan budget does not provide reasonable access to affordable health insurance for Washington's low-income working families. The budget would continue the current freeze on enrollment levels. Premium increases in the budget will make this insurance program unaffordable to many families. By increasing the cost of financial sponsorship (by community groups, family members and others who pay premiums on behalf of the previously uninsured) the budget would eliminate coverage for many current enrollees. The Legislature needs to improve funding for the Plan to keep the commitment made by members of both parties when much of the state's health reform act was repealed.

Meeting Our Responsibilities for Children and Others in Need

While I appreciate and applaud the improvements in children's services funding in the conference budget, compared to the original legislative budgets, one key issue still needs to be addressed: I urge the Legislature to add additional field staff for Children and Family Services. My budget included funding to ensure that the minimum legal and policy requirements would be met as the agency works to protect children from abuse and neglect.

The Legislature's budget also requires that General Assistance-Unemployable recipients needing alcohol or drug treatment be assigned a protective payee to protect their cash assistance. While I support the concept of protective payees in this program, the legislative budget proposes unnecessarily deep reductions in the General Assistance program. I cannot support policy changes that increase administrative costs when basic cash and medical assistance benefits are not adequately funded. We should be able to devise a final budget that provides increased accountability while meeting our responsibility to those unable to participate in the workforce.

Affordable child care is a crucial part of successfully moving people from welfare to work. I will work with the Legislature to devise a workable co-payment schedule for low income working parents supported by adequate funding in the budget.

Water and the Columbia River Gorge Commission

Water is critical for the state's economy, our fish and our quality of life. Funding for water issues in the Dept. of Ecology is not adequate. In addition, no funding is included for progress on water issues in the Departments of Health, Fish and Wildlife, and Community, Trade, and Economic Development. In order to break the water resources impasse, these agencies must have adequate funding for water resource management.

Although I have vetoed funding for water-related legislation that has not yet passed, my administration will continue to work with legislators to reach agreement on these bills and a funding package. My intent is to keep our options for progress open. As water legislation reaches my desk, only adequately funded measures will be considered for approval.

The funding provided for the Columbia River Gorge Commission is inadequate to meet state and federal obligations under the National Scenic Area Act (P.L. 99-663) and the Scenic Area Compact (RCW 43.97). Failure to restore full funding is likely to result in the U.S. Secretary of Agriculture assuming direct control of all permitting within the scenic area under Section 14(e) of the act.

Juvenile Justice

The Department of Corrections and the Juvenile Rehabilitation Administration within DSHS are affected by the Juvenile Justice legislation currently being considered. I have been encouraged by the good faith efforts of the fiscal chairs to fully fund the legislation. At least one version currently under consideration would require a reallocation of resources among agencies without increasing the total funding. My vetoes are intended to take advantage of the opportunity to reallocate the funds to match the final bill.

Teacher and Other Compensation

K-12 teachers, Higher Education faculty and staff, certain vendors, and state employees have had one 4 percent cost of living adjustment in four years. The Legislature's budget proposes to provide one 3 percent increase in two years. In the past, teachers and other public employees have shared the burden of economic tough periods in budgets that provided no salary increases. This is not such a time. We have granted tax cuts and continue to have ongoing revenue we can spend under the Initiative 601 limit. By barely covering the one-half of the anticipated cost of inflation in the next two years, we risk losing our best teachers, faculty and other public servants. The legislative budget also lags implementation of SB 6767 salary adjustments. We can and must do better.

For these reasons, I have vetoed the following sections of the budget:

Section 125, pages 12-16 (Department of Community, Trade, and Economic Development);

Section 202, pages 27-31 (Department of Social and Health Services — Children and Family Services Program);

Section 203, pages 31-34 (Department of Social and Health Services — Juvenile Rehabilitation Administration);

Section 207 (1), page 43, General Assistance-Unemployable Program (Department of Social and Health Services — Economic Services Program);

Section 207 (6), pages 43-44, Child Care (Department of Social and Health Services — Economic Services Program);

- Section 213 (1), page 49, Vendor Rate Increases (Department of Social and Health Services);
- Section 214, pages 50-51 (State Health Care Authority);
- Section 222 (2), pages 59-60 (Department of Corrections, Institutional Services);
- Section 301, page 64 (Columbia River Gorge Commission);
- Section 302 (3), (4), (5), and (6), pages 66-67; and (19), (20), (21), and (22), page 69, provisos relating to water bills (Department of Ecology);
- Section 307, pages 72-75 (Department of Fish and Wildlife);
- Section 501, pages 82-88, For State Administration (Superintendent of Public Instruction);
- Section 503, pages 94-97, For Basic Education Employee Compensation (Superintendent of Public Instruction);
- Section 504, pages 98-100, For School Employee Compensation (Superintendent of Public Instruction);
- Section 510, pages 105-106, For Local Effort Assistance (Superintendent of Public Instruction);
- Section 514, pages 107-108, Education Reform Programs (Superintendent of Public Instruction);
- Section 515 (3), (4), (5), pages 109, For Transitional Bilingual Programs (Superintendent of Public Instruction);
- Section 517, pages 110-112, Local Enhancement Funds (Superintendent of Public Instruction);
- Section 601 through 609, pages 113-125 (Higher Education);
- Section 610 (1), (2), (3), pages 125-126 (Higher Education Coordinating Board — Policy Coordination and Administration);
- Section 611, pages 127-130 (Higher Education Coordinating Board — Financial Aid and Grant Programs);
- Section 714, page 138 (Salary Cost of Living Adjustment); and
- Section 716, pages 139-140 (Compensation Actions of Personnel Resources Board).

Other Issues Needing Resolution

While I have chosen to use my veto authority selectively to address major issues presented by the Legislature's budget, I am also concerned about several other areas of the budget. These include the level of funding for the Growth Management Hearings Boards, the Office of Financial Management, agencies for Health Policy, the Department of Natural Resources, and the State Patrol.

Of particular concern are reductions in the Department of Health budget and for the General Assistance-Unemployable program.

In the Department of Health, additional funding is required for the AIDS Prescription Drug Program to continue to make available successful drug therapies both for current enrollees and anticipated demand. These drugs are proving very beneficial in improving the health and life expectancy of people with HIV.

In addition, I continue to place a priority on establishing a comprehensive Child Death Review system. Other states, including Oregon, have found real benefits for children in understanding the causes of all child deaths in their states. I urge the Legislature to make this additional investment in our children's health and safety.

Finally, in the Department of Health, the 70 percent reduction in current funding levels for the pesticide program will harm the ability of farmers, workers and the public to use pesticides safely.

Reductions to the General Assistance-Unemployable program will result in discontinuation of cash and medical assistance for 4,000 disabled people in communities throughout the state. Besides the human cost of this reduction, local governments, merchants, and social services agencies will bear the brunt of this reduction.

Budget discussions over the remaining days of the legislative session are an opportunity for us to resolve these important issues as well.

Additional Vetoes

In addition to the items above, I have also vetoed a number of items for the reasons set out below:

Section 211 (3), page 47, (Department of Social and Health Services — Administration and Supporting Services)

Consistent with my opposition to any measure which is divisive, hurtful or disrespectful of our fellow Washingtonians, I have vetoed this proviso.

Section 212 (2), page 48, Child Support Waiver (Department of Social and Health Services — Child Support Program)

This proviso requires the Department of Social and Health Services (DSHS) to request a waiver from federal support enforcement regulations to replace current program audit criteria with performance measures based on program outcomes. The federal government has already replaced its process-based audit criteria with performance-based criteria. DSHS currently operates under a performance-based agreement with the federal government. There is no need for a waiver, therefore I have vetoed this proviso.

Section 302 (17), page 68, Restriction on the purchase of special purpose (four-wheel drive) vehicles (Department of Ecology)

Section 302 (17) requires the Department of Ecology (DOE) to reduce its fleet of special purpose vehicles by 50 percent by June 30, 1999. In addition, DOE is required to replace the special purpose vehicles with fuel efficient vehicles or not replace them at all, depending on the agency's vehicle requirements. This restriction will severely impair DOE's ability to reach remote areas to attain water quality samples, respond to oil and hazardous materials spills, and support the Washington Conservation Corps program.

Section 719, page 142, Lines 6-26 (For the Office of Financial Management — Regulatory Reform)

This section makes appropriations to the Office of Financial Management for allocations to agencies for the implementation of Engrossed Second Substitute House Bill 1032 (regulatory reform) and Engrossed Substitute Senate Bill 5105 (state/federal rules). This funding is based on estimated impacts of an earlier version of House Bill 1032. It is not clear that the amount is sufficient for the current version of the bill, which reduces certain costs but adds provisions that will impact a wider group of agencies. I am also concerned to find that no additional funding is provided to implement Engrossed Substitute Senate Bill 5105, which also requires agencies to review their rules, but on a different schedule and with different criteria than the ones required under the House bill. On March 25, 1997, I signed an Executive Order requiring agencies to implement key features of regulatory reform, including a review of their major rules; however, I do not expect agencies to be able to absorb the costs of doing multiple comprehensive reviews of their rules. For these reasons I have vetoed this proviso, to give the Office of Financial Management greater flexibility and will work with the Legislature to perfect funding levels and language in the final budget.

Section 916, page 154, Prohibition on expenditures for the Governor's Council on Environmental Education

Section 916 prohibits the use of funds in the omnibus appropriations act on the Governor's Council on Environmental Education. There are eleven state agencies that work with the state's environmental community and federal agencies on environmental education related activities. Funding for the Council is necessary to promote efficient and coordinated efforts in this area.

With the exception of sections 125; 202; 203; 207 (1); 207 (6); 211 (3); 212 (2); 213 (1); 214; 222 (2); 301; 302 (3); 302 (4); 302 (5); 302 (6); 302 (17); 302 (19); 302 (20); 302 (21); 302 (22); 307; 501; 503; 504; 510; 514; 515 (3); 515 (4); 515 (5); 517; 601; 602; 603; 604; 605; 606; 607; 608; 609; 610 (1); 610 (2); 610 (3); 611; 714; 716; 719 (lines 6-26); and 916, Substitute Senate Bill 6062 is approved."

CHAPTER 150

[Substitute House Bill 1061]

METAL DETECTORS IN STATE PARKS—INCREASING AREA AVAILABILITY

AN ACT Relating to metal detectors in state parks; adding new sections to chapter 43.51 RCW; and creating a new section.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. Sec. 1. It is the intent of the legislature that those significant historic archaeological resources on state park lands that are of importance to the history of our state, or its communities, be protected for the people of the state. At the same time, the legislature also recognizes that the recreational use of metal detectors in state parks is a legitimate form of recreation that can be compatible with the protection of significant historic archaeological resources.

NEW SECTION. Sec. 2. A new section is added to chapter 43.51 RCW to read as follows:

(1) By September 1, 1997, the commission shall increase the area available for use by recreational metal detectors by at least two hundred acres.

(2) Beginning September 1, 1998, and each year thereafter until August 31, 2003, the commission shall increase the area of land available for use by recreational metal detectors by at least fifty acres.

NEW SECTION. Sec. 3. A new section is added to chapter 43.51 RCW to read as follows:

(1) The commission shall develop a cost-effective plan to identify historic archaeological resources in at least one state park containing a military fort located in Puget Sound. The plan shall include the use of a professional archaeologist and volunteer citizens. By December 1, 1997, the commission shall submit a brief report to the appropriate standing committees of the legislature on how the plan will be implemented and the cost of the plan.

(2) Any park land that is made available for use by recreational metal detectors under this section shall count toward the requirements established in section 2 of this act.

Passed the House February 28, 1997.

Passed the Senate April 7, 1997.

Approved by the Governor April 23, 1997.

Filed in Office of Secretary of State April 23, 1997.

CHAPTER 151

[House Bill 1119]

PRIVATE TIMBER SALE REPORTING—EXTENSION

AN ACT Relating to private timber purchaser reporting; amending RCW 84.33.0501; providing an expiration date; and declaring an emergency.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 84.33.0501 and 1994 c 229 s 1 are each amended to read as follows:

(1) A purchaser of privately owned timber in an amount in excess of two hundred thousand board feet in a voluntary sale made in the ordinary course of business shall, on or before the last day of the month following the purchase of the timber, report the particulars of the purchase to the department.

(2) The report required in subsection (1) of this section shall contain all information relevant to the value of the timber purchased including, but not limited to, the following, as applicable: Purchaser's name and address, sale date, termination date in sale agreement, total sale price, total acreage involved in the sale, net volume of timber purchased, legal description of the area involved in the sale, road construction or improvements required or completed, timber cruise data, and timber thinning data. A report may be submitted in any reasonable form or, at the purchaser's option, by submitting relevant excerpts of the timber sales contract. A purchaser may comply by submitting the information in the following form:

- Purchaser's name:
- Purchaser's address:
- Sale date:
- Termination date:
- Total sale price:
- Total acreage involved:
- Net volume of timber purchased:
- Legal description of sale area:
- Property improvements:
- Timber cruise data:
- Timber thinning data:

(3) A purchaser of privately owned timber involved in a purchase described in subsection (1) of this section who fails to report a purchase as required may be liable for a penalty of two hundred fifty dollars for each failure to report, as determined by the department.

(4) This section shall expire (~~March 1, 1997~~) July 1, 2000.

NEW SECTION. Sec. 2. This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately.

Passed the House March 10, 1997.
 Passed the Senate April 10, 1997.
 Approved by the Governor April 23, 1997.
 Filed in Office of Secretary of State April 23, 1997.

CHAPTER 152

[House Bill 1189]

MORATORIUM ON OIL AND GAS EXPLORATION AND PRODUCTION OFF THE
WASHINGTON COAST

AN ACT Relating to the moratorium on oil and gas exploration and production off the Washington coast; amending RCW 43.143.005 and 43.143.010; and repealing RCW 43.143.040.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 43.143.005 and 1989 1st ex.s. c 2 s 8 are each amended to read as follows:

(1) Washington's coastal waters, seabed, and shorelines are among the most valuable and fragile of its natural resources.

(2) Ocean and marine-based industries and activities, such as fishing, aquaculture, tourism, and marine transportation have played a major role in the history of the state and will continue to be important in the future. ~~((Other industries and activities, such as those based on the development and extraction of minerals and other nonrenewable resources, can provide social and economic benefits as well.))~~

(3) Washington's coastal waters, seabed, and shorelines are faced with conflicting use demands. Some uses may pose unacceptable environmental or social risks at certain times.

~~(4) ((At present, there is not enough information available to adequately assess the potential adverse effects of oil and gas exploration and production off Washington's coast.~~

~~—(5))~~ The state of Washington has primary jurisdiction over the management of coastal and ocean natural resources within three miles of its coastline. From three miles seaward to the boundary of the two hundred mile exclusive economic zone, the United States federal government has primary jurisdiction. Since protection, conservation, and development of the natural resources in the exclusive economic zone directly affect Washington's economy and environment, the state has an inherent interest in how these resources are managed.

Sec. 2. RCW 43.143.010 and 1995 c 339 s 1 are each amended to read as follows:

(1) The purpose of this chapter is to articulate policies and establish guidelines for the exercise of state and local management authority over Washington's coastal waters, seabed, and shorelines.

(2) There shall be no leasing of Washington's tidal or submerged lands extending from mean high tide seaward three miles along the Washington coast from Cape Flattery south to Cape Disappointment, nor in Grays Harbor, Willapa Bay, and the Columbia river downstream from the Longview bridge, for purposes of oil or gas exploration, development, or production ~~((until at least July 1, 2000. During the 2000 legislative session, the legislature shall determine whether the moratorium on leasing should be extended past July 1, 2000. This determination shall be based on the information available at that time, including the analysis~~

~~described in RCW 43.143.040. If the legislature does not extend the moratorium on leasing, the moratorium will end on July 1, 2000. At any time that oil or gas leasing, exploration, and development are allowed to occur, these activities shall be required to meet or exceed the standards and criteria contained in RCW 43.143.030).~~

(3) When conflicts arise among uses and activities, priority shall be given to resource uses and activities that will not adversely impact renewable resources over uses which are likely to have an adverse impact on renewable resources.

(4) It is the policy of the state of Washington to actively encourage the conservation of liquid fossil fuels, and to explore available methods of encouraging such conservation.

(5) It is not currently the intent of the legislature to include recreational uses or currently existing commercial uses involving fishing or other renewable marine or ocean resources within the uses and activities which must meet the planning and review criteria set forth in RCW 43.143.030. It is not the intent of the legislature, however, to permanently exclude these uses from the requirements of RCW 43.143.030. If information becomes available which indicates that such uses should reasonably be covered by the requirements of RCW 43.143.030, the permitting government or agency may require compliance with those requirements, and appeals of that decision shall be handled through the established appeals procedure for that permit or approval.

(6) The state shall participate in federal ocean and marine resource decisions to the fullest extent possible to ensure that the decisions are consistent with the state's policy concerning the use of those resources.

NEW SECTION. Sec. 3. RCW 43.143.040 and 1995 c 399 s 83 & 1989 1st ex.s. c 2 s 12 are each repealed.

Passed the House February 19, 1997.

Passed the Senate April 7, 1997.

Approved by the Governor April 23, 1997.

Filed in Office of Secretary of State April 23, 1997.

CHAPTER 153

[House Bill 1198]

MOTOR VEHICLE DEALER PRACTICES

AN ACT Relating to motor vehicle dealer practices; and amending RCW 46.70.180.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 46.70.180 and 1996 c 194 s 3 are each amended to read as follows:

Each of the following acts or practices is unlawful:

(1) To cause or permit to be advertised, printed, displayed, published, distributed, broadcasted, televised, or disseminated in any manner whatsoever, any

statement or representation with regard to the sale or financing of a vehicle which is false, deceptive, or misleading, including but not limited to the following:

(a) That no down payment is required in connection with the sale of a vehicle when a down payment is in fact required, or that a vehicle may be purchased for a smaller down payment than is actually required;

(b) That a certain percentage of the sale price of a vehicle may be financed when such financing is not offered in a single document evidencing the entire security transaction;

(c) That a certain percentage is the amount of the service charge to be charged for financing, without stating whether this percentage charge is a monthly amount or an amount to be charged per year;

(d) That a new vehicle will be sold for a certain amount above or below cost without computing cost as the exact amount of the factory invoice on the specific vehicle to be sold;

(e) That a vehicle will be sold upon a monthly payment of a certain amount, without including in the statement the number of payments of that same amount which are required to liquidate the unpaid purchase price.

(2) To incorporate within the terms of any purchase and sale agreement any statement or representation with regard to the sale or financing of a vehicle which is false, deceptive, or misleading, including but not limited to terms that include as an added cost to the selling price of a vehicle an amount for licensing or transfer of title of that vehicle which is not actually due to the state, unless such amount has in fact been paid by the dealer prior to such sale.

(3) To set up, promote, or aid in the promotion of a plan by which vehicles are to be sold to a person for a consideration and upon further consideration that the purchaser agrees to secure one or more persons to participate in the plan by respectively making a similar purchase and in turn agreeing to secure one or more persons likewise to join in said plan, each purchaser being given the right to secure money, credits, goods, or something of value, depending upon the number of persons joining the plan.

(4) To commit, allow, or ratify any act of "bushing" which is defined as follows: Taking from a prospective buyer of a vehicle a written order or offer to purchase, or a contract document signed by the buyer, which:

(a) Is subject to the dealer's, or his or her authorized representative's future acceptance, and the dealer fails or refuses within (~~forty-eight hours~~) three calendar days, exclusive of Saturday, Sunday, or legal holiday, and prior to any further negotiations with said buyer, either (i) to deliver to the buyer ((either)) the dealer's signed acceptance, or ((all copies of)) (ii) to void the order, offer, or contract document ((together with)) and tender the return of any initial payment or security made or given by the buyer, including but not limited to money, check, promissory note, vehicle keys, a trade-in, or certificate of title to a trade-in; or

(b) Permits the dealer to renegotiate a dollar amount specified as trade-in allowance on a vehicle delivered or to be delivered by the buyer as part of the purchase price, for any reason except:

(i) Failure to disclose that the vehicle's certificate of ownership has been branded for any reason, including, but not limited to, status as a rebuilt vehicle as provided in RCW 46.12.050 and 46.12.075; ~~((and))~~ or

(ii) Substantial physical damage or latent mechanical defect occurring before the dealer took possession of the vehicle and which could not have been reasonably discoverable at the time of the taking of the order, offer, or contract; or

(iii) Excessive additional miles or a discrepancy in the mileage. "Excessive additional miles" means the addition of five hundred miles or more, as reflected on the vehicle's odometer, between the time the vehicle was first valued by the dealer for purposes of determining its trade-in value and the time of actual delivery of the vehicle to the dealer. "A discrepancy in the mileage" means (A) a discrepancy between the mileage reflected on the vehicle's odometer and the stated mileage on the signed odometer statement; or (B) a discrepancy between the mileage stated on the signed odometer statement and the actual mileage on the vehicle; or

(c) Fails to comply with the obligation of any written warranty or guarantee given by the dealer requiring the furnishing of services or repairs within a reasonable time.

(5) To commit any offense relating to odometers, as such offenses are defined in RCW 46.37.540, 46.37.550, 46.37.560, and 46.37.570. A violation of this subsection is a class C felony punishable under chapter 9A.20 RCW.

(6) For any vehicle dealer or vehicle ~~((salesman))~~ salesperson to refuse to furnish, upon request of a prospective purchaser, ~~((the name and address of the previous registered owner of any used vehicle offered for sale))~~ for vehicles previously registered to a business or governmental entity, the name and address of the business or governmental entity.

(7) To commit any other offense under RCW 46.37.423, 46.37.424, or 46.37.425.

(8) To commit any offense relating to a dealer's temporary license permit, including but not limited to failure to properly complete each such permit, or the issuance of more than one such permit on any one vehicle. However, a dealer may issue a second temporary permit on a vehicle if the following conditions are met:

(a) The lienholder fails to deliver the vehicle title to the dealer within the required time period;

(b) The dealer has satisfied the lien; and

(c) The dealer has proof that payment of the lien was made within two calendar days, exclusive of Saturday, Sunday, or a legal holiday, after the sales contract has been executed by all parties and all conditions and contingencies in the sales contract have been met or otherwise satisfied.

(9) For a dealer, salesman, or mobile home manufacturer, having taken an instrument or cash "on deposit" from a purchaser prior to the delivery of the

bargained-for vehicle, to commingle the "on deposit" funds with assets of the dealer, salesman, or mobile home manufacturer instead of holding the "on deposit" funds as trustee in a separate trust account until the purchaser has taken delivery of the bargained-for vehicle. Delivery of a manufactured home shall be deemed to occur in accordance with RCW 46.70.135(5). Failure, immediately upon receipt, to endorse "on deposit" instruments to such a trust account, or to set aside "on deposit" cash for deposit in such trust account, and failure to deposit such instruments or cash in such trust account by the close of banking hours on the day following receipt thereof, shall be evidence of intent to commit this unlawful practice: PROVIDED, HOWEVER, That a motor vehicle dealer may keep a separate trust account which equals his or her customary total customer deposits for vehicles for future delivery. For purposes of this section, "on deposit" funds received from a purchaser of a manufactured home means those funds that a seller requires a purchaser to advance before ordering the manufactured home, but does not include any loan proceeds or moneys that might have been paid on an installment contract.

(10) For a dealer or manufacturer to fail to comply with the obligations of any written warranty or guarantee given by the dealer or manufacturer requiring the furnishing of goods and services or repairs within a reasonable period of time, or to fail to furnish to a purchaser, all parts which attach to the manufactured unit including but not limited to the undercarriage, and all items specified in the terms of a sales agreement signed by the seller and buyer.

(11) For a vehicle dealer to pay to or receive from any person, firm, partnership, association, or corporation acting, either directly or through a subsidiary, as a buyer's agent for consumers, any compensation, fee, purchase moneys or funds that have been deposited into or withdrawn out of any account controlled or used by any buyer's agent, gratuity, or reward in connection with the purchase or sale of a new motor vehicle.

(12) For a buyer's agent, acting directly or through a subsidiary, to pay to or to receive from any motor vehicle dealer any compensation, fee, gratuity, or reward in connection with the purchase or sale of a new motor vehicle. In addition, it is unlawful for any buyer's agent to engage in any of the following acts on behalf of or in the name of the consumer:

(a) Receiving or paying any purchase moneys or funds into or out of any account controlled or used by any buyer's agent;

(b) Signing any vehicle purchase orders, sales contract, odometer statements, or title documents, or having the name of the buyer's agent appear on the vehicle purchase order, sales contract, or title; or

(c) Signing any other documentation relating to the purchase, sale, or transfer of any new motor vehicle.

It is unlawful for a buyer's agent to use a power of attorney obtained from the consumer to accomplish or effect the purchase, sale, or transfer of ownership documents of any new motor vehicle by any means which would otherwise be

prohibited under (a) through (c) of this subsection. However, the buyer's agent may use a power of attorney for physical delivery of motor vehicle license plates to the consumer.

Further, it is unlawful for a buyer's agent to engage in any false, deceptive, or misleading advertising, disseminated in any manner whatsoever, including but not limited to making any claim or statement that the buyer's agent offers, obtains, or guarantees the lowest price on any motor vehicle or words to similar effect.

(13) For a buyer's agent to arrange for or to negotiate the purchase, or both, of a new motor vehicle through an out-of-state dealer without disclosing in writing to the customer that the new vehicle would not be subject to chapter 19.118 RCW. In addition, it is unlawful for any buyer's agent to fail to have a written agreement with the customer that: (a) Sets forth the terms of the parties' agreement; (b) discloses to the customer the total amount of any fees or other compensation being paid by the customer to the buyer's agent for the agent's services; and (c) further discloses whether the fee or any portion of the fee is refundable. The department of licensing shall by December 31, 1996, in rule, adopt standard disclosure language for buyer's agent agreements under RCW 46.70.011, 46.70.070, and this section.

(14) Being a manufacturer, other than a motorcycle manufacturer governed by chapter 46.94 RCW, to:

(a) Coerce or attempt to coerce any vehicle dealer to order or accept delivery of any vehicle or vehicles, parts or accessories, or any other commodities which have not been voluntarily ordered by the vehicle dealer: PROVIDED, That recommendation, endorsement, exposition, persuasion, urging, or argument are not deemed to constitute coercion;

(b) Cancel or fail to renew the franchise or selling agreement of any vehicle dealer doing business in this state without fairly compensating the dealer at a fair going business value for his or her capital investment which shall include but not be limited to tools, equipment, and parts inventory possessed by the dealer on the day he or she is notified of such cancellation or termination and which are still within the dealer's possession on the day the cancellation or termination is effective, if: (i) The capital investment has been entered into with reasonable and prudent business judgment for the purpose of fulfilling the franchise; and (ii) the cancellation or nonrenewal was not done in good faith. Good faith is defined as the duty of each party to any franchise to act in a fair and equitable manner towards each other, so as to guarantee one party freedom from coercion, intimidation, or threats of coercion or intimidation from the other party: PROVIDED, That recommendation, endorsement, exposition, persuasion, urging, or argument are not deemed to constitute a lack of good faith.

(c) Encourage, aid, abet, or teach a vehicle dealer to sell vehicles through any false, deceptive, or misleading sales or financing practices including but not limited to those practices declared unlawful in this section;

(d) Coerce or attempt to coerce a vehicle dealer to engage in any practice forbidden in this section by either threats of actual cancellation or failure to renew the dealer's franchise agreement;

(e) Refuse to deliver any vehicle publicly advertised for immediate delivery to any duly licensed vehicle dealer having a franchise or contractual agreement for the retail sale of new and unused vehicles sold or distributed by such manufacturer within sixty days after such dealer's order has been received in writing unless caused by inability to deliver because of shortage or curtailment of material, labor, transportation, or utility services, or by any labor or production difficulty, or by any cause beyond the reasonable control of the manufacturer;

(f) To provide under the terms of any warranty that a purchaser of any new or unused vehicle that has been sold, distributed for sale, or transferred into this state for resale by the vehicle manufacturer may only make any warranty claim on any item included as an integral part of the vehicle against the manufacturer of that item.

Nothing in this section may be construed to impair the obligations of a contract or to prevent a manufacturer, distributor, representative, or any other person, whether or not licensed under this chapter, from requiring performance of a written contract entered into with any licensee hereunder, nor does the requirement of such performance constitute a violation of any of the provisions of this section if any such contract or the terms thereof requiring performance, have been freely entered into and executed between the contracting parties. This paragraph and subsection (14)(b) of this section do not apply to new motor vehicle manufacturers governed by chapter 46.96 RCW.

(15) Unlawful transfer of an ownership interest in a motor vehicle as defined in RCW 19.116.050.

Passed the House March 10, 1997.

Passed the Senate April 10, 1997.

Approved by the Governor April 23, 1997.

Filed in Office of Secretary of State April 23, 1997.

CHAPTER 154

[Substitute House Bill 1219]

TAX EXEMPTION FOR PREPAYMENTS FOR HEALTH CARE SERVICES PROVIDED UNDER MEDICARE—EXTENSION

AN ACT Relating to a tax exemption for prepayments for health care services provided under Title XVIII (medicare) of the federal social security act; amending RCW 48.14.0201; providing an effective date; and declaring an emergency.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 48.14.0201 and 1993 sp.s. c 25 s 601 are each amended to read as follows:

(1) As used in this section, "taxpayer" means a health maintenance organization, as defined in RCW 48.46.020, or a health care service contractor, as

defined in RCW 48.44.010(~~(, or a certified health plan certified under RCW 48.43.030)~~).

(2) Each taxpayer shall pay a tax on or before the first day of March of each year to the state treasurer through the insurance commissioner's office. The tax shall be equal to the total amount of all premiums and prepayments for health care services received by the taxpayer during the preceding calendar year multiplied by the rate of two percent.

(3) Taxpayers shall prepay their tax obligations under this section. The minimum amount of the prepayments shall be percentages of the taxpayer's tax obligation for the preceding calendar year recomputed using the rate in effect for the current year. For the prepayment of taxes due during the first calendar year, the minimum amount of the prepayments shall be percentages of the taxpayer's tax obligation that would have been due had the tax been in effect during the previous calendar year. The tax prepayments shall be paid to the state treasurer through the commissioner's office by the due dates and in the following amounts:

- (a) On or before June 15, forty-five percent;
- (b) On or before September 15, twenty-five percent;
- (c) On or before December 15, twenty-five percent.

(4) For good cause demonstrated in writing, the commissioner may approve an amount smaller than the preceding calendar year's tax obligation as recomputed for calculating the health maintenance organization's, health care service contractor's, or certified health plan's prepayment obligations for the current tax year.

(5) Moneys collected under this section shall be deposited in the general fund through March 31, 1996, and in the health services account under RCW 43.72.900 after March 31, 1996.

(6) The taxes imposed in this section do not apply to:

(a) Amounts received by any taxpayer from the United States or any instrumentality thereof as prepayments for health care services provided under Title XVIII (medicare) of the federal social security act. ~~((This exemption shall expire July 1, 1997.))~~

(b) Amounts received by any health care service contractor, as defined in RCW 48.44.010, as prepayments for health care services included within the definition of practice of dentistry under RCW 18.32.020. ~~((This exemption does not apply to amounts received under a certified health plan certified under RCW 48.43.030.))~~

NEW SECTION. Sec. 2. This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect July 1, 1997.

Passed the House March 14, 1997.
Passed the Senate April 10, 1997.
Approved by the Governor April 23, 1997.
Filed in Office of Secretary of State April 23, 1997.

CHAPTER 155

[House Bill 1232]

DESIGNATING STATE ROUTE 41

AN ACT Relating to state highway routes; amending RCW 47.17.005; and adding a new section to chapter 47.17 RCW.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 47.17.005 and 1987 c 199 s 1 are each amended to read as follows:

A state highway to be known as state route number 2 is established as follows:

Beginning at a junction with state route number 5 in Everett, thence easterly by way of Monroe, Stevens Pass, and Leavenworth to a junction with state route number 97 in the vicinity of Peshastin; also

From a junction with state route number 97 in the vicinity of Peshastin, thence easterly by way of Wenatchee, to a junction with state route number 97 in the vicinity of Orondo, thence easterly by way of Waterville, Wilbur, and Davenport to a junction with state route number 90 in the vicinity west of Spokane; also

Beginning at a junction with state route number 90 at Spokane, thence northerly to a junction with state route number 395 in the vicinity north of Spokane; also

From a junction with state route number 395 in the vicinity north of Spokane, thence northerly to a junction with state route number 20 at Newport; also

From a junction with state route number 20 at Newport, thence easterly to the Washington-Idaho boundary line (~~(, thence southerly along said boundary line to Fourth Street in Newport).~~).

NEW SECTION. **Sec. 2.** A new section is added to chapter 47.17 RCW to read as follows:

A state highway to be known as state route number 41 is established as follows:

Beginning at a junction with state route number 2 in Newport, thence southerly along the Washington-Idaho boundary line to Fourth Street in Newport.

Passed the House February 21, 1997.

Passed the Senate April 10, 1997.

Approved by the Governor April 23, 1997.

Filed in Office of Secretary of State April 23, 1997.

CHAPTER 156

[House Bill 1341]

EXCISE AND PROPERTY TAX STATUTES--TECHNICAL CORRECTIONS

AN ACT Relating to technical corrections for tax provisions; amending RCW 82.01.070, 82.01.080, 82.32.080, 82.32.180, 82.60.040, 84.36.470, 84.36.800, 84.36.805, and 84.36.810; decodifying RCW 82.04.435; repealing RCW 82.04.444 and 82.04.445; and providing an expiration date.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 82.01.070 and 1982 c 128 s 1 are each amended to read as follows:

The director shall have charge and general supervision of the department of revenue. ~~((He))~~ The director shall appoint an assistant director for administration, hereinafter in chapter 26, Laws of 1967 ex. sess. referred to as the assistant director, and subject to the provisions of chapter 41.06 RCW may appoint and employ such clerical, technical and other personnel as may be necessary to carry out the powers and duties of the department. The director may also enter into personal service contracts with out-of-state individuals or business entities for the performance of auditing services outside the state of Washington when normal efforts to recruit classified employees are unsuccessful. The director may agree to pay to the department's employees or contractors who reside out of state such amounts in addition to their ordinary rate of compensation as are necessary to defray the extra costs of facilities, living, and other costs reasonably related to the out-of-state services, subject to legislative appropriation for those purposes. The special allowances shall be in such amounts or at such rates as are approved by the office of financial management. This section does not apply to audit functions performed in states contiguous to the state of Washington.

Sec. 2. RCW 82.01.080 and 1967 ex.s. c 26 s 5 are each amended to read as follows:

The director may delegate any power or duty vested in or transferred to ~~((him))~~ the director by law, or executive order, to the assistant director or to any of the director's subordinates; but the director shall be responsible for the official acts of the officers and employees of the department.

Sec. 3. RCW 82.32.080 and 1990 c 69 s 2 are each amended to read as follows:

Payment of the tax may be made by uncertified check under such regulations as the department shall prescribe, but, if a check so received is not paid by the bank on which it is drawn, the taxpayer, by whom such check is tendered, shall remain liable for payment of the tax and for all legal penalties, the same as if such check had not been tendered.

Payment of the tax ~~((is to))~~ shall be made by electronic funds transfer, as defined in RCW 82.32.085, if the amount of the tax due in a calendar year is ~~((two hundred forty))~~ one million eight hundred thousand dollars or more~~((, provided that until January 1, 1992, electronic funds transfer shall be required only if the tax due~~

~~is one million eight hundred thousand dollars or more. After January 1, 1992,)),~~
The department may by rule provide for tax thresholds between two hundred forty thousand dollars and one million eight hundred thousand dollars for mandatory use of electronic funds transfer. All taxes administered by this chapter are subject to this requirement except the taxes authorized by chapters 82.14A, 82.14B, 82.24, 82.27, 82.29A, and 84.33 RCW. It is the intent of this section to require electronic funds transfer for those taxes reported on the department's combined excise tax return or any successor return.

A return or remittance which is transmitted to the department by United States mail shall be deemed filed or received on the date shown by the post office cancellation mark stamped upon the envelope containing it, except as otherwise provided in this chapter.

The department, for good cause shown, may extend the time for making and filing any return, and may grant such reasonable additional time within which to make and file returns as it may deem proper, but any permanent extension granting the taxpayer a reporting date without penalty more than ten days beyond the due date, and any extension in excess of thirty days shall be conditional on deposit with the department of an amount to be determined by the department which shall be approximately equal to the estimated tax liability for the reporting period or periods for which the extension is granted. In the case of a permanent extension or a temporary extension of more than thirty days the deposit shall be deposited within the state treasury with other tax funds and a credit recorded to the taxpayer's account which may be applied to taxpayer's liability upon cancellation of the permanent extension or upon reporting of the tax liability where an extension of more than thirty days has been granted.

The department shall review the requirement for deposit at least annually and may require a change in the amount of the deposit required when it believes that such amount does not approximate the tax liability for the reporting period or periods for which the extension is granted.

The department shall keep full and accurate records of all funds received and disbursed by it. Subject to the provisions of RCW 82.32.105 and 82.32.350, the department shall apply the payment of the taxpayer first against penalties and interest, and then upon the tax, without regard to any direction of the taxpayer.

The department may refuse to accept any return which is not accompanied by a remittance of the tax shown to be due thereon. When such return is not accepted, the taxpayer shall be deemed to have failed or refused to file a return and shall be subject to the procedures provided in RCW 82.32.100 and to the penalties provided in RCW 82.32.090. The above authority to refuse to accept a return shall not apply when a return is timely filed and a timely payment has been made by electronic funds transfer.

Sec. 4. RCW 82.32.180 and 1992 c 206 s 4 are each amended to read as follows:

Any person, except one who has failed to keep and preserve books, records, and invoices as required in this chapter and chapter 82.24 RCW, having paid any tax as required and feeling aggrieved by the amount of the tax may appeal to the superior court of Thurston county, within the time limitation for a refund provided in chapter 82.32 RCW or, if an application for refund has been made to the department within that time limitation, then within thirty days after rejection of the application, whichever time limitation is later. In the appeal the taxpayer shall set forth the amount of the tax imposed upon the taxpayer which the taxpayer concedes to be the correct tax and the reason why the tax should be reduced or abated. The appeal shall be perfected by serving a copy of the notice of appeal upon the department within the time herein specified and by filing the original thereof with proof of service with the clerk of the superior court of Thurston county.

The trial in the superior court on appeal shall be de novo and without the necessity of any pleadings other than the notice of appeal. At trial, the burden shall rest upon the taxpayer to prove that the tax as paid by the taxpayer is incorrect, either in whole or in part, and to establish the correct amount of the tax. In such proceeding the taxpayer shall be deemed the plaintiff, and the state, the defendant; and both parties shall be entitled to subpoena the attendance of witnesses as in other civil actions and to produce evidence that is competent, relevant, and material to determine the correct amount of the tax that should be paid by the taxpayer. Either party may seek appellate review in the same manner as other civil actions are appealed to the appellate courts.

It shall not be necessary for the taxpayer to protest against the payment of any tax or to make any demand to have the same refunded or to petition the director for a hearing in order to appeal to the superior court, but no court action or proceeding of any kind shall be maintained by the taxpayer to recover any tax paid, or any part thereof, except as herein provided.

The provisions of this section shall not apply to any tax payment which has been the subject of an appeal to the board of tax appeals with respect to which appeal a formal hearing has been elected.

Sec. 5. RCW 82.60.040 and 1995 1st sp.s. c 3 s 6 are each amended to read as follows:

(1) The department shall issue a sales and use tax deferral certificate for state and local sales and use taxes due under chapters 82.08, 82.12, and 82.14 RCW on each eligible investment project that:

(a) Is located in an eligible area as defined in RCW 82.60.020(3)(a), (b), ~~((c)),~~ ~~(d),~~ ~~(e),~~ or (f);

(b) Is located in an eligible area as defined in RCW 82.60.020(3)~~((c))~~(g) if seventy-five percent of the new qualified employment positions are to be filled by residents of a contiguous county that is an eligible area as defined in RCW 82.60.020(3)(a) or ~~((c))~~ (f); or

(c) Is located in an eligible area as defined in RCW 82.60.020(3)~~((e))~~(d) if seventy-five percent of the new qualified employment positions are to be filled by residents of a designated community empowerment zone approved under RCW 43.63A.700 located within the county in which the eligible investment project is located.

(2) The department shall keep a running total of all deferrals granted under this chapter during each fiscal biennium.

Sec. 6. RCW 84.36.470 and 1989 c 378 s 12 are each amended to read as follows:

The following property shall be exempt from taxation: Any agricultural ~~((or horticultural produce or crop, including any animal, bird, or insect, or the milk, eggs, wool, fur, meat, honey, or other substance obtained therefrom))~~ product as defined in RCW 82.04.213 and grown or produced for sale by any person upon ~~((his))~~ the person's own lands or upon lands in which ~~((he))~~ the person has a present right of possession ~~((who is exempted from payment of business and occupation tax pursuant to RCW 82.04.330))~~. Taxpayers shall not be required to report, or assessors to list, the inventories covered by this exemption.

~~((Nothing in this section shall be construed to remove or otherwise affect any exemption from assessment granted by RCW 84.44.060.))~~

Sec. 7. RCW 84.36.800 and 1994 c 124 s 18 are each amended to read as follows:

As used in RCW 84.36.020, 84.36.030, ~~((84.36.550.))~~ 84.36.037, 84.36.040, 84.36.041, 84.36.050, 84.36.060, 84.36.550, and 84.36.800 through 84.36.865:

(1) "Church purposes" means the use of real and personal property owned by a nonprofit religious organization for religious worship or related administrative, educational, eleemosynary, and social activities. This definition is to be broadly construed;

(2) "Convent" means a house or set of buildings occupied by a community of clergy or nuns devoted to religious life under a superior;

(3) "Hospital" means any portion of a hospital building, or other buildings in connection therewith, used as a residence for persons engaged or employed in the operation of a hospital, or operated as a portion of the hospital unit;

(4) "Nonprofit" means an organization, association or corporation no part of the income of which is paid directly or indirectly to its members, stockholders, officers, directors or trustees except in the form of services rendered by the organization, association, or corporation in accordance with its purposes and bylaws and the salary or compensation paid to officers of such organization, association or corporation is for actual services rendered and compares to the salary or compensation of like positions within the public services of the state;

(5) "Parsonage" means a residence occupied by a member of the clergy who has been designated for a particular congregation and who holds regular services therefor.

Sec. 8. RCW 84.36.805 and 1995 2nd sp.s. c 9 s 2 are each amended to read as follows:

In order to be exempt pursuant to RCW 84.36.030, (~~(84.36.550;)~~) 84.36.035, 84.36.037, 84.36.040, 84.36.041, 84.36.043, 84.36.045, 84.36.047, 84.36.050, 84.36.060, 84.36.350, (~~(and)~~) 84.36.480, and 84.36.550, the nonprofit organizations, associations or corporations shall satisfy the following conditions:

(1) The property is used exclusively for the actual operation of the activity for which exemption is granted, unless otherwise provided, and does not exceed an amount reasonably necessary for that purpose, except:

(a) The loan or rental of the property does not subject the property to tax if:

(i) The rents and donations received for the use of the portion of the property are reasonable and do not exceed the maintenance and operation expenses attributable to the portion of the property loaned or rented; and

(ii) Except for the exemptions under RCW 84.36.030(4) and 84.36.037, the property would be exempt from tax if owned by the organization to which it is loaned or rented;

(b) The use of the property for fund-raising activities does not subject the property to tax if the fund-raising activities are consistent with the purposes for which the exemption is granted;

(2) The property is irrevocably dedicated to the purpose for which exemption has been granted, and on the liquidation, dissolution, or abandonment by said organization, association, or corporation, said property will not inure directly or indirectly to the benefit of any shareholder or individual, except a nonprofit organization, association, or corporation which too would be entitled to property tax exemption: **PROVIDED**, That the property need not be irrevocably dedicated if it is leased or rented to those qualified for exemption pursuant to RCW 84.36.035, 84.36.040, 84.36.041, or 84.36.043 or those qualified for exemption as an association engaged in the production or performance of musical, dance, artistic, dramatic, or literary works pursuant to RCW 84.36.060, but only if under the terms of the lease or rental agreement the nonprofit organization, association, or corporation receives the benefit of the exemption;

(3) The facilities and services are available to all regardless of race, color, national origin or ancestry;

(4) The organization, association, or corporation is duly licensed or certified where such licensing or certification is required by law or regulation;

(5) Property sold to organizations, associations, or corporations with an option to be repurchased by the seller shall not qualify for exempt status;

(6) The director of the department of revenue shall have access to its books in order to determine whether such organization, association, or corporation is exempt from taxes within the intent of RCW 84.36.030, 84.36.035, 84.36.037, 84.36.040, 84.36.041, 84.36.043, 84.36.045, 84.36.047, 84.36.050, 84.36.060, 84.36.350, and 84.36.480.

Sec. 9. RCW 84.36.810 and 1994 c 124 s 19 are each amended to read as follows:

(1) Upon cessation of a use under which an exemption has been granted pursuant to RCW 84.36.030, (~~(84.36.550;)~~) 84.36.037, 84.36.040, 84.36.041, 84.36.043, 84.36.050, (~~and~~) 84.36.060, and 84.36.550, the county treasurer shall collect all taxes which would have been paid had the property not been exempt during the three years preceding, or the life of such exemption, if such be less, together with the interest at the same rate and computed in the same way as that upon delinquent property taxes. Where the property has been granted an exemption for more than ten years, taxes and interest shall not be assessed under this section.

(2) Subsection (1) of this section applies only when ownership of the property is transferred or when fifty-one percent or more of the area of the property has lost its exempt status. The additional tax under subsection (1) of this section shall not be imposed if the cessation of use resulted solely from:

(a) Transfer to a nonprofit organization, association, or corporation for a use which also qualifies and is granted exemption under the provisions of chapter 84.36 RCW;

(b) A taking through the exercise of the power of eminent domain, or sale or transfer to an entity having the power of eminent domain in anticipation of the exercise of such power;

(c) Official action by an agency of the state of Washington or by the county or city within which the property is located which disallows the present use of such property;

(d) A natural disaster such as a flood, windstorm, earthquake, or other such calamity rather than by virtue of the act of the organization, association, or corporation changing the use of such property;

(e) Relocation of the activity and use of another location or site except for undeveloped properties of camp facilities exempted under RCW 84.36.030;

(f) Cancellation of a lease on property that had been exempt under RCW 84.36.040, 84.36.041, 84.36.043, or 84.36.060;

(g) A change in the exempt portion of a home for the aging under RCW 84.36.041(3), as long as some portion of the home remains exempt;

(h) The conversion of a full exemption of a home for the aging to a partial exemption or taxable status or the conversion of a partial exemption to taxable status under RCW 84.36.041(8).

NEW SECTION. **Sec. 10.** RCW 82.04.435 is decodified.

NEW SECTION. **Sec. 11.** The following acts or parts of acts are each repealed:

(1) RCW 82.04.444 and 1974 ex.s. c 169 s 5; and

(2) RCW 82.04.445 and 1974 ex.s. c 169 s 6.

NEW SECTION. **Sec. 12.** Section 5 of this act expires July 1, 2004.

Passed the House March 12, 1997.
 Passed the Senate April 10, 1997.
 Approved by the Governor April 23, 1997.
 Filed in Office of Secretary of State April 23, 1997.

CHAPTER 157

[Substitute House Bill 1342]

INTEREST AND PENALTY ADMINISTRATION OF THE DEPARTMENT OF REVENUE

AN ACT Relating to interest and penalty administration of the department of revenue; and amending RCW 82.32.050, 82.32.060, 82.32.210, 82.45.100, 83.100.070, and 83.100.130.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 82.32.050 and 1996 c 149 s 2 are each amended to read as follows:

(1) If upon examination of any returns or from other information obtained by the department it appears that a tax or penalty has been paid less than that properly due, the department shall assess against the taxpayer such additional amount found to be due and shall add thereto interest on the tax only. The department shall notify the taxpayer by mail of the additional amount and the additional amount shall become due and shall be paid within thirty days from the date of the notice, or within such further time as the department may provide.

(a) For tax liabilities arising before January 1, 1992, interest shall be computed at the rate of nine percent per annum from the last day of the year in which the deficiency is incurred until the earlier of December 31, 1998, or the date of payment ((for tax liabilities arising before January 1, 1992)). After December 31, 1998, the rate of interest shall be variable and computed as provided in subsection (2) of this section. The rate so computed shall be adjusted on the first day of January of each year for use in computing interest for that calendar year.

(b) For tax liabilities arising after December 31, 1991, ((until the date of payment;)) the rate of interest shall be variable and computed as provided in subsection (2) of this section from the last day of the year in which the deficiency is incurred until the date of payment. The rate so computed shall be adjusted on the first day of January of each year((-The department shall notify the taxpayer by mail of the additional amount and the same shall become due and shall be paid within thirty days from the date of the notice, or within such further time as the department may provide)) for use in computing interest for that calendar year.

(c) Interest imposed after December 31, 1998, shall be computed from the last day of the month following each calendar year included in a notice, and the last day of the month following the final month included in a notice if not the end of a calendar year, until the due date of the notice. If payment in full is not made by the due date of the notice, additional interest shall be computed until the date of payment. The rate of interest shall be variable and computed as provided in subsection (2) of this section. The rate so computed shall be adjusted on the first day of January of each year for use in computing interest for that calendar year.

(2) For the purposes of this section, the rate of interest to be charged to the taxpayer shall be an average of the federal short-term rate as defined in 26 U.S.C. Sec. 1274(d) plus two percentage points. The rate shall be computed by taking an arithmetical average to the nearest percentage point of the federal short-term rate, compounded annually, for the months of January, April, July, and October of the immediately preceding calendar year as published by the United States secretary of the treasury.

(3) No assessment or correction of an assessment for additional taxes, penalties, or interest due may be made by the department more than four years after the close of the tax year, except (a) against a taxpayer who has not registered as required by this chapter, (b) upon a showing of fraud or of misrepresentation of a material fact by the taxpayer, or (c) where a taxpayer has executed a written waiver of such limitation. The execution of a written waiver shall also extend the period for making a refund or credit as provided in RCW 82.32.060(2).

(4) For the purposes of this section, "return" means any document a person is required by the state of Washington to file to satisfy or establish a tax or fee obligation that is administered or collected by the department of revenue and that has a statutorily defined due date.

Sec. 2. RCW 82.32.060 and 1992 c 169 s 2 are each amended to read as follows:

(1) If, upon receipt of an application by a taxpayer for a refund or for an audit of the taxpayer's records, or upon an examination of the returns or records of any taxpayer, it is determined by the department that within the statutory period for assessment of taxes, penalties, or interest prescribed by RCW 82.32.050 any amount of tax, penalty, or interest has been paid in excess of that properly due, the excess amount paid within, or attributable to, such period shall be credited to the taxpayer's account or shall be refunded to the taxpayer, at the taxpayer's option. Except as provided in subsections (2) and (3) of this section, no refund or credit shall be made for taxes, penalties, or interest paid more than four years prior to the beginning of the calendar year in which the refund application is made or examination of records is completed.

(2) The execution of a written waiver under RCW 82.32.050 or 82.32.100 shall extend the time for making a refund or credit of any taxes paid during, or attributable to, the years covered by the waiver if, prior to the expiration of the waiver period, an application for refund of such taxes is made by the taxpayer or the department discovers a refund or credit is due.

(3) Notwithstanding the foregoing limitations there shall be refunded or credited to taxpayers engaged in the performance of United States government contracts or subcontracts the amount of any tax paid, measured by that portion of the amounts received from the United States, which the taxpayer is required by contract or applicable federal statute to refund or credit to the United States, if claim for such refund is filed by the taxpayer with the department within one year of the date that the amount of the refund or credit due to the United States is finally

determined and filed within four years of the date on which the tax was paid: PROVIDED, That no interest shall be allowed on such refund.

(4) Any such refunds shall be made by means of vouchers approved by the department and by the issuance of state warrants drawn upon and payable from such funds as the legislature may provide. However, taxpayers who are required to pay taxes by electronic funds transfer under RCW 82.32.080 shall have any refunds paid by electronic funds transfer.

(5) Any judgment for which a recovery is granted by any court of competent jurisdiction, not appealed from, for tax, penalties, and interest which were paid by the taxpayer, and costs, in a suit by any taxpayer shall be paid in the same manner, as provided in subsection (4) of this section, upon the filing with the department of a certified copy of the order or judgment of the court. (~~Except as to the credits in computing tax authorized by RCW 82.04.435,)~~)

(a) Interest at the rate of three percent per annum shall be allowed by the department and by any court on the amount of any refund, credit, or other recovery allowed to a taxpayer for taxes, penalties, or interest paid by the taxpayer before January 1, 1992. This rate of interest shall apply for all interest allowed through December 31, 1998. Interest allowed after December 31, 1998, shall be computed at the rate as computed under RCW 82.32.050(2). The rate so computed shall be adjusted on the first day of January of each year for use in computing interest for that calendar year.

(b) For refunds or credits of amounts paid or other recovery allowed to a taxpayer after December 31, 1991, the rate of interest shall be the rate as computed for assessments under RCW 82.32.050(2) (~~less one percentage point~~). The rate so computed shall be adjusted on the first day of January of each year for use in computing interest for that calendar year.

Sec. 3. RCW 82.32.210 and 1987 c 405 s 15 are each amended to read as follows:

(1) If any fee, tax, increase, or penalty or any portion thereof is not paid within fifteen days after it becomes due, the department of revenue may issue a warrant under its official seal in the amount of such unpaid sums, together with interest thereon (~~at the rate of one percent of the amount of such warrant for each thirty days or portion thereof after the date of such warrant~~) from the date the warrant is issued until the date of payment. If, however, the department of revenue believes that a taxpayer is about to cease business, leave the state, or remove or dissipate the assets out of which fees, taxes or penalties might be satisfied and that any tax or penalty will not be paid when due, it may declare the fee, tax or penalty to be immediately due and payable and may issue a warrant immediately.

(a) Interest imposed before January 1, 1999, shall be computed at the rate of one percent of the amount of the warrant for each thirty days or portion thereof.

(b) Interest imposed after December 31, 1998, shall be computed on a daily basis on the amount of outstanding tax or fee at the rate as computed under RCW 82.32.050(2). The rate so computed shall be adjusted on the first day of January

of each year for use in computing interest for that calendar year. As used in this subsection, "fee" does not include an administrative filing fee such as a court filing fee and warrant fee.

(2) The department shall file a copy of the warrant with the clerk of the superior court of any county of the state in which real and/or personal property of the taxpayer may be found. Upon filing, the clerk shall enter in the judgment docket, the name of the taxpayer mentioned in the warrant and in appropriate columns the amount of the fee, tax or portion thereof and any increases and penalties for which the warrant is issued and the date when the copy is filed, and thereupon the amount of the warrant so docketed shall become a specific lien upon all goods, wares, merchandise, fixtures, equipment, or other personal property used in the conduct of the business of the taxpayer against whom the warrant is issued, including property owned by third persons who have a beneficial interest, direct or indirect, in the operation of the business, and no sale or transfer of the personal property in any way affects the lien.

(3) The lien shall not be superior, however, to bona fide interests of third persons which had vested prior to the filing of the warrant when the third persons do not have a beneficial interest, direct or indirect, in the operation of the business, other than the securing of the payment of a debt or the receiving of a regular rental on equipment(~~((—PROVIDED, HOWEVER, That))~~), The phrase "bona fide interests of third persons" does not include any mortgage of real or personal property or any other credit transaction that results in the mortgagee or the holder of the security acting as trustee for unsecured creditors of the taxpayer mentioned in the warrant who executed the chattel or real property mortgage or the document evidencing the credit transaction.

(4) The amount of the warrant so docketed shall thereupon also become a lien upon the title to and interest in all other real and personal property of the taxpayer against whom it is issued the same as a judgment in a civil case duly docketed in the office of the clerk. The warrant so docketed shall be sufficient to support the issuance of writs of garnishment in favor of the state in the manner provided by law in the case of judgments wholly or partially unsatisfied.

Sec. 4. RCW 82.45.100 and 1996 c 149 s 5 are each amended to read as follows:

(1) Payment of the tax imposed under this chapter is due and payable immediately at the time of sale, and if not paid within one month thereafter shall bear interest (~~((at the rate of one percent per month))~~) from the time of sale until the date of payment.

(a) Interest imposed before January 1, 1999, shall be computed at the rate of one percent per month.

(b) Interest imposed after December 31, 1998, shall be computed on a monthly basis at the rate as computed under RCW 82.32.050(2). The rate so computed shall be adjusted on the first day of January of each year for use in computing interest for that calendar year. The department of revenue shall provide written notification

to the county treasurers of the variable rate on or before December 1 of the year preceding the calendar year in which the rate applies.

(2) In addition to the interest described in subsection (1) of this section, if the payment of any tax is not received by the county treasurer or the department of revenue, as the case may be, within one month of the date due, there shall be assessed a penalty of five percent of the amount of the tax; if the tax is not received within two months of the date due, there shall be assessed a total penalty of ten percent of the amount of the tax; and if the tax is not received within three months of the date due, there shall be assessed a total penalty of twenty percent of the amount of the tax. The payment of the penalty described in this subsection shall be collectible from the seller only, and RCW 82.45.070 does not apply to the penalties described in this subsection.

(3) If the tax imposed under this chapter is not received by the due date, the transferee shall be personally liable for the tax, along with any interest as provided in subsection (1) of this section, unless:

(a) An instrument evidencing the sale is recorded in the official real property records of the county in which the property conveyed is located; or

(b) Either the transferor or transferee notifies the department of revenue in writing of the occurrence of the sale within thirty days following the date of the sale.

(4) If upon examination of any affidavits or from other information obtained by the department or its agents it appears that all or a portion of the tax is unpaid, the department shall assess against the taxpayer the additional amount found to be due plus interest and penalties as provided in subsections (1) and (2) of this section. The department shall notify the taxpayer by mail of the additional amount and the same shall become due and shall be paid within thirty days from the date of the notice, or within such further time as the department may provide.

(5) No assessment or refund may be made by the department more than four years after the date of sale except upon a showing of:

(a) Fraud or misrepresentation of a material fact by the taxpayer;

(b) A failure by the taxpayer to record documentation of a sale or otherwise report the sale to the county treasurer; or

(c) A failure of the transferor or transferee to report the sale under RCW 82.45.090(2).

(6) Penalties collected on taxes due under this chapter under subsection (2) of this section and RCW 82.32.090 (2) through (6) shall be deposited in the housing trust fund as described in chapter 43.185 RCW.

**Sec. 5. RCW 83.100.070 and 1996 c 149 s 13 are each amended to read as follows:*

(1) Any tax due under this chapter which is not paid by the due date under RCW 83.100.060(1) shall bear interest at the rate of twelve percent per annum from the date the tax is due until the date of payment.

(2) Interest imposed under this section for periods after January 1, 1997, shall be computed at the rate as computed under RCW 82.32.050(2). The rate so computed shall be adjusted on the first day of January of each year.

(3) If the Washington return is not filed when due under RCW 83.100.050, then the person required to file the federal return shall pay, in addition to interest, a penalty equal to five percent of the tax due for each month after the date the return is due until filed. No penalty may exceed twenty-five percent of the tax.

(4) If the department finds that a return due under this chapter has not been filed by the due date, and the delinquency was the result of circumstances beyond the control of the person required to file the federal return, the department shall waive or cancel any penalties imposed under this chapter with respect to the filing of such a tax return.

*Sec. 5 was vetoed. See message at end of chapter.

Sec. 6. RCW 83.100.130 and 1996 c 149 s 14 are each amended to read as follows:

(1) Whenever the department determines that a person required to file the federal return has overpaid the tax due under this chapter, the department shall refund the amount of the overpayment, together with interest at the then existing rate under RCW 83.100.070(1). If the application for refund, with supporting documents, is filed within four months after an adjustment or final determination of federal tax liability, the department shall pay interest until the date the refund is mailed. If the application for refund, with supporting documents, is filed after four months after the adjustment or final determination, the department shall pay interest only until the end of the four-month period.

(2) Interest refunded under this section for periods after January 1, 1997, through December 31, 1998, shall be computed on a daily basis at the rate as computed under RCW 82.32.050(2) less one percentage point(~~and~~). Interest allowed after December 31, 1998, shall be computed at the rate as computed under RCW 82.32.050(2). Interest shall be refunded from the date of overpayment until the date the refund is mailed. The rate so computed shall be adjusted on the first day of January of each year.

Passed the House March 12, 1997.

Passed the Senate April 10, 1997.

Approved by the Governor April 23, 1997, with the exception of certain items that were vetoed.

Filed in Office of Secretary of State April 23, 1997.

Note: Governor's explanation of partial veto is as follows:

"I am returning herewith, without my approval as to section 5, Substitute House Bill No. 1342 entitled:

"AN ACT Relating to interest and penalty administration of the department of revenue;"

Section 5 of the bill would create a double amendment problem with Substitute Senate Bill 5121.

For these reasons, I have vetoed section 5 of Substitute House Bill No. 1342. With the exception of section 5, I am approving Substitute House Bill No. 1342."

CHAPTER 158

[Substitute House Bill 1402]

FINANCING STREET, ROAD, AND HIGHWAY PROJECTS—LOCAL CREATION OF ASSESSMENT REIMBURSEMENT AREAS

AN ACT Relating to the financing of street, road, and highway projects; and amending RCW 35.72.050.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 35.72.050 and 1987 c 261 s 1 are each amended to read as follows:

(1) As an alternative to financing projects under this chapter solely by owners of real estate, a county, city, or town may join in the financing of improvement projects and may be reimbursed in the same manner as the owners of real estate who participate in the projects, if the county, city, or town has specified the conditions of its participation in an ordinance. As another alternative, a county, city, or town may create an assessment reimbursement area on its own initiative, without the participation of a private property owner, finance the costs of the road or street improvements, and become the sole beneficiary of the reimbursements that are contributed. A county, city, or town may be reimbursed only for the costs of improvements that benefit that portion of the public who will use the developments within the assessment reimbursement area established pursuant to RCW 35.72.040(1). No county, city, or town costs for improvements that benefit the general public may be reimbursed.

(2) The department of transportation may, for state highways, participate with the owners of real estate or may be the sole participant in the financing of improvement projects, in the same manner and subject to the same restrictions as provided for counties, cities, and towns, in subsection (1) of this section. The department shall enter into agreements whereby the appropriate county, city, or town shall act as an agent of the department in administering this chapter.

Passed the House March 14, 1997.

Passed the Senate April 10, 1997.

Approved by the Governor April 23, 1997.

Filed in Office of Secretary of State April 23, 1997.

CHAPTER 159

[Substitute House Bill 1429]

UNLAWFUL DISCARDING OF TOBACCO PRODUCTS CAPABLE OF STARTING FIRES

AN ACT Relating to littering; amending RCW 70.93.060 and 7.80.120; and prescribing penalties.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 70.93.060 and 1996 c 263 s 1 are each amended to read as follows:

(1) No person shall throw, drop, deposit, discard, or otherwise dispose of litter upon any public property in the state or upon private property in this state not owned by him or her or in the waters of this state whether from a vehicle or otherwise including but not limited to any public highway, public park, beach, campground, forest land, recreational area, trailer park, highway, road, street, or alley except:

(a) When the property is designated by the state or its agencies or political subdivisions for the disposal of garbage and refuse, and the person is authorized to use such property for that purpose;

(b) Into a litter receptacle in a manner that will prevent litter from being carried away or deposited by the elements upon any part of said private or public property or waters.

(2)(a) Except as provided in subsection (4) of this section, it is a class 3 civil infraction as ((defined)) provided in RCW 7.80.120 for a person to litter in an amount less than or equal to one cubic foot.

(b) It is a class 1 civil infraction as ((defined)) provided in RCW 7.80.120 for a person to litter in an amount greater than one cubic foot. Unless suspended or modified by a court, the person shall also pay a litter cleanup fee of twenty-five dollars per cubic foot of litter. The court may, in addition to or in lieu of part or all of the cleanup fee, order the person to pick up and remove litter from the property, with prior permission of the legal owner or, in the case of public property, of the agency managing the property.

(3) If the violation occurs in a state park, the court shall, in addition to any other penalties assessed, order the person to perform twenty-four hours of community service in the state park where the violation occurred if the state park has stated an intent to participate as provided in RCW 43.51.048(2).

(4) It is a class 1 civil infraction as provided in RCW 7.80.120 for a person to discard, in violation of this section, a cigarette, cigar, or other tobacco product that is capable of starting a fire.

Sec. 2. RCW 7.80.120 and 1987 c 456 s 20 are each amended to read as follows:

(1) A person found to have committed a civil infraction shall be assessed a monetary penalty.

(a) The maximum penalty and the default amount for a class 1 civil infraction shall be two hundred fifty dollars, not including statutory assessments, except for an infraction of state law involving tobacco products as specified in RCW 70.93.060(4), in which case the maximum penalty and default amount is five hundred dollars;

(b) The maximum penalty and the default amount for a class 2 civil infraction shall be one hundred twenty-five dollars, not including statutory assessments;

(c) The maximum penalty and the default amount for a class 3 civil infraction shall be fifty dollars, not including statutory assessments; and

(d) The maximum penalty and the default amount for a class 4 civil infraction shall be twenty-five dollars, not including statutory assessments.

(2) The supreme court shall prescribe by rule the conditions under which local courts may exercise discretion in assessing fines for civil infractions.

(3) Whenever a monetary penalty is imposed by a court under this chapter it is immediately payable. If the person is unable to pay at that time the court may grant an extension of the period in which the penalty may be paid. If the penalty is not paid on or before the time established for payment, the court may proceed to collect the penalty in the same manner as other civil judgments and may notify the prosecuting authority of the failure to pay.

(4) The court may also order a person found to have committed a civil infraction to make restitution.

Passed the House March 11, 1997.

Passed the Senate April 10, 1997.

Approved by the Governor April 23, 1997.

Filed in Office of Secretary of State April 23, 1997.

CHAPTER 160

[House Bill 1545]

**DOMESTIC VIOLENCE SHELTERS—LOCAL FUNDING MATCH REQUIREMENT
ELIMINATION**

AN ACT Relating to funding for domestic violence shelters; and amending RCW 70.123.100.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 70.123.100 and 1979 ex.s. c 245 s 10 are each amended to read as follows:

~~((Fifty percent of the funding for shelters receiving grants under this chapter must be provided by one or more local, municipal, or county source, either public or private. Contributions in kind, whether materials, commodities, transportation, office space, other types of facilities, or personal services, may be evaluated and counted as part of the required local funding.))~~

The department shall seek, receive, and make use of any funds which may be available from federal or other sources in order to augment state funds appropriated for the purpose of this chapter, and shall make every effort to qualify for federal funding.

Passed the House March 12, 1997.

Passed the Senate April 10, 1997.

Approved by the Governor April 23, 1997.

Filed in Office of Secretary of State April 23, 1997.

CHAPTER 161

[Substitute House Bill 1585]

STATE INVESTMENT BOARD—DELEGATION OF POWERS

AN ACT Relating to the operation of the state investment board; amending RCW 43.33A.030; and adding a new section to chapter 43.33A RCW.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 43.33A.030 and 1981 c 3 s 3 are each amended to read as follows:

Trusteeship of those funds under the authority of the board is vested in the voting members of the board. The nonvoting members of the board shall advise the voting members on matters of investment policy and practices.

The board may enter into contracts necessary to carry out its powers and duties. The board may delegate any of its powers and duties to its executive director as deemed necessary for efficient administration and when consistent with the purposes of ~~((this 1980 act))~~ chapter 3, Laws of 1981.

Subject to guidelines established by the board, the board's executive director may delegate to board staff any of the executive director's powers and duties including, but not limited to, the power to make investment decisions and to execute investment and other contracts on behalf of the board.

NEW SECTION. **Sec. 2.** A new section is added to chapter 43.33A RCW to read as follows:

The board or its executive director may delegate by contract to private sector or other external advisors or managers the discretionary authority, as fiduciaries, to purchase or otherwise acquire, sell, or otherwise dispose of or manage investments or investment properties on behalf of the board, subject to investment or management criteria established by the board or its executive director. Such criteria relevant to particular investments or class of investment applicable under the board's contract with an advisor or manager must be incorporated by reference into the contract.

Passed the House March 6, 1997.

Passed the Senate April 10, 1997.

Approved by the Governor April 23, 1997.

Filed in Office of Secretary of State April 23, 1997.

CHAPTER 162

[House Bill 1610]

ISSUANCE OF SHORT-TERM NOTES BY UTILITIES—EXEMPTIONS FROM PREAPPROVAL REQUIREMENTS

AN ACT Relating to exempting regulated utilities from seeking commission preapproval of some short-term notes having a maturity of twelve or fewer months; and adding a new section to chapter 80.08 RCW.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. Sec. 1. A new section is added to chapter 80.08 RCW to read as follows:

A public service company may issue notes, except demand notes, for proper purposes and not in violation of any provision of this chapter, or any other law, payable at periods of not more than twelve months after the date of issuance, without complying with the requirements of RCW 80.08.040, but no such note may be refunded, in whole or in part, by any issue of stock or stock certificates or other evidence of interest or ownership, or bonds, notes, or other evidence of indebtedness, without compliance with RCW 80.08.040. However, compliance with RCW 80.08.040 is required for the issuance of any note or notes issued as part of a single borrowing transaction of one million dollars or more payable at periods of less than twelve months after the date of issuance by any public service company that is subject to the federal power act unless such note or notes aggregates together with all other then outstanding notes and drafts of a maturity of twelve months or less on which such public service company is primarily or secondarily liable not more than five percent of the par value of other securities of such company then outstanding, computed, in the case of securities having no par value, on the basis of the fair market value as of the date of issuance.

Passed the House March 6, 1997.

Passed the Senate April 10, 1997.

Approved by the Governor April 23, 1997.

Filed in Office of Secretary of State April 23, 1997.

CHAPTER 163

[House Bill 1928]

WASHINGTON STATE HOUSING FINANCE COMMISSION—IMPOSITION OF COVENANTS

AN ACT Relating to the Washington state housing finance commission; and amending RCW 43.180.080.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 43.180.080 and 1983 c 161 s 8 are each amended to read as follows:

In addition to other powers and duties specified in this chapter, the commission may:

(1) Establish in resolutions relating to any issuance of bonds, or in any financing documents relating to such issuance, such standards and requirements applicable to the purchase of mortgages and mortgage loans or the making of loans to mortgage lenders as the commission deems necessary or desirable, including but not limited to: (a) The time within which mortgage lenders must make commitments and disbursements for mortgages or mortgage loans; (b) the location and other characteristics of single-family housing or multifamily housing to be financed by mortgages and mortgage loans; (c) the terms and conditions of mortgages and mortgage loans to be acquired; (d) the amounts and types of

insurance coverage required on mortgages, mortgage loans, and bonds; (e) the representations and warranties of mortgage lenders confirming compliance with such standards and requirements; (f) restrictions as to interest rate and other terms of mortgages or mortgage loans or the return realized therefrom by mortgage lenders; (g) the type and amount of collateral security to be provided to assure repayment of any loans from the commission and to assure repayment of bonds; and (h) any other matters related to the purchase of mortgages or mortgage loans or the making of loans to lending institutions as shall be deemed relevant by the commission;

(2) Sue and be sued in its own name;

(3) Make and execute contracts and all other instruments necessary or convenient for the exercise of its purposes or powers, including but not limited to contracts or agreements for the origination, servicing, and administration of mortgages or mortgage loans, and the borrowing of money;

(4) Procure such insurance, including but not limited to insurance: (a) Against any loss in connection with its property and other assets, including but not limited to mortgages or mortgage loans, in such amounts and from such insurers as the commission deems desirable, and (b) to indemnify members of the commission for acts done in the course of their duties;

(5) Provide for the investment of any funds, including funds held in reserve, not required for immediate disbursement, and provide for the selection of investments;

(6) Fix, revise, and collect fees and charges in connection with the investigation and financing of housing or in connection with assignments, contracts, purchases of mortgages or mortgage loans, or any other actions permitted under this chapter or by the commission; and receive grants and contributions;

(7) Make such expenditures as are appropriate for paying the administrative costs of the commission and for carrying out the provisions of this chapter. These expenditures may be made only from funds consisting of the commission's receipts from fees and charges, grants and contributions, the proceeds of bonds issued by the commission, and other revenues; these expenditures shall not be made from funds of the state of Washington;

(8) Establish such special funds, and controls on deposits to and disbursements from them, as it finds convenient for the implementation of this chapter;

(9) Conduct such investigations and feasibility studies as it deems appropriate;

(10) Proceed with foreclosure actions or accept deeds in lieu of foreclosure together with the assignments of leases and rentals incidental thereto. Any properties acquired by the commission through such actions shall be sold as soon as practicable through persons licensed under chapter 18.85 RCW or at public auction, or by transfer to a public agency. In preparation for the disposition of the properties, the commission may own, lease, clear, construct, reconstruct, rehabilitate, repair, maintain, manage, operate, assign, or encumber the properties;

(11) Take assignments of leases and rentals;

(12) Subject to any provisions of the commission's contracts with the holders of obligations of the commission, consent to any modification with respect to rate of interest, time, and payment of any installment of principal or interest or any other term of any contract, mortgage, mortgage loan, mortgage loan commitment, contract, or agreement of any kind;

(13) Subject to provisions of the commission's contracts with the holders of bonds, permit the reduction of rental or carrying charges to persons unable to pay the regular rent or schedule of charges if, by reason of other income of the commission or by reason of payment by any department, agency, or instrumentality of the United States or of this state, the reduction can be made without jeopardizing the economic stability of the housing being financed;

(14) Sell, at public or private sale, with or without public bidding, any mortgage, mortgage loan, or other instrument or asset held by the commission;

(15) Employ, contract with, or engage engineers, architects, attorneys, financial advisors, bond underwriters, mortgage lenders, mortgage administrators, housing construction or financing experts, other technical or professional assistants, and such other personnel as are necessary. The commission may delegate to the appropriate persons the power to execute legal instruments on its behalf;

(16) Receive contributions or grants from any source unless otherwise prohibited;

(17) Impose covenants running with the land in order to satisfy and enforce the requirements of applicable state and federal law and commission policy with respect to housing or other facilities financed by the commission or assisted by federal, state, or local programs administered by the commission, by executing and recording regulatory agreements or other covenants between the commission and the person or entity to be bound. These regulatory agreements and covenants shall run with the land and be enforceable by the commission or its successors or assigns against the person or entity making the regulatory agreement or covenants or its successors or assigns, even though there may be no privity of estate or privity of contract between the commission or its successors or assigns and the person or entity against whom enforcement is sought. The term of any such covenant shall be set forth in the recorded agreement containing the covenant. This subsection shall apply to regulatory agreements and covenants previously entered into by the commission as well as regulatory agreements and covenants entered into by the commission on or after the effective date of this act;

(18) Delegate any of its powers and duties if consistent with the purposes of this chapter;

~~((18))~~ (19) Exercise any other power reasonably required to implement the purposes of this chapter.

Passed the House March 13, 1997.
Passed the Senate April 10, 1997.
Approved by the Governor April 23, 1997.
Filed in Office of Secretary of State April 23, 1997.

CHAPTER 164

[Second Substitute House Bill 2239]

**ENHANCED ADULT RESIDENTIAL CARE—CONVERSION OF NURSING HOME BED
CAPACITY**

AN ACT Relating to enhanced adult residential care services; and adding a new section to chapter 18.20 RCW.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. **Sec. 1.** A new section is added to chapter 18.20 RCW to read as follows:

For the purpose of encouraging a nursing home licensed under chapter 18.51 RCW to convert a portion or all of its licensed bed capacity to provide enhanced adult residential care contracted services under chapter 74.39A RCW, the department shall:

(1) Find the nursing home to be in satisfactory compliance with RCW 18.20.110 and 18.20.130, upon application for boarding home licensure and the production of copies of its most recent nursing home inspection reports demonstrating compliance with the safety standards and fire regulations, as required by RCW 18.51.140, and the state building code, as required by RCW 18.51.145, including any waivers that may have been granted. However, boarding home licensure requirements pertaining to resident to bathing fixture/toilet ratio, corridor call system, resident room door closures, and resident room windows may require modification, unless determined to be functionally equivalent, based upon a precensure survey inspection.

(2) Allow residents receiving enhanced adult residential care services to make arrangements for on-site health care services, consistent with Title 18 RCW regulating health care professions, to the extent that such services can be provided while maintaining the resident's right to privacy and safety in treatment, but this in no way means that such services may only be provided in a private room. The provision of on-site health care services must otherwise be consistent with RCW 18.20.160 and the rules adopted under RCW 18.20.160.

Passed the House March 15, 1997.
Passed the Senate April 8, 1997.
Approved by the Governor April 23, 1997.
Filed in Office of Secretary of State April 23, 1997.

CHAPTER 165

[Senate Bill 5283]

OFFENDER FUNDS—CLARIFICATION OF DEDUCTIONS

AN ACT Relating to clarifying deductions from offender funds other than wages and gratuities; and amending RCW 72.09.480.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 72.09.480 and 1995 1st sp.s. c 19 s 8 are each amended to read as follows:

(1) Unless the context clearly requires otherwise, the definitions in this section apply to this section.

(a) "Cost of incarceration" means the cost of providing an inmate with shelter, food, clothing, transportation, supervision, and other services and supplies as may be necessary for the maintenance and support of the inmate while in the custody of the department, based on the average per inmate costs established by the department and the office of financial management.

(b) "Minimum term of confinement" means the minimum amount of time an inmate will be confined in the custody of the department, considering the sentence imposed and adjusted for the total potential earned early release time available to the inmate.

(2) When an inmate receives any funds in addition to his or her wages or gratuities, the additional funds shall be subject to the deductions in RCW 72.09.111(1)(a) and the priorities established in chapter 72.11 RCW.

(3) The amount deducted from an inmate's funds under subsection (2) of this section shall not exceed the department's total cost of incarceration for the inmate incurred during the inmate's minimum or actual term of confinement, whichever is longer.

Passed the Senate March 12, 1997.
Passed the House April 11, 1997.
Approved by the Governor April 23, 1997.
Filed in Office of Secretary of State April 23, 1997.

CHAPTER 166

[Senate Bill 5370]

TELECOMMUNICATIONS RATE REDUCTIONS—STREAMLINE OF PROCESS

AN ACT Relating to reducing the time required for public notice of telecommunications rate reductions; and reenacting and amending RCW 80.36.110.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 80.36.110 and 1989 c 152 s 2 and 1989 c 101 s 10 are each reenacted and amended to read as follows:

(1) Except as provided in subsection (2) of this section, unless the commission otherwise orders, no change shall be made in any rate, toll, rental, or charge, ((which shall have been)) ~~that was~~ filed and published by any telecommunications

company in compliance with the requirements of RCW 80.36.100, except after thirty days' notice to the commission and publication for thirty days as required in the case of original schedules in RCW 80.36.100, which notice shall plainly state the changes proposed to be made in the schedule then in force, and the time when the changed rate, toll, or charge will go into effect, and all proposed changes shall be shown by printing, filing and publishing new schedules, or shall be plainly indicated upon the schedules in force at the time and kept open to public inspection. Proposed changes may be suspended by the commission within thirty days or before the stated effective date of the proposed change, whichever is later. The commission for good cause shown may allow changes in rates, charges, tolls, or rentals without requiring the thirty days' notice and publication (~~herein~~) provided for in this section, by an order specifying the change (~~to~~) to be made and the time when it (~~shall~~) takes effect, and the manner in which the (~~same shall~~) change will be filed and published. When any change is made in any rate, toll, rental, or charge, the effect of which is to increase any rate, toll, rental, or charge then existing, attention shall be directed on the copy filed with the commission to (~~such~~) the increase by some character immediately preceding or following the item in (~~such~~) the schedule, which character shall be in such a form as the commission may designate.

(2) A telecommunications company may file a tariff that decreases any rate, charge, rental, or toll with ten days' notice to the commission and publication without receiving a special order from the commission when the filing does not contain an offsetting increase to another rate, charge, rental, or toll, and the filing company agrees not to file for an increase to any rate, charge, rental, or toll to recover the revenue deficit that results from the decrease for a period of one year.

Passed the Senate March 14, 1997.

Passed the House April 11, 1997.

Approved by the Governor April 23, 1997.

Filed in Office of Secretary of State April 23, 1997.

CHAPTER 167

[Substitute Senate Bill 5394]

SCHOOL AUDITS—PROCEDURES WHEN STATE MONEY IS INVOLVED

AN ACT Relating to school audits; and adding a new section to chapter 28A.300 RCW.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. **Sec. 1.** A new section is added to chapter 28A.300 RCW to read as follows:

The superintendent of public instruction shall withhold or recover state payments to school districts, educational service districts, and other recipients of state money based on findings of the Washington state auditor. When an audit questions enrollment, staffing, or other data reported to the state and used in state apportionment calculations, the superintendent of public instruction may require

submission of revised data, or as an alternative may adjust data based on estimates, and shall revise apportionment calculations and payments accordingly. The superintendent of public instruction shall adopt rules setting forth policies and procedures for the resolution of monetary and nonmonetary audit findings involving state money.

Passed the Senate March 6, 1997.

Passed the House April 14, 1997.

Approved by the Governor April 23, 1997.

Filed in Office of Secretary of State April 23, 1997.

CHAPTER 168

[Substitute Senate Bill 5472]

CASELOAD FORECAST COUNCIL

AN ACT Relating to state caseload forecasts; amending RCW 41.06.087 and 43.88.160; reenacting and amending RCW 43.88.030; adding a new chapter to Title 43 RCW; providing an effective date; and declaring an emergency.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. Sec. 1. (1) The caseload forecast council is hereby created. The council shall consist of two individuals appointed by the governor and four individuals, one of whom is appointed by the chairperson of each of the two largest political caucuses in the senate and house of representatives. The chair of the council shall be selected from among the four caucus appointees. The council may select such other officers as the members deem necessary.

(2) The council shall employ a caseload forecast supervisor to supervise the preparation of all caseload forecasts. As used in this chapter, "supervisor" means the caseload forecast supervisor.

(3) Approval by an affirmative vote of at least five members of the council is required for any decisions regarding employment of the supervisor. Employment of the supervisor shall terminate after each term of three years. At the end of the first year of each three-year term the council shall consider extension of the supervisor's term by one year. The council may fix the compensation of the supervisor. The supervisor shall employ staff sufficient to accomplish the purposes of this section.

(4) The caseload forecast council shall oversee the preparation of and approve, by an affirmative vote of at least four members, the official state caseload forecasts prepared under section 2 of this act. If the council is unable to approve a forecast before a date required in section 2 of this act, the supervisor shall submit the forecast without approval and the forecast shall have the same effect as if approved by the council.

(5) A council member who does not cast an affirmative vote for approval of the official caseload forecast may request, and the supervisor shall provide, an alternative forecast based on assumptions specified by the member.

(6) Members of the caseload forecast council shall serve without additional compensation but shall be reimbursed for travel expenses in accordance with RCW 44.04.120 while attending sessions of the council or on official business authorized by the council. Nonlegislative members of the council shall be reimbursed for travel expenses in accordance with RCW 43.03.050 and 43.03.060.

(7) "Caseload," as used in this chapter, means the number of persons expected to meet entitlement requirements and require the services of public assistance programs, state correctional institutions, state institutions for juvenile offenders, the common school system, long-term care, medical assistance, foster care, and adoption support.

(8) Unless the context clearly requires otherwise, the definitions provided in RCW 43.88.020 apply to this chapter.

NEW SECTION. Sec. 2. (1) In consultation with the caseload forecast work group established under section 3 of this act, and subject to the approval of the caseload forecast council under section 1 of this act, the supervisor shall prepare:

(a) An official state caseload forecast; and

(b) Other caseload forecasts based on alternative assumptions as the council may determine.

(2) The supervisor shall submit caseload forecasts prepared under this section, along with any unofficial forecasts provided under section 1 of this act, to the governor and the members of the legislative fiscal committees, including one copy to the staff of each of the committees. The forecasts shall be submitted at least three times each year and on such dates as the council determines will facilitate the development of budget proposals by the governor and the legislature.

(3) All agencies of state government shall provide to the supervisor immediate access to all information relating to caseload forecasts.

(4) The administrator of the legislative evaluation and accountability program committee may request, and the supervisor shall provide, alternative caseload forecasts based on assumptions specified by the administrator.

(5) The official state caseload forecast under this section shall be the basis of the governor's budget document as provided in RCW 43.88.030 and utilized by the legislature in the development of the omnibus biennial appropriations act.

NEW SECTION. Sec. 3. (1) To promote the free flow of information and to promote legislative and executive input in the development of assumptions and preparation of forecasts, immediate access to all information and statistical models relating to caseload forecasts shall be available to the caseload forecast work group, hereby created. Each state agency affected by caseloads shall submit caseload reports and data to the council as soon as the reports and data are available and shall provide to the council and the supervisor such additional raw, program-level data or information as may be necessary for discharge of their respective duties.

(2) The caseload forecast work group shall consist of one staff member selected by the executive head or chairperson of each of the following agencies, programs, or committees:

- (a) Office of financial management;
- (b) Ways and means committee, or its successor, of the senate;
- (c) Appropriations committee, or its successor, of the house of representatives;
- (d) Legislative evaluation and accountability program committee; and
- (e) Each state program for which the council forecasts the caseload.

(3) The caseload forecast work group shall provide technical support to the caseload forecast council. Meetings of the caseload forecast work group may be called by any member of the group for the purpose of assisting the council, reviewing forecasts, or for any other purpose that may assist the council.

Sec. 4. RCW 41.06.087 and 1990 c 229 s 3 are each amended to read as follows:

In addition to the exemptions set forth in RCW 41.06.070, this chapter does not apply to the economic and revenue forecast supervisor and staff employed under RCW 82.33.010 or the caseload forecast supervisor and staff employed under section 1 of this act.

Sec. 5. RCW 43.88.030 and 1994 c 247 s 7 and 1994 c 219 s 2 are each reenacted and amended to read as follows:

(1) The director of financial management shall provide all agencies with a complete set of instructions for submitting biennial budget requests to the director at least three months before agency budget documents are due into the office of financial management. The director shall provide agencies that are required under RCW 44.40.070 to develop comprehensive six-year program and financial plans with a complete set of instructions for submitting these program and financial plans at the same time that instructions for submitting other budget requests are provided. The budget document or documents shall consist of the governor's budget message which shall be explanatory of the budget and shall contain an outline of the proposed financial policies of the state for the ensuing fiscal period, as well as an outline of the proposed six-year financial policies where applicable, and shall describe in connection therewith the important features of the budget. The message shall set forth the reasons for salient changes from the previous fiscal period in expenditure and revenue items and shall explain any major changes in financial policy. Attached to the budget message shall be such supporting schedules, exhibits and other explanatory material in respect to both current operations and capital improvements as the governor shall deem to be useful to the legislature. The budget document or documents shall set forth a proposal for expenditures in the ensuing fiscal period, or six-year period where applicable, based upon the estimated revenues and caseloads as approved by the economic and revenue forecast council and caseload forecast council or upon the estimated revenues and caseloads of the office of financial management for those funds, accounts, ~~((and))~~ sources, and programs for which the ~~((office of the economic and~~

revenue)) forecast councils ~~((does))~~ do not prepare an official forecast, including those revenues anticipated to support the six-year programs and financial plans under RCW 44.40.070. In estimating revenues to support financial plans under RCW 44.40.070, the office of financial management shall rely on information and advice from the interagency revenue task force. Revenues shall be estimated for such fiscal period from the source and at the rates existing by law at the time of submission of the budget document, including the supplemental budgets submitted in the even-numbered years of a biennium. However, the estimated revenues and caseloads for use in the governor's budget document may be adjusted to reflect budgetary revenue transfers and revenue and caseload estimates dependent upon budgetary assumptions of enrollments, workloads, and caseloads. All adjustments to the approved estimated revenues and caseloads must be set forth in the budget document. The governor may additionally submit, as an appendix to each supplemental, biennial, or six-year agency budget or to the budget document or documents, a proposal for expenditures in the ensuing fiscal period from revenue sources derived from proposed changes in existing statutes or modifications to caseloads based on program changes.

Supplemental and biennial documents shall reflect a six-year expenditure plan consistent with estimated revenues from existing sources and at existing rates for those agencies required to submit six-year program and financial plans under RCW 44.40.070. Any additional revenue resulting from proposed changes to existing statutes shall be separately identified within the document as well as related expenditures for the six-year period.

The budget document or documents shall also contain:

(a) Revenues classified by fund and source for the immediately past fiscal period, those received or anticipated for the current fiscal period, those anticipated for the ensuing biennium, and those anticipated for the ensuing six-year period to support the six-year programs and financial plans required under RCW 44.40.070;

(b) The undesignated fund balance or deficit, by fund;

(c) Such additional information dealing with expenditures, revenues, workload, performance, and personnel as the legislature may direct by law or concurrent resolution;

(d) Such additional information dealing with revenues and expenditures as the governor shall deem pertinent and useful to the legislature;

(e) Tabulations showing expenditures classified by fund, function, activity and object;

(f) A delineation of each agency's activities, including those activities funded from nonbudgeted, nonappropriated sources, including funds maintained outside the state treasury;

(g) Identification of all proposed direct expenditures to implement the Puget Sound water quality plan under chapter ~~((90.70))~~ 90.71 RCW, shown by agency and in total; and

(h) Tabulations showing each postretirement adjustment by retirement system established after fiscal year 1991, to include, but not be limited to, estimated total payments made to the end of the previous biennial period, estimated payments for the present biennium, and estimated payments for the ensuing biennium.

(2) The budget document or documents shall include detailed estimates of all anticipated revenues applicable to proposed operating or capital expenditures and shall also include all proposed operating or capital expenditures. The total of beginning undesignated fund balance and estimated revenues less working capital and other reserves shall equal or exceed the total of proposed applicable expenditures. The budget document or documents shall further include:

- (a) Interest, amortization and redemption charges on the state debt;
- (b) Payments of all reliefs, judgments and claims;
- (c) Other statutory expenditures;
- (d) Expenditures incident to the operation for each agency;
- (e) Revenues derived from agency operations;

(f) Expenditures and revenues shall be given in comparative form showing those incurred or received for the immediately past fiscal period and those anticipated for the current biennium and next ensuing biennium, as well as those required to support the six-year programs and financial plans required under RCW 44.40.070;

(g) A showing and explanation of amounts of general fund and other funds obligations for debt service and any transfers of moneys that otherwise would have been available for appropriation;

(h) Common school expenditures on a fiscal-year basis;

(i) A showing, by agency, of the value and purpose of financing contracts for the lease/purchase or acquisition of personal or real property for the current and ensuing fiscal periods; and

(j) A showing and explanation of anticipated amounts of general fund and other funds required to amortize the unfunded actuarial accrued liability of the retirement system specified under chapter 41.45 RCW, and the contributions to meet such amortization, stated in total dollars and as a level percentage of total compensation.

(3) A separate capital budget document or schedule shall be submitted that will contain the following:

(a) A statement setting forth a long-range facilities plan for the state that identifies and includes the highest priority needs within affordable spending levels;

(h) A capital program consisting of proposed capital projects for the next biennium and the two biennia succeeding the next biennium consistent with the long-range facilities plan. Inasmuch as is practical, and recognizing emergent needs, the capital program shall reflect the priorities, projects, and spending levels proposed in previously submitted capital budget documents in order to provide a reliable long-range planning tool for the legislature and state agencies;

(c) A capital plan consisting of proposed capital spending for at least four biennia succeeding the next biennium;

(d) A statement of the reason or purpose for a project;

(e) Verification that a project is consistent with the provisions set forth in chapter 36.70A RCW;

(f) A statement about the proposed site, size, and estimated life of the project, if applicable;

(g) Estimated total project cost;

(h) For major projects valued over five million dollars, estimated costs for the following project components: Acquisition, consultant services, construction, equipment, project management, and other costs included as part of the project. Project component costs shall be displayed in a standard format defined by the office of financial management to allow comparisons between projects;

(i) Estimated total project cost for each phase of the project as defined by the office of financial management;

(j) Estimated ensuing biennium costs;

(k) Estimated costs beyond the ensuing biennium;

(l) Estimated construction start and completion dates;

(m) Source and type of funds proposed;

(n) Estimated ongoing operating budget costs or savings resulting from the project, including staffing and maintenance costs;

(o) For any capital appropriation requested for a state agency for the acquisition of land or the capital improvement of land in which the primary purpose of the acquisition or improvement is recreation or wildlife habitat conservation, the capital budget document, or an omnibus list of recreation and habitat acquisitions provided with the governor's budget document, shall identify the projected costs of operation and maintenance for at least the two biennia succeeding the next biennium. Omnibus lists of habitat and recreation land acquisitions shall include individual project cost estimates for operation and maintenance as well as a total for all state projects included in the list. The document shall identify the source of funds from which the operation and maintenance costs are proposed to be funded;

(p) Such other information bearing upon capital projects as the governor deems to be useful;

(q) Standard terms, including a standard and uniform definition of maintenance for all capital projects;

(r) Such other information as the legislature may direct by law or concurrent resolution.

For purposes of this subsection (3), the term "capital project" shall be defined subsequent to the analysis, findings, and recommendations of a joint committee comprised of representatives from the house capital appropriations committee, senate ways and means committee, legislative transportation committee, legislative

evaluation and accountability program committee, and office of financial management.

(4) No change affecting the comparability of agency or program information relating to expenditures, revenues, workload, performance and personnel shall be made in the format of any budget document or report presented to the legislature under this section or RCW 43.88.160(1) relative to the format of the budget document or report which was presented to the previous regular session of the legislature during an odd-numbered year without prior legislative concurrence. Prior legislative concurrence shall consist of (a) a favorable majority vote on the proposal by the standing committees on ways and means of both houses if the legislature is in session or (b) a favorable majority vote on the proposal by members of the legislative evaluation and accountability program committee if the legislature is not in session.

Sec. 6. RCW 43.88.160 and 1996 c 288 s 25 are each amended to read as follows:

This section sets forth the major fiscal duties and responsibilities of officers and agencies of the executive branch. The regulations issued by the governor pursuant to this chapter shall provide for a comprehensive, orderly basis for fiscal management and control, including efficient accounting and reporting therefor, for the executive branch of the state government and may include, in addition, such requirements as will generally promote more efficient public management in the state.

(1) Governor; director of financial management. The governor, through the director of financial management, shall devise and supervise a modern and complete accounting system for each agency to the end that all revenues, expenditures, receipts, disbursements, resources, and obligations of the state shall be properly and systematically accounted for. The accounting system shall include the development of accurate, timely records and reports of all financial affairs of the state. The system shall also provide for central accounts in the office of financial management at the level of detail deemed necessary by the director to perform central financial management. The director of financial management shall adopt and periodically update an accounting procedures manual. Any agency maintaining its own accounting and reporting system shall comply with the updated accounting procedures manual and the rules of the director adopted under this chapter. An agency may receive a waiver from complying with this requirement if the waiver is approved by the director. Waivers expire at the end of the fiscal biennium for which they are granted. The director shall forward notice of waivers granted to the appropriate legislative fiscal committees. The director of financial management may require such financial, statistical, and other reports as the director deems necessary from all agencies covering any period.

(2) Except as provided in chapter 43, — RCW (sections 1 through 3 of this act), the director of financial management is responsible for quarterly reporting of primary operating budget drivers such as applicable workloads, caseload estimates,

and appropriate unit cost data. These reports shall be transmitted to the legislative fiscal committees or by electronic means to the legislative evaluation and accountability program committee. Quarterly reports shall include actual monthly data and the variance between actual and estimated data to date. The reports shall also include estimates of these items for the remainder of the budget period.

(3) The director of financial management shall report at least annually to the appropriate legislative committees regarding the status of all appropriated capital projects, including transportation projects, showing significant cost overruns or underruns. If funds are shifted from one project to another, the office of financial management shall also reflect this in the annual variance report. Once a project is complete, the report shall provide a final summary showing estimated start and completion dates of each project phase compared to actual dates, estimated costs of each project phase compared to actual costs, and whether or not there are any outstanding liabilities or unsettled claims at the time of completion.

(4) In addition, the director of financial management, as agent of the governor, shall:

(a) Develop and maintain a system of internal controls and internal audits comprising methods and procedures to be adopted by each agency that will safeguard its assets, check the accuracy and reliability of its accounting data, promote operational efficiency, and encourage adherence to prescribed managerial policies for accounting and financial controls. The system developed by the director shall include criteria for determining the scope and comprehensiveness of internal controls required by classes of agencies, depending on the level of resources at risk.

Each agency head or authorized designee shall be assigned the responsibility and authority for establishing and maintaining internal audits following the standards of internal auditing of the institute of internal auditors;

(b) Make surveys and analyses of agencies with the object of determining better methods and increased effectiveness in the use of manpower and materials; and the director shall authorize expenditures for employee training to the end that the state may benefit from training facilities made available to state employees;

(c) Establish policies for allowing the contracting of child care services;

(d) Report to the governor with regard to duplication of effort or lack of coordination among agencies;

(e) Review any pay and classification plans, and changes thereunder, developed by any agency for their fiscal impact: PROVIDED, That none of the provisions of this subsection shall affect merit systems of personnel management now existing or hereafter established by statute relating to the fixing of qualifications requirements for recruitment, appointment, or promotion of employees of any agency. The director shall advise and confer with agencies including appropriate standing committees of the legislature as may be designated by the speaker of the house and the president of the senate regarding the fiscal impact of such plans and may amend or alter said plans, except that for the

following agencies no amendment or alteration of said plans may be made without the approval of the agency concerned: Agencies headed by elective officials;

(f) Fix the number and classes of positions or authorized man years of employment for each agency and during the fiscal period amend the determinations previously fixed by the director except that the director shall not be empowered to fix said number or said classes for the following: Agencies headed by elective officials;

(g) Adopt rules to effectuate provisions contained in (a) through (f) of this subsection.

(5) The treasurer shall:

(a) Receive, keep, and disburse all public funds of the state not expressly required by law to be received, kept, and disbursed by some other persons: PROVIDED, That this subsection shall not apply to those public funds of the institutions of higher learning which are not subject to appropriation;

(b) Receive, disburse, or transfer public funds under the treasurer's supervision or custody;

(c) Keep a correct and current account of all moneys received and disbursed by the treasurer, classified by fund or account;

(d) Coordinate agencies' acceptance and use of credit cards and other payment methods, if the agencies have received authorization under RCW 43.41.180;

(e) Perform such other duties as may be required by law or by regulations issued pursuant to this law.

It shall be unlawful for the treasurer to disburse public funds in the treasury except upon forms or by alternative means duly prescribed by the director of financial management. These forms or alternative means shall provide for authentication and certification by the agency head or the agency head's designee that the services have been rendered or the materials have been furnished; or, in the case of loans or grants, that the loans or grants are authorized by law; or, in the case of payments for periodic maintenance services to be performed on state owned equipment, that a written contract for such periodic maintenance services is currently in effect and copies thereof are on file with the office of financial management; and the treasurer shall not be liable under the treasurer's surety bond for erroneous or improper payments so made. When services are lawfully paid for in advance of full performance by any private individual or business entity other than as provided for by RCW 42.24.035, such individual or entity other than central stores rendering such services shall make a cash deposit or furnish surety bond coverage to the state as shall be fixed in an amount by law, or if not fixed by law, then in such amounts as shall be fixed by the director of the department of general administration but in no case shall such required cash deposit or surety bond be less than an amount which will fully indemnify the state against any and all losses on account of breach of promise to fully perform such services. No payments shall be made in advance for any equipment maintenance services to be performed more than three months after such payment. Any such bond so

furnished shall be conditioned that the person, firm or corporation receiving the advance payment will apply it toward performance of the contract. The responsibility for recovery of erroneous or improper payments made under this section shall lie with the agency head or the agency head's designee in accordance with regulations issued pursuant to this chapter. Nothing in this section shall be construed to permit a public body to advance funds to a private service provider pursuant to a grant or loan before services have been rendered or material furnished.

(6) The state auditor shall:

(a) Report to the legislature the results of current post audits that have been made of the financial transactions of each agency; to this end the auditor may, in the auditor's discretion, examine the books and accounts of any agency, official, or employee charged with the receipt, custody, or safekeeping of public funds. Where feasible in conducting examinations, the auditor shall utilize data and findings from the internal control system prescribed by the office of financial management. The current post audit of each agency may include a section on recommendations to the legislature as provided in (c) of this subsection.

(b) Give information to the legislature, whenever required, upon any subject relating to the financial affairs of the state.

(c) Make the auditor's official report on or before the thirty-first of December which precedes the meeting of the legislature. The report shall be for the last complete fiscal period and shall include determinations as to whether agencies, in making expenditures, complied with the laws of this state. The state auditor is authorized to perform or participate in performance verifications and performance audits as expressly authorized by the legislature in the omnibus biennial appropriations acts or in the performance audit work plan approved by the joint legislative audit and review committee. The state auditor, upon completing an audit for legal and financial compliance under chapter 43.09 RCW or a performance verification, may report to the joint legislative audit and review committee or other appropriate committees of the legislature, in a manner prescribed by the joint legislative audit and review committee, on facts relating to the management or performance of governmental programs where such facts are discovered incidental to the legal and financial audit or performance verification. The auditor may make such a report to a legislative committee only if the auditor has determined that the agency has been given an opportunity and has failed to resolve the management or performance issues raised by the auditor. If the auditor makes a report to a legislative committee, the agency may submit to the committee a response to the report. This subsection (6) shall not be construed to authorize the auditor to allocate other than de minimis resources to performance audits except as expressly authorized in the appropriations acts or in the performance audit work plan. The results of a performance audit conducted by the state auditor that has been requested by the joint legislative audit and review committee must only be transmitted to the joint legislative audit and review committee.

(d) Be empowered to take exception to specific expenditures that have been incurred by any agency or to take exception to other practices related in any way to the agency's financial transactions and to cause such exceptions to be made a matter of public record, including disclosure to the agency concerned and to the director of financial management. It shall be the duty of the director of financial management to cause corrective action to be taken promptly, such action to include, as appropriate, the withholding of funds as provided in RCW 43.88.110.

(e) Promptly report any irregularities to the attorney general.

(f) Investigate improper governmental activity under chapter 42.40 RCW.

(7) The joint legislative audit and review committee may:

(a) Make post audits of the financial transactions of any agency and management surveys and program reviews as provided for in chapter 44.28 RCW as well as performance audits and program evaluations. To this end the joint committee may in its discretion examine the books, accounts, and other records of any agency, official, or employee.

(b) Give information to the legislature or any legislative committee whenever required upon any subject relating to the performance and management of state agencies.

(c) Make a report to the legislature which shall include at least the following:

(i) Determinations as to the extent to which agencies in making expenditures have complied with the will of the legislature and in this connection, may take exception to specific expenditures or financial practices of any agencies; and

(ii) Such plans as it deems expedient for the support of the state's credit, for lessening expenditures, for promoting frugality and economy in agency affairs, and generally for an improved level of fiscal management.

NEW SECTION. Sec. 7. Sections 1 through 3 of this act constitute a new chapter in Title 43 RCW.

NEW SECTION. Sec. 8. This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect July 1, 1997.

Passed the Senate March 6, 1997.

Passed the House April 14, 1997.

Approved by the Governor April 23, 1997.

Filed in Office of Secretary of State April 23, 1997.

CHAPTER 169

[Substitute Senate Bill 5612]

ARCHITECT REGISTRATION—INTERN AND WORK EXPERIENCE

AN ACT Relating to the registration of architects; amending RCW 18.08.350; and providing an effective date.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 18.08.350 and 1993 c 475 s 2 are each amended to read as follows:

(1) A certificate of registration shall be granted by the director to all qualified applicants who are certified by the board as having passed the required examination and as having given satisfactory proof of completion of the required experience.

(2) Applications for examination shall be filed as the board prescribes by rule. The application and examination fees shall be determined by the director under RCW 43.24.086.

(3) An applicant for registration as an architect shall be of a good moral character, at least eighteen years of age, and shall possess ~~((any))~~ either of the following qualifications:

(a) Have an accredited architectural degree and three years' practical architectural work experience and have completed the requirements of a structured intern training program approved by the board ~~((, which may include designing buildings as a principal activity. At least two years' work experience must be supervised by an architect with detailed professional knowledge of the work of the applicant))~~; or

(b) Have eight years' practical architectural work experience, which may include designing buildings as a principal activity, and have completed the requirements of a structured intern training program approved by the board. Each year spent in an accredited architectural education program approved by the board shall be considered one year of practical experience. At least four years' practical work experience shall be under the direct supervision of an architect.

NEW SECTION. Sec. 2. Section 1 of this act takes effect July 29, 2001.

Passed the Senate March 13, 1997.

Passed the House April 14, 1997.

Approved by the Governor April 23, 1997.

Filed in Office of Secretary of State April 23, 1997.

CHAPTER 170

[Senate Bill 5669]

METALS MINING AND MILLING FEE—COLLECTION

AN ACT Relating to the collection of the metals mining and milling fee; amending RCW 78.56.080; providing an effective date; and declaring an emergency.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 78.56.080 and 1994 c 232 s 8 are each amended to read as follows:

(1) The metals mining account is created in the state treasury. Expenditures from this account are subject to appropriation. Expenditures from this account may only be used for: (a) The additional inspections of metals mining and milling

operations required by RCW 78.56.070 and (b) the metals mining coordinator established in RCW 78.56.060.

(2)(a) As part of its normal budget development process and in consultation with the metals mining industry, the department of ecology shall estimate the costs required for the department to meet its obligations for the additional inspections of metals mining and milling operations required by chapter 232, Laws of 1994. The department shall also estimate the cost of employing the metals mining coordinator established in RCW 78.56.060.

(b) As part of its normal budget development process and in consultation with the metals mining industry, the department of natural resources shall estimate the costs required for the department to meet its obligations for the additional inspections of metals mining and milling operations required by chapter 232, Laws of 1994.

(3) Based on the cost estimates generated by the department of ecology and the department of natural resources, the department of ~~((revenue))~~ ecology shall establish the amount of a fee to be paid by each active metals mining and milling operation regulated under this chapter. The fee shall be established at a level to fully recover the direct and indirect costs of the agency responsibilities identified in subsection (2) of this section. The amount of the fee for each operation shall be proportional to the number of visits required per site. Each applicant for a metals mining and milling operation shall also be assessed the fee based on the same criterion. The department of ~~((revenue))~~ ecology may adjust the fees established in this subsection if unanticipated activity in the industry increases or decreases the amount of funding necessary to meet agencies' inspection responsibilities.

(4) The department of ~~((revenue))~~ ecology shall collect the fees established in subsection (3) of this section. ~~((Chapter 82.32 RCW, insofar as applicable, applies to the fees imposed under this section.))~~ All moneys ~~((paid to the department of revenue))~~ from these fees shall be deposited into the metals mining account.

~~((5) This section shall take effect July 1, 1995, unless the legislature adopts an alternative approach based on the recommendations of the metals mining advisory group established in section 27, chapter 232, Laws of 1994.))~~

NEW SECTION. Sec. 2. This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect July 1, 1997.

Passed the Senate March 12, 1997.

Passed the House April 14, 1997.

Approved by the Governor April 23, 1997.

Filed in Office of Secretary of State April 23, 1997.

CHAPTER 171

[Substitute Senate Bill 5670]

SOLID WASTE COLLECTION—REGULATION

AN ACT Relating to state-issued solid waste collection certificates in cities and towns; amending RCW 35.02.160, 35.13.280, and 35A.14.900; and adding a new section to chapter 81.77 RCW.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 35.02.160 and 1986 c 234 s 24 are each amended to read as follows:

The incorporation of any territory as a city or town shall cancel, as of the effective date of such incorporation, any franchise or permit theretofore granted to any person, firm or corporation by the state of Washington, or by the governing body of such incorporated territory, authorizing or otherwise permitting the operation of any public transportation, garbage (~~collection and/or~~) disposal or other similar public service business or facility within the limits of the incorporated territory, but the holder of any such franchise or permit canceled pursuant to this section shall be forthwith granted by the incorporating city or town a franchise to continue such business within the incorporated territory for a term of not less than the remaining term of the original franchise or permit, or (~~five~~) not less than seven years, whichever is the shorter period, and the incorporating city or town, by franchise, permit or public operation, shall not extend similar or competing services to the incorporated territory except upon a proper showing of the inability or refusal of such person, firm or corporation to adequately service said incorporated territory at a reasonable price: PROVIDED, That the provisions of this section shall not preclude the purchase by the incorporating city or town of said franchise, business, or facilities at an agreed or negotiated price, or from acquiring the same by condemnation upon payment of damages, including a reasonable amount for the loss of the franchise or permit. In the event that any person, firm or corporation whose franchise or permit has been canceled by the terms of this section shall suffer any measurable damages as a result of any incorporation pursuant to the provisions of chapter 35.02 RCW, such person, firm or corporation shall have a right of action against any city or town causing such damages.

After the incorporation of any city or town, the utilities and transportation commission shall continue to regulate solid waste collection within the limits of the incorporated city or town until such time as the city or town notifies the commission, in writing, of its decision to contract for solid waste collection or provide solid waste collection itself pursuant to RCW 81.77.020. In the event the incorporated city or town at any time decides to contract for solid waste collection or decides to undertake solid waste collection itself, the holder of any such franchise or permit that is so canceled in whole or in part shall be forthwith granted by the incorporated city or town a franchise to continue such business within the incorporated territory for a term of not less than the remaining term of the original franchise or permit, or not less than seven years, whichever is the shorter period.

and the incorporated city or town, by franchise, permit, or public operation, shall not extend similar or competing services to the incorporated territory except upon a proper showing of the inability or refusal of such person, firm, or corporation to adequately service the incorporated territory at a reasonable price. Upon the effective date specified by the city or town council's ordinance or resolution to have the city or town contract for solid waste collection or undertake solid waste collection itself, the transition period specified in this section begins to run. This section does not preclude the purchase by the incorporated city or town of the franchise, business, or facilities at an agreed or negotiated price, or from acquiring the same by condemnation upon payment of damages, including a reasonable amount for the loss of the franchise or permit. In the event that any person, firm, or corporation whose franchise or permit has been canceled in whole or in part by the terms of this section suffers any measurable damages as a result of any incorporation pursuant to this chapter, such person, firm, or corporation has a right of action against any city or town causing such damages.

Sec. 2. RCW 35.13.280 and 1994 c 81 s 15 are each amended to read as follows:

The annexation by any city or town of any territory pursuant to those provisions of chapter 35.10 RCW which relate to the annexation of a city or town to a city or town, or pursuant to the provisions of chapter 35.13 RCW shall cancel, as of the effective date of such annexation, any franchise or permit theretofore granted to any person, firm or corporation by the state of Washington, or by the governing body of such annexed territory, authorizing or otherwise permitting the operation of any public transportation, garbage (~~collection and/or~~) disposal or other similar public service business or facility within the limits of the annexed territory, but the holder of any such franchise or permit canceled pursuant to this section shall be forthwith granted by the annexing city or town a franchise to continue such business within the annexed territory for a term of not less than ~~((five))~~ seven years from the date of issuance thereof, and the annexing city or town, by franchise, permit or public operation, shall not extend similar or competing services to the annexed territory except upon a proper showing of the inability or refusal of such person, firm or corporation to adequately service said annexed territory at a reasonable price: PROVIDED, That the provisions of this section shall not preclude the purchase by the annexing city or town of said franchise, business, or facilities at an agreed or negotiated price, or from acquiring the same by condemnation upon payment of damages, including a reasonable amount for the loss of the franchise or permit. In the event that any person, firm or corporation whose franchise or permit has been canceled by the terms of this section shall suffer any measurable damages as a result of any annexation pursuant to the provisions of the laws above-mentioned, such person, firm or corporation shall have a right of action against any city or town causing such damages.

After an annexation by a city or town, the utilities and transportation commission shall continue to regulate solid waste collection within the limits of the

annexed territory until such time as the city or town notifies the commission, in writing, of its decision to contract for solid waste collection or provide solid waste collection itself pursuant to RCW 81.77.020. In the event the annexing city or town at any time decides to contract for solid waste collection or decides to undertake solid waste collection itself, the holder of any such franchise or permit that is so canceled in whole or in part shall be forthwith granted by the annexing city or town a franchise to continue such business within the annexed territory for a term of not less than the remaining term of the original franchise or permit, or not less than seven years, whichever is the shorter period, and the city or town, by franchise, permit, or public operation, shall not extend similar or competing services to the annexed territory except upon a proper showing of the inability or refusal of such person, firm, or corporation to adequately service the annexed territory at a reasonable price. Upon the effective date specified by the city or town council's ordinance or resolution to have the city or town contract for solid waste collection or undertake solid waste collection itself, the transition period specified in this section begins to run. This section does not preclude the purchase by the annexing city or town of the franchise, business, or facilities at an agreed or negotiated price, or from acquiring the same by condemnation upon payment of damages, including a reasonable amount for the loss of the franchise or permit. In the event that any person, firm, or corporation whose franchise or permit has been canceled by the terms of this section suffers any measurable damages as a result of any annexation pursuant to this chapter, such person, firm, or corporation has a right of action against any city or town causing such damages.

Sec. 3. RCW 35A.14.900 and 1967 ex.s. c 119 s 35A.14.900 are each amended to read as follows:

The annexation by any code city of any territory pursuant to this chapter shall cancel, as of the effective date of such annexation, any franchise or permit theretofore granted to any person, firm or corporation by the state of Washington, or by the governing body of such annexed territory, authorizing or otherwise permitting the operation of any public utility, including but not limited to, public electric, water, transportation, garbage (~~collection and/or~~) disposal or other similar public service business or facility within the limits of the annexed territory, but the holder of any such franchise or permit canceled pursuant to this section shall be forthwith granted by the annexing code city a franchise to continue such business within the annexed territory for a term of not less than ~~((five))~~ seven years from the date of issuance thereof, and the annexing code city, by franchise, permit or public operation, shall not extend similar or competing services to the annexed territory except upon a proper showing of the inability or refusal of such person, firm or corporation to adequately service said annexed territory at a reasonable price: PROVIDED, That the provisions of this section shall not preclude the purchase by the annexing code city of said franchise, business, or facilities at an agreed or negotiated price, or from acquiring the same by condemnation upon payment of damages, including a reasonable amount for the loss of the franchise

or permit. In the event that any person, firm or corporation whose franchise or permit has been canceled by the terms of this section shall suffer any measurable damages as a result of any annexation pursuant to the provisions of the laws above-mentioned, such person, firm or corporation shall have a right of action against any code city causing such damages.

After an annexation by a code city, the utilities and transportation commission shall continue to regulate solid waste collection within the limits of the annexed territory until such time as the city notifies the commission, in writing, of its decision to contract for solid waste collection or provide solid waste collection itself pursuant to RCW 81.77.020. In the event the annexing city at any time decides to contract for solid waste collection or decides to undertake solid waste collection itself, the holder of any such franchise or permit that is so canceled in whole or in part shall be forthwith granted by the annexing city a franchise to continue such business within the annexed territory for a term of not less than the remaining term of the original franchise or permit, or not less than seven years, whichever is the shorter period, and the city, by franchise, permit, or public operation, shall not extend similar or competing services to the annexed territory except upon a proper showing of the inability or refusal of such person, firm, or corporation to adequately service the annexed territory at a reasonable price. Upon the effective date specified by the code city council's ordinance or resolution to have the code city contract for solid waste collection or undertake solid waste collection itself, the transition period specified in this section begins to run. This section does not preclude the purchase by the annexing city of the franchise, business, or facilities at an agreed or negotiated price, or from acquiring the same by condemnation upon payment of damages, including a reasonable amount for the loss of the franchise or permit. In the event that any person, firm, or corporation whose franchise or permit has been canceled by the terms of this section suffers any measurable damages as a result of any annexation pursuant to this chapter, such person, firm, or corporation has a right of action against any city causing such damages.

NEW SECTION. Sec. 4. A new section is added to chapter 81.77 RCW to read as follows:

A city, town, or combined city-county may at any time reverse its decision to exercise its authority under RCW 81.77.020. In such an event, the commission shall issue a certificate to the last holder of a valid commission certificate of public convenience and necessity, or its successors or assigns, for the area reverting to commission jurisdiction. If there was no certificate existing for the area, or the previous holder was compensated for its certificate property right, the commission shall consider applications for authority under RCW 81.77.040.

NEW SECTION. Sec. 5. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

Passed the Senate March 19, 1997.

Passed the House April 10, 1997.

Approved by the Governor April 23, 1997.

Filed in Office of Secretary of State April 23, 1997.

CHAPTER 172

[Senate Bill 5681]

THIRD DEGREE ASSAULT OF HEALTH CARE PERSONNEL

AN ACT Relating to third degree assault of health care personnel; amending RCW 9A.36.031; and prescribing penalties.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 9A.36.031 and 1996 c 266 s 1 are each amended to read as follows:

(1) A person is guilty of assault in the third degree if he or she, under circumstances not amounting to assault in the first or second degree:

(a) With intent to prevent or resist the execution of any lawful process or mandate of any court officer or the lawful apprehension or detention of himself or another person, assaults another; or

(b) Assaults a person employed as a transit operator or driver by a public or private transit company while that person is operating or is in control of a vehicle that is owned or operated by the transit company and that is occupied by one or more passengers; or

(c) Assaults a school bus driver employed by a school district or a private company under contract for transportation services with a school district while the driver is operating or is in control of a school bus that is occupied by one or more passengers; or

(d) With criminal negligence, causes bodily harm to another person by means of a weapon or other instrument or thing likely to produce bodily harm; or

(e) Assaults a fire fighter or other employee of a fire department, county fire marshal's office, county fire prevention bureau, or fire protection district who was performing his or her official duties at the time of the assault; or

(f) With criminal negligence, causes bodily harm accompanied by substantial pain that extends for a period sufficient to cause considerable suffering; or

(g) Assaults a law enforcement officer or other employee of a law enforcement agency who was performing his or her official duties at the time of the assault; or

(h) Assaults a nurse, physician, or health care provider who was performing his or her nursing or health care duties at the time of the assault. For purposes of this subsection: "Nurse" means a person licensed under chapter 18.79 RCW; "physician" means a person licensed under chapter 18.57 or 18.71 RCW; and "health care provider" means a person certified under chapter 18.71 or 18.73 RCW who performs emergency medical services or a person regulated under Title 18 RCW and employed by, or contracting with, a hospital licensed under chapter 70.41 RCW.

(2) Assault in the third degree is a class C felony.

Passed the Senate March 19, 1997.

Passed the House April 10, 1997.

Approved by the Governor April 23, 1997.

Filed in Office of Secretary of State April 23, 1997.

CHAPTER 173

[Substitute Senate Bill 5714]

FOREST PRACTICES—CLASSIFICATION AND REGULATION

AN ACT Relating to the conversion of forest practices; and amending RCW 76.09.040, 76.09.050, 76.09.060, 76.09.065, 76.09.240, and 43.21C.037.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 76.09.040 and 1994 c 264 s 48 are each amended to read as follows:

(1) Where necessary to accomplish the purposes and policies stated in RCW 76.09.010, and to implement the provisions of this chapter, the board shall promulgate forest practices regulations pursuant to chapter 34.05 RCW and in accordance with the procedures enumerated in this section that:

(a) Establish minimum standards for forest practices;

(b) Provide procedures for the voluntary development of resource management plans which may be adopted as an alternative to the minimum standards in (a) of this subsection if the plan is consistent with the purposes and policies stated in RCW 76.09.010 and the plan meets or exceeds the objectives of the minimum standards;

(c) Set forth necessary administrative provisions; and

(d) Establish procedures for the collection and administration of forest practice fees as set forth by this chapter.

Forest practices regulations pertaining to water quality protection shall be promulgated individually by the board and by the department of ecology after they have reached agreement with respect thereto. All other forest practices regulations shall be promulgated by the board.

Forest practices regulations shall be administered and enforced by either the department (~~except as otherwise~~) or the local governmental entity as provided in this chapter. Such regulations shall be promulgated and administered so as to give consideration to all purposes and policies set forth in RCW 76.09.010.

(2) The board shall prepare proposed forest practices regulations. In addition to any forest practices regulations relating to water quality protection proposed by the board, the department of ecology shall prepare proposed forest practices regulations relating to water quality protection.

Prior to initiating the rule making process, the proposed regulations shall be submitted for review and comments to the department of fish and wildlife and to the counties of the state. After receipt of the proposed forest practices regulations,

the department of fish and wildlife and the counties of the state shall have thirty days in which to review and submit comments to the board, and to the department of ecology with respect to its proposed regulations relating to water quality protection. After the expiration of such thirty day period the board and the department of ecology shall jointly hold one or more hearings on the proposed regulations pursuant to chapter 34.05 RCW. At such hearing(s) any county may propose specific forest practices regulations relating to problems existing within such county. The board and the department of ecology may adopt such proposals if they find the proposals are consistent with the purposes and policies of this chapter.

Sec. 2. RCW 76.09.050 and 1994 c 264 s 49 are each amended to read as follows:

(1) The board shall establish by rule which forest practices shall be included within each of the following classes:

Class I: Minimal or specific forest practices that have no direct potential for damaging a public resource and that may be conducted without submitting an application or a notification except that when the regulating authority is transferred to a local governmental entity, those Class I forest practices that involve timber harvesting or road construction within "urban growth areas," designated pursuant to chapter 36.70A RCW, are processed as Class IV forest practices, but are not subject to environmental review under chapter 43.21C RCW;

Class II: Forest practices which have a less than ordinary potential for damaging a public resource that may be conducted without submitting an application and may begin five calendar days, or such lesser time as the department may determine, after written notification by the operator, in the manner, content, and form as prescribed by the department, is received by the department. However, the work may not begin until all forest practice fees required under RCW 76.09.065 have been received by the department. Class II shall not include forest practices:

(a) On lands platted after January 1, 1960, as provided in chapter 58.17 RCW or on lands that have or are being converted to another use;

(b) Which require approvals under the provisions of the hydraulics act, RCW 75.20.100;

(c) Within "shorelines of the state" as defined in RCW 90.58.030; ((or))

(d) Excluded from Class II by the board; or

(e) Including timber harvesting or road construction within "urban growth areas," designated pursuant to chapter 36.70A RCW, which are Class IV;

Class III: Forest practices other than those contained in Class I, II, or IV. A Class III application must be approved or disapproved by the department within thirty calendar days from the date the department receives the application. However, the applicant may not begin work on that forest practice until all forest practice fees required under RCW 76.09.065 have been received by the department;

Class IV: Forest practices other than those contained in Class I or II: (a) On lands platted after January 1, 1960, as provided in chapter 58.17 RCW, (b) on lands that have or are being converted to another use, (c) on lands which, pursuant to RCW 76.09.070 as now or hereafter amended, are not to be reforested because of the likelihood of future conversion to urban development, ~~((and/or))~~ (d) except on those lands involving timber harvesting or road construction on lands that are contained within "urban growth areas," designated pursuant to chapter 36.70A RCW, where the forest landowner provides: (i) A written statement of intent signed by the forest landowner not to convert to a use other than commercial forest product operations for ten years, accompanied by either a written forest management plan acceptable to the department or documentation that the land is enrolled under the provisions of chapter 84.33 RCW; or (ii) a conversion option harvest plan approved by the local governmental entity and submitted to the department as part of the application, and/or (e) which have a potential for a substantial impact on the environment and therefore require an evaluation by the department as to whether or not a detailed statement must be prepared pursuant to the state environmental policy act, chapter 43.21C RCW. Such evaluation shall be made within ten days from the date the department receives the application: PROVIDED, That nothing herein shall be construed to prevent any local or regional governmental entity from determining that a detailed statement must be prepared for an action pursuant to a Class IV forest practice taken by that governmental entity concerning the land on which forest practices will be conducted. A Class IV application must be approved or disapproved by the department within thirty calendar days from the date the department receives the application, unless the department determines that a detailed statement must be made, in which case the application must be approved or disapproved by the department within sixty calendar days from the date the department receives the application, unless the commissioner of public lands, through the promulgation of a formal order, determines that the process cannot be completed within such period. However, the applicant may not begin work on that forest practice until all forest practice fees required under RCW 76.09.065 have been received by the department.

Forest practices under Classes I, II, and III are exempt from the requirements for preparation of a detailed statement under the state environmental policy act.

(2) Except for those forest practices being regulated by local governmental entities as provided elsewhere in this chapter, no Class II, Class III, or Class IV forest practice shall be commenced or continued after January 1, 1975, unless the department has received a notification with regard to a Class II forest practice or approved an application with regard to a Class III or Class IV forest practice containing all information required by RCW 76.09.060 as now or hereafter amended~~((: PROVIDED, That any person commencing a forest practice during 1974 may continue such forest practice until April 1, 1975, if such person has submitted an application to the department prior to January 1, 1975. PROVIDED;~~

~~FURTHER, That)),~~ However, in the event forest practices regulations necessary for the scheduled implementation of this chapter and RCW 90.48.420 have not been adopted in time to meet such schedules, the department shall have the authority to regulate forest practices and approve applications on such terms and conditions consistent with this chapter and RCW 90.48.420 and the purposes and policies of RCW 76.09.010 until applicable forest practices regulations are in effect.

(3) Except for those forest practices being regulated by local governmental entities as provided elsewhere in this chapter, if a notification or application is delivered in person to the department by the operator or the operator's agent, the department shall immediately provide a dated receipt thereof. In all other cases, the department shall immediately mail a dated receipt to the operator.

(4) Except for those forest practices being regulated by local governmental entities as provided elsewhere in this chapter, forest practices shall be conducted in accordance with the forest practices regulations, orders and directives as authorized by this chapter or the forest practices regulations, and the terms and conditions of any approved applications.

(5) Except for those forest practices being regulated by local governmental entities as provided elsewhere in this chapter, the department of natural resources shall notify the applicant in writing of either its approval of the application or its disapproval of the application and the specific manner in which the application fails to comply with the provisions of this section or with the forest practices regulations. Except as provided otherwise in this section, if the department fails to either approve or disapprove an application or any portion thereof within the applicable time limit, the application shall be deemed approved and the operation may be commenced: PROVIDED, That this provision shall not apply to applications which are neither approved nor disapproved pursuant to the provisions of subsection (7) of this section: PROVIDED, FURTHER, That if seasonal field conditions prevent the department from being able to properly evaluate the application, the department may issue an approval conditional upon further review within sixty days: PROVIDED, FURTHER, That the department shall have until April 1, 1975, to approve or disapprove an application involving forest practices allowed to continue to April 1, 1975, under the provisions of subsection (2) of this section. Upon receipt of any notification or any satisfactorily completed application the department shall in any event no later than two business days after such receipt transmit a copy to the departments of ecology and fish and wildlife, and to the county, city, or town in whose jurisdiction the forest practice is to be commenced. Any comments by such agencies shall be directed to the department of natural resources.

(6) For those forest practices regulated by the board and the department, if the county, city, or town believes that an application is inconsistent with this chapter, the forest practices regulations, or any local authority consistent with RCW

76.09.240 as now or hereafter amended, it may so notify the department and the applicant, specifying its objections.

(7) For those forest practices regulated by the board and the department, the department shall not approve portions of applications to which a county, city, or town objects if:

(a) The department receives written notice from the county, city, or town of such objections within fourteen business days from the time of transmittal of the application to the county, city, or town, or one day before the department acts on the application, whichever is later; and

(b) The objections relate to lands either:

(i) Platted after January 1, 1960, as provided in chapter 58.17 RCW; or

(ii) On lands that have or are being converted to another use.

The department shall either disapprove those portions of such application or appeal the county, city, or town objections to the appeals board. If the objections related to subparagraphs (b)(i) and (ii) of this subsection are based on local authority consistent with RCW 76.09.240 as now or hereafter amended, the department shall disapprove the application until such time as the county, city, or town consents to its approval or such disapproval is reversed on appeal. The applicant shall be a party to all department appeals of county, city, or town objections. Unless the county, city, or town either consents or has waived its rights under this subsection, the department shall not approve portions of an application affecting such lands until the minimum time for county, city, or town objections has expired.

(8) For those forest practices regulated by the board and the department, in addition to any rights under the above paragraph, the county, city, or town may appeal any department approval of an application with respect to any lands within its jurisdiction. The appeals board may suspend the department's approval in whole or in part pending such appeal where there exists potential for immediate and material damage to a public resource.

(9) For those forest practices regulated by the board and the department, appeals under this section shall be made to the appeals board in the manner and time provided in RCW 76.09.220(8). In such appeals there shall be no presumption of correctness of either the county, city, or town or the department position.

(10) For those forest practices regulated by the board and the department, the department shall, within four business days notify the county, city, or town of all notifications, approvals, and disapprovals of an application affecting lands within the county, city, or town, except to the extent the county, city, or town has waived its right to such notice.

(11) For those forest practices regulated by the board and the department, a county, city, or town may waive in whole or in part its rights under this section, and may withdraw or modify any such waiver, at any time by written notice to the department.

Sec. 3. RCW 76.09.060 and 1993 c 443 s 4 are each amended to read as follows:

The following shall apply to those forest practices administered and enforced by the department and for which the board shall promulgate regulations as provided in this chapter:

(1) The department shall prescribe the form and contents of the notification and application. The forest practices rules shall specify by whom and under what conditions the notification and application shall be signed or otherwise certified as acceptable. The application or notification shall be delivered in person to the department, sent by first class mail to the department or electronically filed in a form defined by the department. The form for electronic filing shall be readily convertible to a paper copy, which shall be available to the public pursuant to chapter 42.17 RCW. The information required may include, but is not limited to:

(a) Name and address of the forest landowner, timber owner, and operator;
(b) Description of the proposed forest practice or practices to be conducted;
(c) Legal description and tax parcel identification numbers of the land on which the forest practices are to be conducted;

(d) Planimetric and topographic maps showing location and size of all lakes and streams and other public waters in and immediately adjacent to the operating area and showing all existing and proposed roads and major tractor roads;

(e) Description of the silvicultural, harvesting, or other forest practice methods to be used, including the type of equipment to be used and materials to be applied;

(f) Proposed plan for reforestation and for any revegetation necessary to reduce erosion potential from roadsides and yarding roads, as required by the forest practices rules;

(g) Soil, geological, and hydrological data with respect to forest practices;

(h) The expected dates of commencement and completion of all forest practices specified in the application;

(i) Provisions for continuing maintenance of roads and other construction or other measures necessary to afford protection to public resources;

(j) An affirmation that the statements contained in the notification or application are true; and

(k) All necessary application or notification fees.

(2) Long range plans may be submitted to the department for review and consultation.

(3) The application for a forest practice or the notification of a Class II forest practice ((shall indicate whether any land covered by the application or notification will be converted or is intended to be converted to a use other than commercial timber production within three years after completion of the forest practices described in it)) is subject to the three-year reforestation requirement.

(a) If the application states that any such land will be or is intended to be so converted:

(i) The reforestation requirements of this chapter and of the forest practices rules shall not apply if the land is in fact so converted unless applicable alternatives or limitations are provided in forest practices rules issued under RCW 76.09.070 as now or hereafter amended;

(ii) Completion of such forest practice operations shall be deemed conversion of the lands to another use for purposes of chapters 84.33 and 84.34 RCW unless the conversion is to a use permitted under a current use tax agreement permitted under chapter 84.34 RCW;

(iii) The forest practices described in the application are subject to applicable county, city, town, and regional governmental authority permitted under RCW 76.09.240 as now or hereafter amended as well as the forest practices rules.

(b) Except as provided elsewhere in this section, if the application or notification does not state that any land covered by the application or notification will be or is intended to be so converted:

(i) For six years after the date of the application the county, city, town, and regional governmental entities (~~may~~) shall deny any or all applications for permits or approvals, including building permits and subdivision approvals, relating to nonforestry uses of land subject to the application;

(A) The department shall submit to the local governmental entity a copy of the statement of a forest landowner's intention not to convert which shall represent a recognition by the landowner that the six-year moratorium shall be imposed and shall preclude the landowner's ability to obtain development permits while the moratorium is in place. This statement shall be filed by the local governmental entity with the county recording officer, who shall record the documents as provided in chapter 65.04 RCW, except that lands designated as forest lands of long-term commercial significance under chapter 36.70A RCW shall not be recorded due to the low likelihood of conversion. Not recording the statement of a forest landowner's conversion intention shall not be construed to mean the moratorium is not in effect.

(B) The department shall collect the recording fee and reimburse the local governmental entity for the cost of recording the application.

(C) When harvesting takes place without an application, the local governmental entity shall impose the six-year moratorium provided in (b)(i) of this subsection from the date the unpermitted harvesting was discovered by the department or the local governmental entity.

(D) The local governmental entity shall develop a process for lifting the six-year moratorium, which shall include public notification, and procedures for appeals and public hearings.

(E) The local governmental entity may develop an administrative process for lifting or waiving the six-year moratorium for the purposes of constructing a single-family residence or outbuildings, or both, on a legal lot and building site. Lifting or waiving of the six-year moratorium is subject to compliance with all local ordinances.

(F) The six-year moratorium shall not be imposed on a forest practices application that contains a conversion option harvest plan approved by the local governmental entity unless the forest practice was not in compliance with the approved forest practice permit. Where not in compliance with the conversion option harvest plan, the six-year moratorium shall be imposed from the date the application was approved by the department or the local governmental entity;

(ii) Failure to comply with the reforestation requirements contained in any final order or decision shall constitute a removal of designation under the provisions of RCW 84.33.140, and a change of use under the provisions of RCW 84.34.080, and, if applicable, shall subject such lands to the payments and/or penalties resulting from such removals or changes; and

(iii) Conversion to a use other than commercial (~~(timber)~~) forest product operations within (~~(three)~~) six years after (~~(completion)~~) approval of the forest practices without the consent of the county, city, or town shall constitute a violation of each of the county, municipal city, town, and regional authorities to which the forest practice operations would have been subject if the application had so stated.

(c) The application or notification shall be (~~(either)~~) signed by the forest landowner (~~(or)~~) and accompanied by a statement signed by the forest landowner indicating his or her intent with respect to conversion and acknowledging that he or she is familiar with the effects of this subsection.

(4) Whenever an approved application authorizes a forest practice which, because of soil condition, proximity to a water course or other unusual factor, has a potential for causing material damage to a public resource, as determined by the department, the applicant shall, when requested on the approved application, notify the department two days before the commencement of actual operations.

(5) Before the operator commences any forest practice in a manner or to an extent significantly different from that described in a previously approved application or notification, there shall be submitted to the department a new application or notification form in the manner set forth in this section.

(6) The notification to or the approval given by the department to an application to conduct a forest practice shall be effective for a term of two years from the date of approval or notification and shall not be renewed unless a new application is filed and approved or a new notification has been filed. At the option of the applicant, an application or notification may be submitted to cover a single forest practice or a number of forest practices within reasonable geographic or political boundaries as specified by the department. An application or notification that covers more than one forest practice may have an effective term of more than two years. The board shall adopt rules that establish standards and procedures for approving an application or notification that has an effective term of more than two years. Such rules shall include extended time periods for application or notification approval or disapproval. On an approved application with a term of

more than two years, the applicant shall inform the department before commencing operations.

(7) Notwithstanding any other provision of this section, no prior application or notification shall be required for any emergency forest practice necessitated by fire, flood, windstorm, earthquake, or other emergency as defined by the board, but the operator shall submit an application or notification, whichever is applicable, to the department within forty-eight hours after commencement of such practice or as required by local regulations.

Sec. 4. RCW 76.09.065 and 1993 c 443 s 5 are each amended to read as follows:

(1) Effective July 1, (~~(1993)~~) 1997, an applicant shall pay ~~((a)) an application fee and a recording fee, if applicable,~~ at the time an application or notification is submitted ~~((pursuant to RCW 76.09.060. All money collected from the fees under this section shall be deposited in the state general fund))~~ to the department or to the local governmental entity as provided in this chapter.

(2) For applications and notifications submitted to the department, the application fee shall be fifty dollars for class II, III, and IV forest practices applications or notifications relating to the commercial harvest of timber. However, the fee shall be five hundred dollars for class IV forest practices applications on lands being converted to other uses or on lands which are not to be reforested because of the likelihood of future conversion to urban development or on lands that are contained within "urban growth areas," designated pursuant to chapter 36.70A RCW, except the fee shall be fifty dollars on those lands where the forest landowner provides:

(a) A written statement of intent signed by the forest landowner not to convert to a use other than commercial forest product operations for ten years, accompanied by either a written forest management plan acceptable to the department or documentation that the land is enrolled under the provisions of chapter 84.33 RCW; or

(b) A conversion option harvest plan approved by the local government entity and submitted to the department as part of the forest practices application. All money collected from fees under this subsection shall be deposited in the state general fund.

(3) For applications submitted to the local governmental entity, the fee shall be five hundred dollars for class IV forest practices on lands being converted to other uses or lands that are contained within "urban growth areas," designated pursuant to chapter 36.70A RCW, except as otherwise provided in this section, unless a different fee is otherwise provided by the local governmental entity.

(4) Recording fees shall be as provided in chapter 36.18 RCW.

~~((2))~~ (5) An application fee under subsection ((+)) (2) of this section shall be refunded or credited to the applicant if either the application or notification is disapproved by the department or the application or notification is withdrawn by the applicant due to restrictions imposed by the department.

Sec. 5. RCW 76.09.240 and 1975 1st ex.s. c 200 s 11 are each amended to read as follows:

(1) By December 31, 2001, each county and each city shall adopt ordinances or promulgate regulations setting standards for those Class IV forest practices regulated by local government. The regulations shall: (a) Establish minimum standards for Class IV forest practices; (b) set forth necessary administrative provisions; and (c) establish procedures for the collection and administration of forest practices and recording fees as set forth in this chapter.

(2) Class IV forest practices regulations shall be administered and enforced by the counties and cities that promulgate them.

(3) The forest practices board shall continue to promulgate regulations and the department shall continue to administer and enforce the regulations promulgated by the board in each county and each city for all forest practices as provided in this chapter until such time as, in the opinion of the department, the county or city has promulgated forest practices regulations that meet the requirements as set forth in this section and that meet or exceed the standards set forth by the board in regulations in effect at the time the local regulations are adopted. Regulations promulgated by the county or city thereafter shall be reviewed in the usual manner set forth for county or city rules or ordinances. Amendments to local ordinances must meet or exceed the forest practices rules at the time the local ordinances are amended.

(a) Department review of the initial regulations promulgated by a county or city shall take place upon written request by the county or city. The department, in consultation with the department of ecology, may approve or disapprove the regulations in whole or in part.

(b) Until January 1, 2002, the department shall provide technical assistance to all counties or cities that have adopted forest practices regulations acceptable to the department and that have assumed regulatory authority over all Class IV forest practices within their jurisdiction.

(c) Decisions by the department approving or disapproving the initial regulations promulgated by a county or city may be appealed to the forest practices appeals board, which has exclusive jurisdiction to review the department's approval or disapproval of regulations promulgated by counties and cities.

(4) For those forest practices over which the board and the department maintain regulatory authority no county, city, municipality, or other local or regional governmental entity shall adopt or enforce any law, ordinance, or regulation pertaining to forest practices, except that to the extent otherwise permitted by law, such entities may exercise any:

((+)) (a) Land use planning or zoning authority: PROVIDED, That exercise of such authority may regulate forest practices only: ((#)) (i) Where the application submitted under RCW 76.09.060 as now or hereafter amended indicates that the lands have been or will be converted to a use other than commercial ((timber)) forest product production; or ((#)) (ii) on lands which have

been platted after January 1, 1960, as provided in chapter 58.17 RCW: PROVIDED, That no permit system solely for forest practices shall be allowed; that any additional or more stringent regulations shall not be inconsistent with the forest practices regulations enacted under this chapter; and such local regulations shall not unreasonably prevent timber harvesting;

~~((2))~~ (b) Taxing powers;

~~((3))~~ (c) Regulatory authority with respect to public health; and

~~((4))~~ (d) Authority granted by chapter 90.58 RCW, the "Shoreline Management Act of 1971" ~~(, except that in relation to "shorelines" as defined in RCW 90.58.030, the following shall apply:~~

~~— (a) The forest practice regulations adopted pursuant to this chapter shall be the sole rules applicable to the performance of forest practices, and enforcement thereof shall be solely as provided in chapter 76.09 RCW;~~

~~— (b) As to that road construction which constitutes a substantial development, no permit shall be required under chapter 90.58 RCW for the construction of up to five hundred feet of one and only one road or segment of a road provided such road does not enter the shoreline more than once. Such exemption from said permit requirements shall be limited to a single road or road segment for each forest practice and such road construction shall be subject to the requirements of chapter 76.09 RCW and regulations adopted pursuant thereto and to the prohibitions or restrictions of any master program in effect under the provisions of chapter 90.58 RCW. Nothing in this subsection shall add to or diminish the authority of the shoreline management act regarding road construction except as specifically provided herein. The provisions of this subsection shall not relate to any road which crosses over or through a stream, lake, or other water body subject to chapter 90.58 RCW;~~

~~— (c) Nothing in this section shall create, add to, or diminish the authority of local government to prohibit or restrict forest practices within the shorelines through master programs adopted and approved pursuant to chapter 90.58 RCW except as provided in (a) and (b) above;~~

~~— Any powers granted by chapter 90.58 RCW pertaining to forest practices, as amended herein, are expressly limited to lands located within "shorelines of the state" as defined in RCW 90.58.030).~~

Sec. 6. RCW 43.21C.037 and 1983 c 117 s 2 are each amended to read as follows:

(1) Decisions pertaining to applications for Class I, II, and III forest practices, as defined by rule of the forest practices board under RCW 76.09.050, are not subject to the requirements of RCW 43.21C.030(2)(c) as now or hereafter amended.

(2) When the applicable county, city, or town requires a license in connection with any proposal involving forest practices (a) on lands platted after January 1, 1960, as provided in chapter 58.17 RCW, (b) on lands that have or are being converted to another use, or (c) on lands which, pursuant to RCW 76.09.070 as

now or hereafter amended, are not to be reforested because of the likelihood of future conversion to urban development, then the local government, rather than the department of natural resources, is responsible for any detailed statement required under RCW 43.21C.030(2)(c).

(3) Those forest practices determined by rule of the forest practices board to have a potential for a substantial impact on the environment, and thus to be Class IV practices, require an evaluation by the department of natural resources as to whether or not a detailed statement must be prepared pursuant to this chapter. The evaluation shall be made within ten days from the date the department receives the application. A Class IV forest practice application must be approved or disapproved by the department within thirty calendar days from the date the department receives the application, unless the department determines that a detailed statement must be made, in which case the application must be approved or disapproved by the department within sixty days from the date the department receives the application, unless the commissioner of public lands, through the promulgation of a formal order, determines that the process cannot be completed within such period. This section shall not be construed to prevent any local or regional governmental entity from determining that a detailed statement must be prepared for an action regarding a Class IV forest practice taken by that governmental entity concerning the land on which forest practices will be conducted.

Passed the Senate March 12, 1997.

Passed the House April 10, 1997.

Approved by the Governor April 23, 1997.

Filed in Office of Secretary of State April 23, 1997.

CHAPTER 174

[Substitute Senate Bill 5724]

THEFT FROM TAX EXEMPT CORPORATIONS—LIMITATION OF ACTIONS

AN ACT Relating to limitation of actions; and reenacting and amending RCW 9A.04.080.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 9A.04.080 and 1995 c 287 s 5 and 1995 c 17 s 1 are each reenacted and amended to read as follows:

(1) Prosecutions for criminal offenses shall not be commenced after the periods prescribed in this section.

(a) The following offenses may be prosecuted at any time after their commission:

- (i) Murder;
- (ii) Homicide by abuse;
- (iii) Arson if a death results.

(b) The following offenses shall not be prosecuted more than ten years after their commission:

(i) Any felony committed by a public officer if the commission is in connection with the duties of his or her office or constitutes a breach of his or her public duty or a violation of the oath of office;

(ii) Arson if no death results; or

(iii) Violations of RCW 9A.44.040 or 9A.44.050 if the rape is reported to a law enforcement agency within one year of its commission; except that if the victim is under fourteen years of age when the rape is committed and the rape is reported to a law enforcement agency within one year of its commission, the violation may be prosecuted up to three years after the victim's eighteenth birthday or up to ten years after the rape's commission, whichever is later. If a violation of RCW 9A.44.040 or 9A.44.050 is not reported within one year, the rape may not be prosecuted: (A) More than three years after its commission if the violation was committed against a victim fourteen years of age or older; or (B) more than three years after the victim's eighteenth birthday or more than seven years after the rape's commission, whichever is later, if the violation was committed against a victim under fourteen years of age.

(c) Violations of the following statutes shall not be prosecuted more than three years after the victim's eighteenth birthday or more than seven years after their commission, whichever is later: RCW 9A.44.073, 9A.44.076, 9A.44.083, 9A.44.086, 9A.44.070, 9A.44.080, 9A.44.100(1)(b), or 9A.64.020.

(d) The following offenses shall not be prosecuted more than six years after their commission: Violations of RCW 9A.82.060 or 9A.82.080.

(e) The following offenses shall not be prosecuted more than five years after their commission: Any class C felony under chapter 74.09, 82.36, or 82.38 RCW.

(f) Bigamy shall not be prosecuted more than three years after the time specified in RCW 9A.64.010.

(g) A violation of RCW 9A.56.030 must not be prosecuted more than three years after the discovery of the offense when the victim is a tax exempt corporation under 26 U.S.C. Sec. 501(c)(3).

(h) No other felony may be prosecuted more than three years after its commission.

~~((h))~~ (i) No gross misdemeanor may be prosecuted more than two years after its commission.

~~((i))~~ (j) No misdemeanor may be prosecuted more than one year after its commission.

(2) The periods of limitation prescribed in subsection (1) of this section do not run during any time when the person charged is not usually and publicly resident within this state.

(3) If, before the end of a period of limitation prescribed in subsection (1) of this section, an indictment has been found or a complaint or an information has been filed, and the indictment, complaint, or information is set aside, then the period of limitation is extended by a period equal to the length of time from the finding or filing to the setting aside.

Passed the Senate March 12, 1997.
Passed the House April 10, 1997.
Approved by the Governor April 23, 1997.
Filed in Office of Secretary of State April 23, 1997.

CHAPTER 175

[Senate Bill 5804]

COMPUTER SOFTWARE PROPERTY TAX EXEMPTIONS AND VALUATION RULES— ELIMINATION OF STUDY

AN ACT Relating to the elimination of the requirement for a study of the property tax exemptions and valuation rules for computer software; and repealing 1991 sp.s. c 29 s 5 (uncodified).

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. Sec. 1. 1991 sp.s. c 29 s 5 (uncodified) is repealed.

Passed the Senate March 13, 1997.
Passed the House April 10, 1997.
Approved by the Governor April 23, 1997.
Filed in Office of Secretary of State April 23, 1997.

CHAPTER 176

[Engrossed Senate Bill 5959]

SEED POTATO PRODUCTION—PRODUCTION AREAS ESTABLISHED

AN ACT Relating to seed potato production; adding a new chapter to Title 15 RCW; creating a new section; and declaring an emergency.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. Sec. 1. The legislature finds that the production of high quality certified seed potatoes within the state requires conditions that are as free as possible from insect pests and plant diseases and that ensuring these conditions exist is in the public interest. The legislature further finds that the production of other potatoes intermixed with or in close proximity to a concentrated seed potato production area poses an increased risk of introduction of plant diseases and insect pests.

NEW SECTION. Sec. 2. Growers of seed potatoes, certified in accordance with rules adopted under chapter 15.14 RCW, may submit a petition to the director of the department of agriculture requesting that the director establish a restricted seed potato production area. The petition shall include the proposed geographic boundaries of the restricted seed potato production area, and the types of restrictions that are proposed to apply to the growing of nonseed potatoes. The petition shall contain the signatures of at least fifty percent of the growers of certified seed potatoes who have produced at least fifty percent of the certified seed potatoes within the proposed restricted seed potato production area in each of the two preceding years.

Upon receipt of a petition submitted in accordance with this section, the director of the department of agriculture shall, within sixty days of receipt of the petition, investigate the need of establishing a restricted seed potato production area. The director may propose rules and hold public hearings in the area affected by the proposed rules. The director has the authority to adopt rules in accordance with chapter 34.05 RCW to establish restricted seed potato production areas to prevent the increased exposure to plant diseases and insect pests that adversely affect the ability to meet standards for certification of seed potatoes established under chapter 15.14 RCW.

NEW SECTION. Sec. 3. The director of the department of agriculture may bring an action to enjoin the violation or threatened violation of any provision of this chapter or any rule made pursuant to this chapter in a court of competent jurisdiction of the county in which such violation occurs or is about to occur.

NEW SECTION. Sec. 4. Sections 2 and 3 of this act constitute a new chapter in Title 15 RCW.

NEW SECTION. Sec. 5. This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately.

Passed the Senate March 17, 1997.

Passed the House April 11, 1997.

Approved by the Governor April 23, 1997.

Filed in Office of Secretary of State April 23, 1997.

CHAPTER 177

[Substitute Senate Bill 5976]

USE OF "NURSE" AS PROFESSIONAL DESIGNATION

AN ACT Relating to the use of the title of nurse as a professionally licensed designation; and amending RCW 18.79.030.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 18.79.030 and 1994 sp.s. c 9 s 403 are each amended to read as follows:

(1) It is unlawful for a person to practice or to offer to practice as a registered nurse in this state unless that person has been licensed under this chapter. A person who holds a license to practice as a registered nurse in this state may use the titles "registered nurse" and "nurse" and the abbreviation "R.N." No other person may assume (~~that~~) those titles or use the abbreviation or any other words, letters, signs, or figures to indicate that the person using them is a registered nurse.

(2) It is unlawful for a person to practice or to offer to practice as an advanced registered nurse practitioner or as a nurse practitioner in this state unless that person has been licensed under this chapter. A person who holds a license to practice as an advanced registered nurse practitioner in this state may use the titles

"advanced registered nurse practitioner," ~~((and))~~ "nurse practitioner," and "nurse" and the abbreviations "A.R.N.P." and "N.P." No other person may assume those titles or use those abbreviations or any other words, letters, signs, or figures to indicate that the person using them is an advanced registered nurse practitioner or nurse practitioner.

(3) It is unlawful for a person to practice or to offer to practice as a licensed practical nurse in this state unless that person has been licensed under this chapter. A person who holds a license to practice as a licensed practical nurse in this state may use the titles "licensed practical nurse" and "nurse" and the abbreviation "L.P.N." No other person may assume ~~((that))~~ those titles or use that abbreviation or any other words, letters, signs, or figures to indicate that the person using them is a licensed practical nurse.

(4) Nothing in this section shall prohibit a person listed as a Christian Science nurse in the Christian Science Journal published by the Christian Science Publishing Society, Boston, Massachusetts, from using the title "Christian Science nurse," so long as such person does not hold himself or herself out as a registered nurse, advanced registered nurse practitioner, nurse practitioner, or licensed practical nurse, unless otherwise authorized by law to do so.

Passed the Senate March 14, 1997.

Passed the House April 10, 1997.

Approved by the Governor April 23, 1997.

Filed in Office of Secretary of State April 23, 1997.

CHAPTER 178

[Senate Bill 5997]

COSMETOLOGY, BARBERING, ESTHETICS, AND MANICURING—INSPECTION OF SCHOOLS, SALONS, AND SHOPS

AN ACT Relating to the program regulating cosmetology, barbering, esthetics, and manicuring; and amending RCW 18.16.150 and 18.16.175.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 18.16.150 and 1991 c 324 s 12 are each amended to read as follows:

~~((From time to time as deemed necessary by the director;))~~ Schools ((may)) shall be audited and inspected by the director or the director's designee for compliance with this chapter at least once a year. If the director determines that a licensed school is not maintaining the standards required according to this chapter, written notice thereof shall be given to the school. A school which fails to correct these conditions to the satisfaction of the director within a reasonable time shall be subject to penalties imposed under RCW 18.16.210.

Sec. 2. RCW 18.16.175 and 1991 c 324 s 15 are each amended to read as follows:

(1) A salon/shop shall meet the following minimum requirements:

(a) Maintain an outside entrance separate from any rooms used for sleeping or residential purposes;

(b) Provide and maintain for the use of its customers adequate toilet facilities located within or adjacent to the salon/shop;

(c) Be operated under the direct supervision of a licensed cosmetologist except that a salon/shop that is limited to barbering may be directly supervised by a barber, a salon/shop that is limited to manicuring may be directly supervised by a manicurist, and a salon/shop that is limited to esthetics may be directly supervised by an esthetician;

(d) Any room used wholly or in part as a salon/shop shall not be used for residential purposes, except that toilet facilities may be used jointly for residential and business purposes;

(e) Meet the zoning requirements of the county, city, or town, as appropriate;

(f) Provide for safe storage and labeling of chemicals used in the practice of cosmetology;

(g) Meet all applicable local and state fire codes;

(h) Provide proof that the salon/shop is covered by a public liability insurance policy in an amount not less than one hundred thousand dollars for combined bodily injury and property damage liability; and

(i) Other requirements which the director determines are necessary for safety and sanitation of salons/shops. The director may consult with the state board of health and the department of labor and industries in establishing minimum salon/shop safety requirements.

(2) A salon/shop shall post the notice to customers described in RCW 18.16.180.

(3) Upon receipt of a written complaint that a salon/shop has violated any provisions of this chapter or the rules adopted under this chapter or at least once every two years, the director or the director's designee shall inspect ~~((the))~~ each salon/shop. If the director determines that any salon/shop is not in compliance with this chapter, the director shall send written notice to the salon/shop. A salon/shop which fails to correct the conditions to the satisfaction of the director within a reasonable time shall, upon due notice, be subject to the penalties imposed by the director under RCW 18.16.210. The director may enter any salon/shop during business hours for the purpose of inspection. The director may contract with health authorities of local governments to conduct the inspections under this subsection.

(4) A salon/shop, including a salon/shop operated by a booth renter, shall obtain a certificate of registration from the department of revenue.

(5) This section does not prohibit the use of motor homes as mobile salon/shops if the motor home meets the health and safety standards of this section.

Passed the Senate March 14, 1997.
Passed the House April 10, 1997.
Approved by the Governor April 23, 1997.
Filed in Office of Secretary of State April 23, 1997.

CHAPTER 179

[Senate Bill 5998]

STATE COSMETOLOGY, BARBERING, ESTHETICS, AND MANICURING ADVISORY BOARD—RESTRUCTURE

AN ACT Relating to the state cosmetology, barbering, esthetics, and manicuring advisory board; and amending RCW 18.16.050.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 18.16.050 and 1995 c 269 s 402 are each amended to read as follows:

(1) There is created a state cosmetology, barbering, esthetics, and manicuring advisory board consisting of seven members appointed by the director. These seven members of the board shall include a representative of a private cosmetology school and a representative of a public vocational technical school involved in cosmetology training, with the balance made up of currently practicing licensees who have been engaged in the practice of manicuring, esthetics, barbering, or cosmetology for at least three years. One member of the board shall be a consumer who is unaffiliated with the cosmetology, barbering, esthetics, or manicuring industry. ~~((The term of office for all board members serving as of July 1, 1995, expires June 30, 1995.))~~ On June 30, 1995, the director shall appoint seven new members to the board. These new members shall serve a term of ~~((two))~~ three years ~~((, at the conclusion of which the board shall cease to exist))~~. The director shall appoint two new members including: (a) One representative with employee supervisory experience from a chain salon having ten or more salons; and (b) one representative from the industry at large who has substantial salon and school experience. The board shall cease to exist on June 30, 1998. Any members serving on the advisory board as of July 1, 1995, or who are appointed after the effective date of this act, are eligible to be reappointed, should the advisory board be extended beyond June 30, 1998. Any board member may be removed for just cause. The director may appoint a new member to fill any vacancy on the board for the remainder of the unexpired term.

(2) The board appointed on June 30, 1995, together with the director or the director's designee, shall conduct a thorough review of educational requirements, licensing requirements, and enforcement and health standards for persons engaged in cosmetology, barbering, esthetics, or manicuring and shall prepare a report to be delivered to the governor, the director, and the chairpersons of the governmental operations committees of the house of representatives and the senate. The report must summarize their findings and make recommendations, including, if

appropriate, recommendations for legislation reforming and restructuring the regulation of cosmetology, barbering, esthetics, and manicuring.

(3) Board members shall be entitled to compensation pursuant to RCW 43.03.240 for each day spent conducting official business and to reimbursement for travel expenses as provided by RCW 43.03.050 and 43.03.060.

(4) The board may seek the advice and input of officials from the following state agencies: (a) The work force training and education coordinating board; (b) the department of employment security; (c) the department of labor and industries; (d) the department of health; (e) the department of licensing; and (f) the department of revenue.

Passed the Senate March 17, 1997.

Passed the House April 10, 1997.

Approved by the Governor April 23, 1997.

Filed in Office of Secretary of State April 23, 1997.

CHAPTER 180

[Senate Bill 6004]

EDUCATION TECHNOLOGY REVOLVING FUND

AN ACT Relating to creating the education technology revolving fund; amending RCW 28D.02.060; adding a new section to chapter 28D.02 RCW; and declaring an emergency.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. **Sec. 1.** A new section is added to chapter 28D.02 RCW to read as follows:

(1) The education technology revolving fund is created in the custody of the state treasurer. All receipts from billings under subsection (2) of this section must be deposited in the revolving fund. Only the director of the department of information services or the director's designee may authorize expenditures from the fund. The revolving fund shall be used only to pay for the acquisition of equipment, software, supplies, and services, and other costs incidental to the acquisition, development, operation, and administration of shared educational information technology services, telecommunications, and systems. The revolving fund shall not be used for the acquisition, maintenance, or operations of local networks or on-premises equipment specific to a particular institution or group of institutions.

(2) The revolving fund and all disbursements from the revolving fund are subject to the allotment procedure under chapter 43.88 RCW, but an appropriation is not required for expenditures. The department of information services shall, in consultation with entities connected to the network under RCW 28D.02.070 and subject to the review and approval of the office financial management, establish and implement a billing structure to assure that all network users pay an equitable share of the costs in relation to their usage of the network.

Sec. 2. RCW 28D.02.060 and 1996 c 137 s 7 are each amended to read as follows:

The K-20 technology account is hereby created in the state treasury. The department of information services shall deposit into the account ~~((and))~~ moneys received from legislative appropriations, gifts, grants, and endowments for the K-20 telecommunication system. The account shall be subject to appropriation and may be expended solely for the K-20 telecommunication system approved by the committee under RCW 28D.02.010. Disbursements from the account shall be on authorization of the director of the department of information services with approval of the committee under RCW 28D.02.010.

NEW SECTION. Sec. 3. This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately.

Passed the Senate March 13, 1997.

Passed the House April 11, 1997.

Approved by the Governor April 23, 1997.

Filed in Office of Secretary of State April 23, 1997.

CHAPTER 181

[Engrossed Substitute Senate Bill 5286]

INTANGIBLE PERSONAL PROPERTY—CLARIFICATION OF TAXATION

AN ACT Relating to intangible personal property; amending RCW 84.36.070; adding a new section to chapter 84.48 RCW; and creating new sections.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 84.36.070 and 1974 ex.s. c 118 s 1 are each amended to read as follows:

~~((The following))~~ (1) Intangible personal property ~~((shall be))~~ is exempt from ad valorem taxation~~((:))~~.

(2) "Intangible personal property" means:

(a) All moneys and credits including mortgages, notes, accounts, certificates of deposit, tax certificates, judgments, state, county and municipal bonds and warrants and bonds and warrants of other taxing districts, bonds of the United States and of foreign countries or political subdivisions thereof and the bonds, stocks, or shares of private corporations~~((:))~~;

(b) Private nongovernmental personal service contracts ~~((or))~~, private nongovernmental athletic or sports franchises, or private nongovernmental athletic or sports agreements provided that ~~((such))~~ the contracts, franchises, or agreements do not pertain to the use or possession of tangible personal or real property or to any interest in tangible personal or real property; and

(c) Other intangible personal property such as trademarks, trade names, brand names, patents, copyrights, trade secrets, franchise agreements, licenses, permits, core deposits of financial institutions, noncompete agreements, customer lists,

patient lists, favorable contracts, favorable financing agreements, reputation, exceptional management, prestige, good name, or integrity of a business.

(3) "Intangible personal property" does not include zoning, location, view, geographic features, easements, covenants, proximity to raw materials, condition of surrounding property, proximity to markets, the availability of a skilled work force, and other characteristics or attributes of property.

(4) This section does not preclude the use of, or permit a departure from, generally accepted appraisal practices and the appropriate application thereof in the valuation of real and tangible personal property, including the appropriate consideration of licenses, permits, and franchises granted by a government agency that affect the use of the property.

NEW SECTION. Sec. 2. A new section is added to chapter 84.48 RCW to read as follows:

(1) In equalizing personal property as of January 1, 1998, the department shall treat intangible personal property in the same manner as intangible personal property is to be treated after the effective date of this act.

(2) This section expires December 31, 1998.

NEW SECTION. Sec. 3. This act shall not be construed to amend or modify any existing statute or rule relating to the treatment of computer software, retained rights in computer software, and golden and master copies of computer software for property tax purposes.

NEW SECTION. Sec. 4. Nothing in this act is intended to incorporate and nothing in this act is based on any other state's statutory or case law.

NEW SECTION. Sec. 5. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

NEW SECTION. Sec. 6. This act is effective for taxes levied for collection in 1999 and thereafter.

NEW SECTION. Sec. 7. By December 1, 2000, the department of revenue shall submit a report to the house finance committee, the senate ways and means committee, and the office of the governor on tax shifts, tax losses, and any litigation resulting from this act.

Passed the Senate April 15, 1997.

Passed the House April 9, 1997.

Approved by the Governor April 23, 1997.

Filed in Office of Secretary of State April 23, 1997.

CHAPTER 182

[Engrossed Substitute Senate Bill 5970]

FIREWORKS--DAYS OF SALE--CLARIFICATIONS OF STATUTES

AN ACT Relating to expanding days of sale while not changing days of use of common fireworks and clarifying other provisions of the existing state fireworks law; amending RCW 70.77.160, 70.77.170, 70.77.180, 70.77.236, 70.77.255, 70.77.270, 70.77.290, 70.77.325, 70.77.343, 70.77.345, 70.77.355, 70.77.360, 70.77.375, 70.77.395, 70.77.420, 70.77.425, 70.77.435, 70.77.440, 70.77.450, and 70.77.555; reenacting and amending RCW 70.77.250; reenacting RCW 70.77.315 and 70.77.455; adding a new section to chapter 70.77 RCW; repealing 1995 c 369 s 56; prescribing penalties; and declaring an emergency.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 70.77.160 and 1982 c 230 s 6 are each amended to read as follows:

"Public display of fireworks" means an entertainment feature where the public is admitted or ~~((permitted))~~ allowed to view the display or discharge of special fireworks.

***Sec. 2.** RCW 70.77.170 and 1995 c 369 s 44 are each amended to read as follows:

"~~Liccnse~~" means a ~~((nontransferable))~~ transferable formal authorization which the chief of the Washington state patrol and the director of fire protection are ~~((permitted))~~ authorized to issue under this chapter to ~~cn~~engage in the act specifically designated therein.

*Sec. 2 was vetoed. See message at end of chapter.

***Sec. 3.** RCW 70.77.180 and 1995 c 61 s 9 are each amended to read as follows:

"~~Permit~~" means the official ~~((permission))~~ transferable authorization granted by a ~~((local-public-agency))~~ city or county for the purpose of establishing and maintaining a place within the jurisdiction of the ~~((local-agency))~~ city or county where fireworks are manufactured; constructed, produced, packaged, stored, sold, or exchanged and the official ~~((permission))~~ authorization granted by a ~~((local-agency))~~ city or county for a public display of fireworks.

*Sec. 3 was vetoed. See message at end of chapter.

Sec. 4. RCW 70.77.236 and 1995 c 61 s 6 are each amended to read as follows:

(1) "New fireworks item" means any fireworks initially classified or reclassified as special or common fireworks by the United States bureau of explosives or in the regulations of the United States department of transportation after April 17, 1995.

(2) The ~~((director of community, trade, and economic development))~~ chief of the Washington state patrol through the director of fire protection shall classify any new fireworks item in the same manner as the item is classified by the United States bureau of explosives or in the regulations of the United States department of transportation, unless the ~~((director of community, trade, and economic development))~~ chief of the Washington state patrol through the director of fire

protection determines, stating reasonable grounds, that the item should not be so classified.

Sec. 5. RCW 70.77.250 and 1995 c 369 s 45 and 1995 c 61 s 12 are each reenacted and amended to read as follows:

(1) The chief of the Washington state patrol, through the director of fire protection, shall enforce and administer this chapter.

(2) The chief of the Washington state patrol, through the director of fire protection, shall appoint such deputies and employees as may be necessary and required to carry out the provisions of this chapter.

(3) The chief of the Washington state patrol, through the director of fire protection, ~~((may prescribe such))~~ shall adopt those rules relating to fireworks as ~~((may be))~~ are necessary for the implementation of this chapter.

(4) The chief of the Washington state patrol, through the director of fire protection, shall ~~((prescribe such))~~ adopt those rules as ~~((may be))~~ are necessary to ensure state-wide minimum standards for the enforcement of this chapter. Counties, cities, and towns shall comply with ~~((such))~~ these state rules. Any local rules adopted by local authorities that are more restrictive than state law shall have an effective date no sooner than one year after their adoption.

(5) The chief of the Washington state patrol, through the director of fire protection, may exercise the necessary police powers to enforce the criminal provisions of this chapter. This grant of police powers does not prevent any other state agency or local government agency having general law enforcement powers from enforcing this chapter within the jurisdiction of the agency or local government.

Sec. 6. RCW 70.77.255 and 1995 c 61 s 13 are each amended to read as follows:

(1) Except as otherwise provided in this chapter, no person, without ~~((an))~~ appropriate state ~~((license or permit))~~ licenses and city or county permits as required by this chapter may:

(a) Manufacture, import, possess, or sell any fireworks at wholesale or retail for any use;

(b) Make a public display of fireworks; ~~((or))~~

(c) Transport fireworks, except as a public carrier delivering to a licensee; or

(d) Knowingly manufacture, import, transport, store, sell, or possess with intent to sell, as fireworks, explosives, as defined under RCW 70.74.010, that are not fireworks, as defined under this chapter.

(2) Except as authorized by a license and permit under subsection (1)(b) of this section or as provided in RCW 70.77.311, no person may discharge special fireworks at any place.

(3) No person less than eighteen years of age may apply for or receive a license or permit under this chapter.

(4) No license or permit is required for the possession or use of common fireworks lawfully purchased at retail.

***NEW SECTION.** *Sec. 7. A new section is added to chapter 70.77 RCW to read as follows:*

(1) A violation of RCW 70.77.255(1)(d) is a gross misdemeanor punishable by not less than thirty days in jail and a fine of not less than five thousand dollars.

(2) The minimum sentences required under subsection (1) of this section may not be suspended or deferred.

**Sec. 7 was vetoed. See message at end of chapter.*

Sec. 8. RCW 70.77.270 and 1995 c 61 s 14 are each amended to read as follows:

(1) The governing body of a city or county, or a designee, shall grant an application for a permit under RCW 70.77.260(1) if the application meets the standards under this chapter, and the applicable ordinances of the city or county. The permit shall be granted by June 10, or no less than thirty days after receipt of an application whichever date occurs first, for sales commencing on June 28 and on December 27; or by December 10, or no less than thirty days after receipt of an application whichever date occurs first, for sales commencing only on December 27.

(2) The ~~((director of community, trade, and economic development))~~ chief of the Washington state patrol, through the director of fire protection, shall prescribe uniform, state-wide standards for retail fireworks stands including, but not limited to, the location of the stands, setback requirements and siting of the stands, types of buildings and construction material that may be used for the stands, use of the stands and areas around the stands, cleanup of the area around the stands, transportation of fireworks to and from the stands, and temporary storage of fireworks associated with the retail fireworks stands. All cities and counties which allow retail fireworks sales shall comply with these standards.

(3) No retail fireworks permit may be issued to any applicant unless the retail fireworks stand is covered by a liability insurance policy with coverage of not less than fifty thousand dollars and five hundred thousand dollars for bodily injury liability for each person and occurrence, respectively, and not less than fifty thousand dollars for property damage liability for each occurrence, unless such insurance is not readily available from at least three approved insurance companies. If insurance in this amount is not offered, each fireworks permit shall be covered by a liability insurance policy in the maximum amount offered by at least three different approved insurance companies.

No wholesaler may knowingly sell or supply fireworks to any retail fireworks stand unless the wholesaler determines that the retail fireworks stand is covered by liability insurance in the same amount as provided in this subsection.

Sec. 9. RCW 70.77.290 and 1984 c 249 s 16 are each amended to read as follows:

If a permit under RCW 70.77.260(2) for the public display of fireworks is granted, the sale, possession and use of fireworks for the public display is lawful for that purpose only. ~~((The permit granted is not transferable.))~~

Sec. 10. RCW 70.77.315 and 1995 c 61 s 18 and 1995 c 369 s 47 are each reenacted to read as follows:

Any person who desires to engage in the manufacture, importation, sale, or use of fireworks, except use as provided in RCW 70.77.255(4) and 70.77.311, shall make a written application to the chief of the Washington state patrol, through the director of fire protection, on forms provided by him or her. Such application shall be accompanied by the annual license fee as prescribed in this chapter.

Sec. 11. RCW 70.77.325 and 1994 c 133 s 8 are each amended to read as follows:

(1) An application for a license shall be made annually by every person holding an existing license who wishes to continue the activity requiring the license during an additional ~~((calendar))~~ year. The application shall be accompanied by the annual license fees as prescribed in RCW 70.77.343 and 70.77.340.

(2) A person applying for an annual license as a retailer under this chapter shall file an application ~~((by June 10 of the current year))~~ no later than May 1 for annual sales commencing on June 28 and on December 27, or no later than November 1 for sales commencing only on December 27. The ~~((director of community, trade, and economic development))~~ chief of the Washington state patrol, through the director of fire protection, shall grant or deny the license within fifteen days of receipt of the application.

(3) A person applying for an annual license as a manufacturer, importer, or wholesaler under this chapter shall file an application by January 31 of the current year. The ~~((director of community, trade, and economic development))~~ chief of the Washington state patrol, through the director of fire protection, shall grant or deny the license within ninety days of receipt of the application.

Sec. 12. RCW 70.77.343 and 1995 c 61 s 19 are each amended to read as follows:

(1) License fees, in addition to the fees in RCW 70.77.340, shall be charged as follows:

Manufacturer	\$	1,500.00
Importer		900.00
Wholesaler		1,000.00
Retailer (for each separate outlet)		30.00
Public display for special fireworks		40.00
Pyrotechnic operator for special fireworks		5.00

(2) All receipts from the license fees in this section shall be placed in the fire services trust fund and at least seventy-five percent of these receipts shall be used to fund a state-wide public education campaign developed by the ~~((department))~~ chief of the Washington state patrol and the licensed fireworks industry

emphasizing the safe and responsible use of legal fireworks and the remaining receipts shall be used to fund state-wide enforcement efforts against the sale and use of fireworks that are illegal under this chapter.

Sec. 13. RCW 70.77.345 and 1995 c 61 s 20 are each amended to read as follows:

Every license and every retail fireworks sales permit issued shall be for the ~~((calendar year))~~ period from January 1st ~~((to December 31st or for))~~ of the year for which the application is made through January 31st of the subsequent year, or the remaining portion thereof ((of the calendar year for which the license application is made)).

Sec. 14. RCW 70.77.355 and 1994 c 133 s 9 are each amended to read as follows:

(1) Any adult person may secure a general license from the ~~((director of community, trade, and economic development))~~ chief of the Washington state patrol, through the director of fire protection, for the public display of fireworks within the state of Washington. A general license is subject to the provisions of this chapter relative to the securing of local permits for the public display of fireworks in any city or county, except that in lieu of filing the bond or certificate of public liability insurance with the appropriate local official under RCW 70.77.260 as required in RCW 70.77.285, the same bond or certificate shall be filed with the ~~((director of community, trade, and economic development))~~ chief of the Washington state patrol, through the director of fire protection. The bond or certificate of insurance for a general license in addition shall provide that: (a) The insurer will not cancel the insured's coverage without fifteen days prior written notice to the ~~((director of community, trade, and economic development))~~ chief of the Washington state patrol, through the director of fire protection; (b) the duly licensed pyrotechnic operator required by law to supervise and discharge the public display, acting either as an employee of the insured or as an independent contractor and the state of Washington, its officers, agents, employees, and servants are included as additional insureds, but only insofar as any operations under contract are concerned; and (c) the state is not responsible for any premium or assessments on the policy.

(2) The ~~((director of community, trade, and economic development))~~ chief of the Washington state patrol, through the director of fire protection, may issue such general licenses. The holder of a general license shall file a certificate from the ~~((director of community, trade, and economic development))~~ chief of the Washington state patrol, through the director of fire protection, evidencing the license with any application for a local permit for the public display of fireworks under RCW 70.77.260.

***Sec. 15.** RCW 70.77.360 and 1995 c 369 s 49 are each amended to read as follows:

If the chief of the Washington state patrol, through the director of fire protection, finds that an application for any license, or any transfer of a license,

under this chapter contains a material misrepresentation or that the granting of any license would be contrary to the public safety or welfare, the chief of the Washington state patrol, through the director of fire protection, may deny the application for, or the transfer of, the license.

*Sec. 15 was vetoed. See message at end of chapter.

Sec. 16. RCW 70.77.375 and 1995 c 61 s 21 are each amended to read as follows:

The chief of the Washington state patrol, through the director of fire protection, upon reasonable opportunity to be heard, may revoke any license issued pursuant to this chapter, if he or she finds that:

(1) The licensee has violated any provisions of this chapter or any rule (~~(or regulations)~~) made by the chief of the Washington state patrol, through the director of fire protection, under and with the authority of this chapter;

(2) The licensee has created or caused a fire nuisance;

(3) Any licensee has failed or refused to file any required reports; or

(4) Any fact or condition exists which, if it had existed at the time of the original application for such license, reasonably would have warranted the chief of the Washington state patrol, through the director of fire protection, in refusing originally to issue such license.

*Sec. 17. RCW 70.77.395 and 1995 c 61 s 22 are each amended to read as follows:

(1) It is legal to sell(~~(;)~~) and purchase(~~(; use, and discharge)~~) common fireworks within this state from ~~((twelve))~~ nine o'clock ((noon)) a.m. on the twenty-eighth of June to twelve o'clock noon on the sixth of July of each year, from nine o'clock a.m. on the twenty-seventh of December to eleven o'clock p.m. on the thirty-first of December of each year and as provided in RCW 70.77.311. ~~((However, no))~~

(2) Common fireworks may be ~~((sold))~~ used or discharged each day between the hours of nine o'clock a.m. and eleven o'clock p.m. ((and nine o'clock a.m.)) on the twenty-eighth of June to the sixth of July, ((except)) and on July 4th ((from)) between the hours of nine o'clock a.m. ((through)) and twelve o'clock midnight, and ((except)) from six o'clock p.m. on December 31st until one o'clock a.m. on January 1st of the subsequent year and as provided in RCW 70.77.311: PROVIDED, That a city or county may prohibit the sale or discharge of common fireworks on December 31, 1995, by enacting an ordinance prohibiting such sale or discharge within sixty days of April 17, 1995.

*Sec. 17 was vetoed. See message at end of chapter.

Sec. 18. RCW 70.77.420 and 1984 c 249 s 26 are each amended to read as follows:

(1) It is unlawful for any person to store fireworks of any class without a permit for such storage from the ~~((local fire official in the jurisdiction))~~ city or county in which the storage is to be made. A person proposing to store fireworks shall apply in writing to a ~~((local fire official))~~ city or county at least ten days prior

to the date of the proposed storage. The ~~((official))~~ city or county receiving the application for a storage permit shall investigate whether the character and location of the storage as proposed would constitute a hazard to property or be dangerous to any person. Based on the investigation, the ~~((official))~~ city or county may grant or deny the application. The ~~((official))~~ city or county may place reasonable conditions on any permit granted.

(2) For the purposes of this section the temporary storing or keeping of common fireworks when in conjunction with a valid retail sales license and permit shall comply with RCW 70.77.425 and the standards adopted under RCW 70.77.270(2) and not this section.

**Sec. 19. RCW 70.77.425 and 1984 c 249 s 27 are each amended to read as follows:*

It is unlawful for any person to store ~~((unsold))~~ stocks of fireworks remaining unsold after the lawful period of sale as provided in the person's permit except in such places of storage as the ~~((local fire official))~~ city or county issuing the permit approves. Unsold stocks of common fireworks remaining after the authorized retail sales period from ~~((twelve))~~ nine o'clock ~~((noon))~~ a.m. on June 28th to twelve o'clock noon on July 6th shall be returned on or before July 31st of the same year, or remaining after the authorized retail sales period from nine o'clock a.m. on December 27th to eleven o'clock p.m. on December 31st shall be returned on or before January 10th of the subsequent year to the approved storage facilities of a licensed fireworks wholesaler, to a magazine or storage place approved by a local fire official.

**Sec. 19 was vetoed. See message at end of chapter.*

Sec. 20. RCW 70.77.435 and 1995 c 61 s 23 are each amended to read as follows:

Any fireworks which are illegally sold, offered for sale, used, discharged, possessed or transported in violation of the provisions of this chapter or the rules or regulations of the ~~((director of community, trade, and economic development))~~ chief of the Washington state patrol, through the director of fire protection, shall be subject to seizure by the ~~((director of community, trade, and economic development))~~ chief of the Washington state patrol, through the director of fire protection, or his or her deputy, or by state agencies or local governments having general law enforcement authority. Any fireworks seized by legal process anywhere in the state may be disposed of by the ~~((director of community, trade, and economic development))~~ chief of the Washington state patrol, through the director of fire protection, or the agency conducting the seizure, by summary destruction at any time subsequent to thirty days from such seizure or ten days from the final termination of proceedings under the provisions of RCW 70.77.440, whichever is later.

Sec. 21. RCW 70.77.440 and 1995 c 61 s 24 are each amended to read as follows:

(1) In the event of seizure under RCW 70.77.435, proceedings for forfeiture shall be deemed commenced by the seizure. The ~~((director of community, trade, and economic development or deputy director of community, trade, and economic development))~~ chief of the Washington state patrol or a designee, through the director of fire protection or the agency conducting the seizure, under whose authority the seizure was made shall cause notice to be served within fifteen days following the seizure on the owner of the fireworks seized and the person in charge thereof and any person having any known right or interest therein, of the seizure and intended forfeiture of the seized property. The notice may be served by any method authorized by law or court rule including but not limited to service by certified mail with return receipt requested. Service by mail shall be deemed complete upon mailing within the fifteen-day period following the seizure.

(2) If no person notifies the ~~((director of community, trade, and economic development))~~ chief of the Washington state patrol, through the director of fire protection or the agency conducting the seizure, in writing of the person's claim of lawful ownership or right to lawful possession of seized fireworks within thirty days of the seizure, the seized fireworks shall be deemed forfeited.

(3) If any person notifies the ~~((director of community, trade, and economic development))~~ chief of the Washington state patrol, through the director of fire protection or the agency conducting the seizure, in writing of the person's claim of lawful ownership or possession of the fireworks within thirty days of the seizure, the person or persons shall be afforded a reasonable opportunity to be heard as to the claim or right. The hearing shall be before an administrative law judge appointed under chapter 34.12 RCW, except that any person asserting a claim or right may remove the matter to a court of competent jurisdiction if the aggregate value of the seized fireworks is more than five hundred dollars. The hearing before an administrative law judge and any appeal therefrom shall be under Title 34 RCW. In a court hearing between two or more claimants to the article or articles involved, the prevailing party shall be entitled to a judgment for costs and reasonable attorneys' fees. The burden of producing evidence shall be upon the person claiming to have the lawful right to possession of the seized fireworks. The ~~((director of community, trade, and economic development))~~ chief of the Washington state patrol, through the director of fire protection or the agency conducting the seizure, shall promptly return the fireworks to the claimant upon a determination by the administrative law judge or court that the claimant is lawfully entitled to possession of the fireworks.

(4) When fireworks are forfeited under this chapter the ~~((director of community, trade, and economic development))~~ chief of the Washington state patrol, through the director of fire protection or the agency conducting the seizure, may:

(a) Dispose of the fireworks by summary destruction; or

(b) Sell the forfeited fireworks and chemicals used to make fireworks, that are legal for use and possession under this chapter, to wholesalers or manufacturers,

authorized to possess and use such fireworks or chemicals under a license issued by the ~~((director of community, trade, and economic development))~~ chief of the Washington state patrol, through the director of fire protection. Sale shall be by public auction after publishing a notice of the date, place, and time of the auction in a newspaper of general circulation in the county in which the auction is to be held, at least three days before the date of the auction. The proceeds of the sale of the seized fireworks under this section may be retained by the agency conducting the seizure and used to offset the costs of seizure and/or storage costs of the seized fireworks. The remaining proceeds, if any, shall be deposited in the fire services trust fund and shall be used for the same purposes and in the same percentages as specified in RCW 70.77.343.

Sec. 22. RCW 70.77.450 and 1994 c 133 s 13 are each amended to read as follows:

The ~~((director of community, trade, and economic development))~~ chief of the Washington state patrol, through the director of fire protection, may make an examination of the books and records of any licensee, or other person relative to fireworks, and may visit and inspect the premises of any licensee he may deem at any time necessary for the purpose of enforcing the provisions of this chapter. The licensee, owner, lessee, manager, or operator of any such building or premises shall permit the ~~((director of community, trade, and economic development))~~ chief of the Washington state patrol, through the director of fire protection, his or her deputies or salaried assistants, the local fire official, and their authorized representatives to enter and inspect the premises at the time and for the purpose stated in this section.

Sec. 23. RCW 70.77.455 and 1995 c 61 s 25 and 1995 c 369 s 54 are each reenacted to read as follows:

(1) All licensees shall maintain and make available to the chief of the Washington state patrol, through the director of fire protection, full and complete records showing all production, imports, exports, purchases, and sales of fireworks items by class.

(2) All records obtained and all reports produced, as required by this chapter, are not subject to disclosure through the public disclosure act under chapter 42.17 RCW.

***Sec. 24.** RCW 70.77.555 and 1995 c 61 s 26 are each amended to read as follows:

(1) A ((local public)) city or county agency may provide by ordinance for a fee for retail sales in an amount sufficient to cover all legitimate costs for all needed permits and local licenses from application to and through processing, issuance, and inspection, but in no case to exceed a total of one hundred dollars for any one year for initial permitting and a maximum of ten dollars for any one year for any change in permit holder or location of the retail fireworks stand.

Even though business, environmental impact, inspection, and all other required costs, fees, local licenses, and permits are not directly related to fireworks permits, fees, costs, and local licenses on their face; when these fees,

costs, local licenses, and permits are necessary to the use and operation of the fireworks permits and local licenses such as, but not limited to, business, environmental impact, and inspection; they are included as part and parcel of the annual maximum fees, under subsection (1) of this section, that cover costs for the fireworks permits and local licenses.

(2) A city or county may provide by ordinance for a fee for public display permits as required by RCW 70.77.255(1)(b) not to exceed one hundred dollars for any one permit.

(3) Any special event fees required by a city or county in connection with a fireworks display that requires traffic or crowd control in a public place shall not be subject to the limitation provided in subsection (2) of this section.

*Sec. 24 was vetoed. See message at end of chapter.

NEW SECTION. Sec. 25. 1995 c 369 s 56 is repealed.

NEW SECTION. Sec. 26. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

NEW SECTION. Sec. 27. This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately.

Passed the Senate March 17, 1997.

Passed the House April 10, 1997.

Approved by the Governor April 23, 1997, with the exception of certain items that were vetoed.

Filed in Office of Secretary of State April 23, 1997.

Note: Governor's explanation of partial veto is as follows:

"I am returning herewith, without my approval as to sections 2, 3, 7, 15, 17, 19 and 24, Engrossed Substitute Senate Bill No. 5970 entitled:

"AN ACT Relating to expanding days of sale while not changing days of use of common fireworks and clarifying other provisions of the existing state fireworks law;"

Engrossed Substitute Senate Bill No. 5970 makes both substantive changes and technical corrections to the state fireworks law.

Section 2 and 3 of the bill, respectively, would make state licenses and locally issued permits freely transferable. When a limited number of permits or licenses exist, free transferability could result in all permits or licenses being controlled by a single entity or small group.

Section 7 would create a mandatory minimum penalty of not less than 30 days in jail and a fine of not less than \$5,000 for knowingly manufacturing, importing, transporting, storing, selling, or possessing with intent to sell as fireworks, explosives that are not fireworks. It would also reduce that crime from a class C felony to a gross misdemeanor; such a reduction is inappropriate. The mandatory minimum sentence prescribed in section 7 is inconsistent with our established sentencing guidelines and is unnecessary.

Section 15 of the bill is unnecessary after sections 2 and 3 have been vetoed.

Section 17 of the bill lengthens period during which fireworks may be sold. While the bill does not extend the period during which fireworks may be legally used, use would be extremely difficult to control during the extended sales period.

Section 24 of the bill would limit the fees that a city or county may charge for all fireworks sales authorizations to a total of \$100 per year, and for fireworks display permits to \$100 each. It also would specifically prohibit cities and counties from charging for the costs of business licenses, environmental impacts, inspections, and traffic and crowd control. I believe that local governments should not be prevented from recouping the reasonable costs they incur in allowing fireworks sales and displays.

For these reasons, I have vetoed sections 2, 3, 7, 15, 17, 19 and 24 of Engrossed Substitute Senate Bill No. 5970.

With the exception of sections 2, 3, 7, 15, 17, 19 and 24, I am approving Engrossed Substitute Senate Bill No. 5970."

CHAPTER 183

[House Bill 1459]

LICENSING—REVISION OF VARIOUS PROVISIONS

AN ACT Relating to the department of licensing; amending RCW 46.87.020, 46.87.030, 46.87.120, 46.87.140, 46.87.290, 82.36.335, 82.38.190, and 82.42.060; adding a new section to chapter 46.87 RCW; adding a new section to chapter 82.36 RCW; adding a new section to chapter 82.38 RCW; and adding a new section to chapter 82.42 RCW.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. **Sec. 1.** A new section is added to chapter 46.87 RCW to read as follows:

A proportional registration licensee, who files or against whom is filed a petition in bankruptcy, shall, within ten days of the filing, notify the department of the proceedings in bankruptcy, including the identity and location of the court in which the proceedings are pending.

Sec. 2. RCW 46.87.020 and 1994 c 262 s 12 are each amended to read as follows:

Terms used in this chapter have the meaning given to them in the International Registration Plan (IRP), the Uniform Vehicle Registration, Proration, and Reciprocity Agreement (Western Compact), chapter 46.04 RCW, or as otherwise defined in this section. Definitions given to terms by the IRP and the Western Compact, as applicable, shall prevail unless given a different meaning in this chapter or in rules adopted under authority of this chapter.

(1) "Apportionable vehicle" has the meaning given by the IRP, except that it does not include vehicles with a declared gross weight of twelve thousand pounds or less. Apportionable vehicles include trucks, tractors, truck tractors, road tractors, and buses, each as separate and licensable vehicles. For IRP jurisdictions that require the registration of nonmotor vehicles, this term may include trailers, semitrailers, and pole trailers as applicable, each as separate and licensable vehicles.

(2) "Cab card" is a certificate of registration issued for a vehicle by the registering jurisdiction under the Western Compact. Under the IRP, it is a certificate of registration issued by the base jurisdiction for a vehicle upon which is disclosed the jurisdictions and registered gross weights in such jurisdictions for which the vehicle is registered.

(3) "Commercial vehicle" is a term used by the Western Compact and means any vehicle, except recreational vehicles, vehicles displaying restricted plates, and government owned or leased vehicles, that is operated and registered in more than one jurisdiction and is used or maintained for the transportation of persons for hire, compensation, or profit, or is designed, used, or maintained primarily for the transportation of property and:

(a) Is a motor vehicle having a declared gross weight in excess of twenty-six thousand pounds; or

(b) Is a motor vehicle having three or more axles with a declared gross weight in excess of twelve thousand pounds; or

(c) Is a motor vehicle, trailer, pole trailer, or semitrailer used in combination when the gross weight or declared gross weight of the combination exceeds twenty-six thousand pounds combined gross weight. The nonmotor vehicles mentioned are only applicable to those jurisdictions requiring the registration of such vehicles.

Although a two-axle motor vehicle, trailer, pole trailer, semitrailer, or any combination of such vehicles with an actual or declared gross weight or declared combined gross weight exceeding twelve thousand pounds but not more than twenty-six thousand is not considered to be a commercial vehicle, at the option of the owner, such vehicles may be considered as "commercial vehicles" for the purpose of proportional registration. The nonmotor vehicles mentioned are only applicable to those jurisdictions requiring the registration of such vehicles.

Commercial vehicles include trucks, tractors, truck tractors, road tractors, and buses. Trailers, pole trailers, and semitrailers, will also be considered as commercial vehicles for those jurisdictions who require registration of such vehicles.

(4) "Credentials" means cab cards, apportioned plates (for Washington-based fleets), and validation tabs issued for proportionally registered vehicles.

(5) "Declared combined gross weight" means the total unladen weight of any combination of vehicles plus the weight of the maximum load to be carried on the combination of vehicles as set by the registrant in the application pursuant to chapter 46.44 RCW and for which registration fees have been or are to be paid.

(6) "Declared gross weight" means the total unladen weight of any vehicle plus the weight of the maximum load to be carried on the vehicle as set by the registrant in the application pursuant to chapter 46.44 RCW and for which registration fees have been or are to be paid. In the case of a bus, auto stage, or a passenger-carrying for hire vehicle with a seating capacity of more than six, the declared gross weight shall be determined by multiplying the average load factor of one hundred and fifty pounds by the number of seats in the vehicle, including the driver's seat, and add this amount to the unladen weight of the vehicle. If the resultant gross weight is not listed in RCW 46.16.070, it will be increased to the next higher gross weight so listed pursuant to chapter 46.44 RCW.

(7) "Department" means the department of licensing.

(8) "Fleet" means one or more commercial vehicles in the Western Compact and one or more apportionable vehicles in the IRP.

(9) "In-jurisdiction miles" means the total miles accumulated in a jurisdiction during the preceding year by vehicles of the fleet while they were a part of the fleet.

(10) "IRP" means the International Registration Plan.

(11) "Jurisdiction" means and includes a state, territory or possession of the United States, the District of Columbia, the Commonwealth of Puerto Rico, a foreign country, and a state or province of a foreign country.

(12) "Owner" means a person or business firm who holds the legal title to a vehicle, or if a vehicle is the subject of an agreement for its conditional sale with the right of purchase upon performance of the conditions stated in the agreement and with an immediate right of possession vested in the conditional vendee, or if a vehicle is subject to a lease, contract, or other legal arrangement vesting right of possession or control, for security or otherwise, or if a mortgagor of a vehicle is entitled to possession, then the owner is deemed to be the person or business firm in whom is vested right of possession or control.

(13) "Preceding year" means the period of twelve consecutive months (~~ending on the last full calendar quarter, at least four months before the beginning of the registration year for which proportional registration is sought~~) immediately before July 1st of the year immediately before the commencement of the registration or license year for which apportioned registration is sought.

(14) "Properly registered," as applied to the place of registration under the provisions of the Western Compact, means:

(a) In the case of a commercial vehicle, the jurisdiction in which it is registered if the commercial enterprise in which the vehicle is used has a place of business therein, and, if the vehicle is most frequently dispatched, garaged, serviced, maintained, operated, or otherwise controlled in or from that place of business, and the vehicle has been assigned to that place of business; or

(b) In the case of a commercial vehicle, the jurisdiction where, because of an agreement or arrangement between two or more jurisdictions, or pursuant to a declaration, the vehicle has been registered as required by that jurisdiction.

In case of doubt or dispute as to the proper place of registration of a commercial vehicle, the department shall make the final determination, but in making such determination, may confer with departments of the other jurisdictions affected.

(15) "Prorate percentage" is the factor that is applied to the total proratable fees and taxes to determine the apportionable or prorate fees required for registration in a particular jurisdiction. It is determined by dividing the in-jurisdiction miles for a particular jurisdiction by the total miles. This term is synonymous with the term "mileage percentage."

(16) "Registrant" means a person, business firm, or corporation in whose name or names a vehicle or fleet of vehicles is registered.

(17) "Registration year" means the twelve-month period during which the registration plates issued by the base jurisdiction are valid according to the laws of the base jurisdiction.

(18) "Total miles" means the total number of miles accumulated in all jurisdictions during the preceding year by all vehicles of the fleet while they were a part of the fleet. Mileage accumulated by vehicles of the fleet that did not engage in interstate operations is not included in the fleet miles.

(19) "Western Compact" means the Uniform Vehicle Registration, Proration, and Reciprocity Agreement.

Sec. 3. RCW 46.87.030 and 1993 c 307 s 13 are each amended to read as follows:

(1) When application to register an apportionable or commercial vehicle is made (~~(after the third month of the owner's registration year)~~), the Washington prorated fees may be reduced by one-twelfth for each full registration month that has elapsed at the time a temporary authorization permit (TAP) was issued or if no TAP was issued, at such time as an application for registration is received in the department. If a vehicle is being added to a currently registered fleet, the prorate percentage previously established for the fleet for such registration year shall be used in the computation of the proportional fees and taxes due.

(2) If any vehicle is withdrawn from a proportionally registered fleet during the period for which it is registered under this chapter, the registrant of the fleet shall notify the department on appropriate forms prescribed by the department. The department may require the registrant to surrender credentials that were issued to the vehicle. If a motor vehicle is permanently withdrawn from a proportionally registered fleet because it has been destroyed, sold, or otherwise completely removed from the service of the fleet registrant, the unused portion of the licensing fee paid under RCW 46.16.070 with respect to the vehicle reduced by one-twelfth for each calendar month and fraction thereof elapsing between the first day of the month of the current registration year in which the vehicle was registered and the date the notice of withdrawal, accompanied by such credentials as may be required, is received in the department, shall be credited to the fleet proportional registration account of the registrant. Credit shall be applied against the licensing fee liability for subsequent additions of motor vehicles to be proportionally registered in the fleet during such registration year or for additional licensing fees due under RCW 46.16.070 or to be due upon audit under RCW 46.87.310. If any credit is less than fifteen dollars, no credit will be entered. In lieu of credit, the registrant may choose to transfer the unused portion of the licensing fee for the motor vehicle to the new owner, in which case it shall remain with the motor vehicle for which it was originally paid. In no event may any amount be credited against fees other than those for the registration year from which the credit was obtained nor is any amount subject to refund.

Sec. 4. RCW 46.87.120 and 1990 c 42 s 113 are each amended to read as follows:

(1) The initial application for proportional registration of a fleet shall state the mileage data with respect to the fleet for the preceding year in this and other jurisdictions. If no operations were conducted with the fleet during the preceding year, the application shall contain a full statement of the proposed method of operation and estimates of annual mileage in each of the jurisdictions in which operation is contemplated. The registrant shall determine the in-jurisdiction and total miles to be used in computing the fees and taxes due for the fleet. The department may evaluate and adjust the estimate in the application if it is not satisfied as to its correctness. The department shall require a minimum estimated mileage of one trip state-line-to-state-line in each jurisdiction the carrier registers for operations.

(2) Fleets will consist of either motor vehicles or nonmotor vehicles, but not a mixture of both.

(3) In instances where the use of mileage accumulated by a nonmotor vehicle fleet is impractical, for the purpose of calculating prorated percentages, the registrant may request another method and/or unit of measure to be used in determining the prorated percentages. Upon receiving such request, the department may prescribe another method and/or unit of measure to be used in lieu of mileage that will ensure each jurisdiction that requires the registration of nonmotor vehicles its fair share of vehicle licensing fees and taxes.

(4) When operations of a Washington-based fleet is materially changed through merger, acquisition, or extended authority, the registrant shall notify the department, which shall then require the filing of an amended application setting forth the proposed operation by use of estimated mileage for all jurisdictions. The department may adjust the estimated mileage by audit or otherwise to an actual travel basis to insure proper fee payment. The actual travel basis may be used for determination of fee payments until such time as a normal mileage year is available under the new operation. Under the provisions of the Western Compact, this subsection applies to any fleet proportionally registered in Washington irrespective of the fleet's base jurisdiction.

Sec. 5. RCW 46.87.140 and 1991 c 339 s 10 are each amended to read as follows:

(1) Any owner engaged in interstate operations of one or more fleets of apportionable or commercial vehicles may, in lieu of registration of the vehicles under chapter 46.16 RCW, register and license the vehicles of each fleet under this chapter by filing a proportional registration application for each fleet with the department. The nonmotor vehicles of Washington-based fleets which are operated in IRP jurisdictions that require registration of such vehicles may be proportionally registered for operation in those jurisdictions as herein provided. The application shall contain the following information and such other information pertinent to vehicle registration as the department may require:

(a) A description and identification of each vehicle of the fleet. Motor vehicles and nonpower units shall be placed in separate fleets.

(b) If registering under the provisions of the IRP, the registrant shall also indicate member jurisdictions in which registration is desired and furnish such other information as those member jurisdictions require.

(c) An original or renewal application shall also be accompanied by a mileage schedule for each fleet.

(2) Each application shall, at the time and in the manner required by the department, be supported by payment of a fee computed as follows:

(a) Divide the in-jurisdiction miles by the total miles and carry the answer to the nearest thousandth of a percent (three places beyond the decimal, e.g. 10.543%). This factor is known as the prorate percentage.

(b) Determine the total proratable fees and taxes required for each vehicle in the fleet for which registration is requested, based on the regular annual fees and taxes or applicable fees and taxes for the unexpired portion of the registration year under the laws of each jurisdiction for which fees or taxes are to be calculated.

Washington-based nonmotor vehicles shall normally be fully licensed under the provisions of chapter 46.16 RCW. If these vehicles are being operated in jurisdictions that require the registration of such vehicles, the applicable vehicles may be considered as apportionable vehicles for the purpose of registration in those jurisdictions and this state. The prorate percentage for which registration fees and taxes were paid to such jurisdictions may be credited toward the one hundred percent of registration fees and taxes due this state for full licensing. Applicable fees and taxes for vehicles of Washington-based fleets are those prescribed under RCW 46.16.070, 46.16.085, 82.38.075, and 82.44.020, as applicable. If, during the registration period, the lessor of an apportioned vehicle changes and the vehicle remains in the fleet of the registrant, the department shall only charge those fees prescribed for the issuance of new apportioned license plates, validation tabs, and cab card.

(c) Multiply the total, proratable fees or taxes for each motor vehicle by the prorate percentage applicable to the desired jurisdiction and round the results to the nearest cent. Fees and taxes for nonmotor vehicles being prorated will be calculated as indicated in (b) of this subsection.

(d) Add the total fees and taxes determined in (c) of this subsection for each vehicle to the nonproratable fees required under the laws of the jurisdiction for which fees are being calculated. Nonproratable fees required for vehicles of Washington-based fleets are the administrative fee required by RCW 82.38.075, if applicable, and the vehicle transaction fee pursuant to the provisions of RCW 46.87.130.

(e) Add the total fees and taxes determined in (d) of this subsection for each vehicle listed on the application. Assuming the fees and taxes calculated were for Washington, this would be the amount due and payable for the application under the provisions of the Western Compact. Under the provisions of the IRP, the amount due and payable for the application would be the sum of the fees and taxes

referred to in (d) of this subsection, calculated for each member jurisdiction in which registration of the fleet is desired.

(3) All assessments for proportional registration fees are due and payable in United States funds on the date presented or mailed to the registrant at the address listed in the proportional registration records of the department. The registrant may petition for reassessment of the fees or taxes due under this section within thirty days of the date of original service as provided for in this chapter.

Sec. 6. RCW 46.87.290 and 1987 c 244 s 42 are each amended to read as follows:

If the ~~((director or the director's designee))~~ department determines at any time that an applicant for proportional registration of a vehicle or a fleet of vehicles is not entitled to a cab card for a vehicle or fleet of vehicles, the ~~((director))~~ department may refuse to issue the cab card(s) or to license the vehicle or fleet of vehicles and may for like reason, after notice, and in the exercise of discretion, cancel the cab card(s) and license plate(s) already issued. ~~((The notice shall be served personally or sent by certified mail (registered mail for Canadian addresses); return receipt requested. If sent by mail, service is deemed to have been accomplished on the date the notice was deposited in the United States mail, postage prepaid))~~ The department shall send the notice of cancellation by first class mail, addressed to the owner of the vehicle in question at the owner's address as it appears in the proportional registration records of the department, and record the transmittal on an affidavit of first class mail. It is then unlawful for any person to remove, drive, or operate the vehicle(s) until a proper certificate(s) of registration or cab card(s) has been issued. Any person removing, driving, or operating the vehicle(s) after the refusal of the ~~((director or the director's designee))~~ department to issue a cab card(s), certificate(s) of registration, license plate(s), or the revocation ~~((thereof))~~ or cancellation of the cab card(s), certificate(s) of registration, or license plate(s) is guilty of a gross misdemeanor. At the discretion of the ~~((director or the director's designee))~~ department, a vehicle that has been moved, driven, or operated in violation of this section may be impounded by the Washington state patrol, county sheriff, or city police in a manner directed for such cases by the chief of the Washington state patrol until proper registration and license plate have been issued.

NEW SECTION. **Sec. 7.** A new section is added to chapter 82.36 RCW to read as follows:

A motor vehicle fuel licensee, who files or against whom is filed a petition in bankruptcy, shall, within ten days of the filing, notify the department of the proceedings in bankruptcy, including the identity and location of the court in which the proceedings are pending.

Sec. 8. RCW 82.36.335 and 1961 c 15 s 82.36.335 are each amended to read as follows:

In lieu of the collection and refund of the tax on motor vehicle fuel used by a distributor in such a manner as would entitle a purchaser to claim refund under this

chapter, credit may be given the distributor upon ~~((his)) the distributor's~~ tax return in the determination of the amount of ~~((his)) the distributor's~~ tax. Payment credits shall not be carried forward and applied to subsequent tax returns.

NEW SECTION. Sec. 9. A new section is added to chapter 82.38 RCW to read as follows:

A special fuel licensee, who files or against whom is filed a petition in bankruptcy, shall, within ten days of the filing, notify the department of the proceedings in bankruptcy, including the identity and location of the court in which the proceedings are pending.

Sec. 10. RCW 82.38.190 and 1996 c 91 s 4 are each amended to read as follows:

(1) Claims under RCW 82.38.180 shall be filed with the department on forms prescribed by the department and shall show the date of filing and the period covered in the claim, the number of gallons of special fuel used for purposes subject to tax refund, and such other facts and information as may be required. Every such claim shall be supported by an invoice or invoices issued to or by the claimant, as may be prescribed by the department, and such other information as the department may require.

(2) Any amount determined to be refundable by the department under RCW 82.38.180 shall first be credited on any amounts then due and payable from the special fuel dealer or special fuel user or to any person to whom the refund is due, and the department shall then certify the balance thereof to the state treasurer, who shall thereupon draw his warrant for such certified amount to such special fuel dealer or special fuel user or any person ~~((: PROVIDED, HOWEVER, That the department shall deduct fifty cents from all such refunds as a filing fee, which fee shall be deducted from the warrant issued in payment of such refund to defray expenses in furnishing the claim forms and other forms provided for in this chapter))~~.

(3) No refund or credit shall be approved by the department unless a written claim for refund or credit stating the specific grounds upon which the claim is founded is filed with the department:

(a) Within thirteen months from the date of purchase or from the last day of the month following the close of the reporting period for which the refundable amount or credit is due with respect to refunds or credits allowable under RCW 82.38.180, subsections (1), (2), (4) and (5), and if not filed within this period the right to refund shall be forever barred.

(b) Within three years from the last day of the month following the close of the reporting period for which the overpayment is due with respect to the refunds or credits allowable under RCW 82.38.180(3). The department shall refund any amount paid that has been verified by the department to be more than ten dollars over the amount actually due for the reporting period. Payment credits shall not be carried forward and applied to subsequent tax returns for a person licensed under this chapter.

(4) Within thirty days after disallowing any claim in whole or in part, the department shall serve written notice of its action on the claimant.

(5) Interest shall be paid upon any refundable amount or credit due under RCW 82.38.180(3) at the rate of one percent per month from the last day of the calendar month following the reporting period for which the refundable amount or credit is due.

The interest shall be paid:

(a) In the case of a refund, to the last day of the calendar month following the date upon which the person making the overpayment, if he has not already filed a claim, is notified by the department that a claim may be filed or the date upon which the claim is approved by the department, whichever date is earlier.

(b) In the case of a credit, to the same date as that to which interest is computed on the tax or amount against which the credit is applied.

If the department determines that any overpayment has been made intentionally or by reason of carelessness, it shall not allow any interest thereon.

(6) No injunction or writ of mandate or other legal or equitable process shall issue in any suit, action or proceeding in any court against this state or against any officer of the state to prevent or enjoin the collection under this chapter of any tax or any amount of tax required to be collected.

NEW SECTION. Sec. 11. A new section is added to chapter 82.42 RCW to read as follows:

An aircraft fuel licensee, who files or against whom is filed a petition in bankruptcy, shall, within ten days of the filing, notify the department of the proceedings in bankruptcy, including the identity and location of the court in which the proceedings are pending.

Sec. 12. RCW 82.42.060 and 1996 c 104 s 15 are each amended to read as follows:

The amount of aircraft fuel excise tax imposed under RCW 82.42.020 for each month shall be paid to the director on or before the twenty-fifth day of the month thereafter, and if not paid prior thereto, shall become delinquent at the close of business on that day, and a penalty of ten percent of such excise tax must be added thereto for delinquency. Any aircraft fuel tax, penalties, and interest payable under the provisions of this chapter shall bear interest at the rate of one percent per month, or fraction thereof, from the first day of the calendar month after the close of the monthly period for which the amount or any portion thereof should have been paid until the date of payment. RCW 82.36.070 applies to the issuance, refusal, or revocation of a license issued under this chapter. The provisions of RCW 82.36.110 relating to a lien for taxes, interests or penalties due, shall be applicable to the collection of the aircraft fuel excise tax provided in RCW 82.42.020, and the provisions of RCW 82.36.120, 82.36.130 and 82.36.140 shall apply to any distributor of aircraft fuel with respect to the aircraft fuel excise tax imposed under RCW 82.42.020. Payment credits shall not be carried forward and applied to subsequent tax returns.

Passed the House March 6, 1997.

Passed the Senate April 10, 1997.

Approved by the Governor April 24, 1997.

Filed in Office of Secretary of State April 24, 1997.

CHAPTER 184

[House Bill 1465]

SURFACE MINING—NO-COST CONSULTING SERVICE

AN ACT Relating to surface mining; and amending RCW 78.44.310.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 78.44.310 and 1993 c 518 s 38 are each amended to read as follows:

The department (~~may~~) shall establish a no-cost consulting service within the department to assist miners, permit holders, local government, and the public in technical matters related to mine regulation, mine operations, and reclamation. The department (~~may~~) shall prepare concise, printed information for the public explaining surface mining activities, timelines for permits and reviews, laws, and the role of governmental agencies involved in surface mining, including how to contact all regulators. The department shall not be held liable for any negligent advice.

Passed the House March 12, 1997.

Passed the Senate April 14, 1997.

Approved by the Governor April 24, 1997.

Filed in Office of Secretary of State April 24, 1997.

CHAPTER 185

[Substitute House Bill 1466]

SURFACE MINING—DELEGATION OF ENFORCEMENT TO LOCAL AUTHORITIES

AN ACT Relating to surface mining; and amending RCW 78.44.050.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 78.44.050 and 1993 c 518 s 7 are each amended to read as follows:

The department shall have the exclusive authority to regulate surface mine reclamation (~~except that, by contractual agreement, the department may delegate some or all of its enforcement authority to a county, city, or town~~). No county, city, or town may require for its review or approval a separate reclamation plan or application. The department may, however, delegate some or all of its enforcement authority by contractual agreement to a county, city, or town that employs personnel who are, in the opinion of the department, qualified to enforce plans approved by the department. All counties, cities, or towns shall have the authority to zone surface mines and adopt ordinances regulating operations (~~pursuant to~~

~~section 16 of this act~~) as provided in this chapter, except that county, city, or town operations ordinances may be preempted by the department during the emergencies outlined in RCW 78.44.200 and related rules.

This chapter shall not alter or preempt any provisions of the state fisheries laws (Title 75 RCW), the state water allocation and use laws (chapters 90.03 and 90.44 RCW), the state water pollution control laws (chapter 90.48 RCW), the state wildlife laws (Title 77 RCW), state noise laws or air quality laws (Title 70 RCW), shoreline management (chapter 90.58 RCW), the state environmental policy act (chapter 43.21C RCW), state growth management (chapter 36.70A RCW), state drinking water laws (chapters 43.20 and 70.119A RCW), or any other state statutes.

Passed the House March 13, 1997.

Passed the Senate April 14, 1997.

Approved by the Governor April 24, 1997.

Filed in Office of Secretary of State April 24, 1997.

CHAPTER 186

[Substitute House Bill 1467]

SURFACE MINING—POSTING OF PERFORMANCE SECURITY

AN ACT Relating to surface mining; and amending RCW 78.44.087.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 78.44.087 and 1995 c 223 s 3 are each amended to read as follows:

(1) The department shall not issue a reclamation permit until the applicant has deposited with the department an acceptable performance security on forms prescribed and furnished by the department. A public or governmental agency shall not be required to post performance security (~~(nor shall a permit holder be required to post surface mining performance security with more than one state or local agency)~~).

(2) This performance security may be:

(a) Bank letters of credit acceptable to the department;

(b) A cash deposit;

(c) Negotiable securities acceptable to the department;

(d) An assignment of a savings account;

(e) A savings certificate in a Washington bank on an assignment form prescribed by the department;

(f) Assignments of interests in real property within the state of Washington;

or

(g) A corporate surety bond executed in favor of the department by a corporation authorized to do business in the state of Washington under Title 48 RCW and authorized by the department.

(3) The performance security shall be conditioned upon the faithful performance of the requirements set forth in this chapter and of the rules adopted under it.

(4) The department shall have the authority to determine the amount of the performance security using a standardized performance security formula developed by the department. The amount of the security shall be determined by the department and based on the estimated costs of completing reclamation according to the approved reclamation plan or minimum standards and related administrative overhead for the area to be surface mined during (a) the next twelve-month period, (b) the following twenty-four months, and (c) any previously disturbed areas on which the reclamation has not been satisfactorily completed and approved.

(5) The department may increase or decrease the amount of the performance security at any time to compensate for a change in the disturbed area, the depth of excavation, a modification of the reclamation plan, or any other alteration in the conditions of the mine that affects the cost of reclamation. The department may, for any reason, refuse any performance security not deemed adequate.

(6) Liability under the performance security shall be maintained until reclamation is completed according to the approved reclamation plan to the satisfaction of the department unless released as hereinafter provided. Liability under the performance security may be released only upon written notification by the department. Notification shall be given upon completion of compliance or acceptance by the department of a substitute performance security. The liability of the surety shall not exceed the amount of security required by this section and the department's reasonable legal fees to recover the security.

(7) Any interest or appreciation on the performance security shall be held by the department until reclamation is completed to its satisfaction. At such time, the interest shall be remitted to the permit holder; except that such interest or appreciation may be used by the department to effect reclamation in the event that the permit holder fails to comply with the provisions of this chapter and the costs of reclamation exceed the face value of the performance security.

(8) ~~((Except as provided in this section,))~~ No other state agency or local government other than the department shall require performance security for the purposes of surface mine reclamation ((and only one agency of government shall require and hold the performance security)). The department may enter into written agreements with federal agencies in order to avoid redundant bonding of surface mines straddling boundaries between federally controlled and other lands within Washington state.

(9) When acting in its capacity as a regulator, no other state agency or local government may require a surface mining operation regulated under this chapter to post performance security unless that state agency or local government has express statutory authority to do so. A state agency's or local government's general authority to protect the public health, safety, and welfare does not constitute express statutory authority to require a performance security. However, nothing

in this section prohibits a state agency or local government from requiring a performance security when the state agency or local government is acting in its capacity as a landowner and contracting for extraction-related activities on state or local government property.

Passed the House March 11, 1997.

Passed the Senate April 14, 1997.

Approved by the Governor April 24, 1997.

Filed in Office of Secretary of State April 24, 1997.

CHAPTER 187

[House Bill 1473]

DEVELOPMENT LOAN FUND—SUPPLEMENTAL APPROPRIATION AUTHORITY

AN ACT Relating to providing supplemental appropriation authority for the development loan fund; amending 1995 2nd sp.s. c 16 s 108 (uncodified); creating a new section; making an appropriation; and declaring an emergency.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. Sec. 1. The legislature finds that the development loan fund is a revolving loan fund capitalized primarily with federal funds. The fund, administered by the department of community, trade, and economic development, provides low-interest loans to businesses in economically distressed areas and other parts of the state. During the 1995-97 biennium, the department provided three million six hundred thousand dollars in loans, thereby exhausting its 1995-97 appropriation authority six months prior to the end of the biennium. However, due to early repayment of several loans, the account has an estimated fund balance of approximately one million seven hundred thousand dollars. In order to make the fund balance available for issuance of new loans prior to the end of the biennium, it is necessary to provide a supplemental appropriation.

Sec. 2. 1995 2nd sp.s. c 16 s 108 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF COMMUNITY, TRADE, AND ECONOMIC DEVELOPMENT

Development loan fund (88-2-002)

Reappropriation:

St Bldg Constr Acct—State \$	2,000,000
Wa St Dev Loan Acct—Federal \$	186,654
Subtotal Reappropriation \$	2,186,654

Appropriation:

Wa St Dev Loan Acct—Federal \$	((3,500,000))
	4,200,000
Prior Biennia (Expenditures) \$	5,932,935
Future Biennia (Projected Costs) \$	20,000,000

TOTAL \$ ((31,619,589))
32,319,589

NEW SECTION. Sec. 3. This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately.

Passed the House March 11, 1997.
Passed the Senate April 11, 1997.
Approved by the Governor April 24, 1997.
Filed in Office of Secretary of State April 24, 1997.

CHAPTER 188

[House Bill 1525]

COUNTY SIX-YEAR TRANSPORTATION PLANS—FLEXIBILITY FOR SUBMITTAL DATES

AN ACT Relating to the submittal date for county six-year transportation programs; and reenacting and amending RCW 36.81.121.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 36.81.121 and 1994 c 179 s 2 and 1994 c 158 s 8 are each reenacted and amended to read as follows:

(1) At any time before ((July 1st of each year)) adoption of the budget, the legislative authority of each county, after one or more public hearings thereon, shall prepare and adopt a comprehensive transportation program for the ensuing six calendar years. If the county has adopted a comprehensive plan pursuant to chapter 35.63 or 36.70 RCW, the inherent authority of a charter county derived from its charter, or chapter 36.70A RCW, the program shall be consistent with this comprehensive plan.

The program shall include proposed road and bridge construction work and other transportation facilities and programs deemed appropriate, and for those counties operating ferries shall also include a separate section showing proposed capital expenditures for ferries, docks, and related facilities. Copies of the program shall be filed with the county road administration board and with the state secretary of transportation not more than thirty days after its adoption by the legislative authority. The purpose of this section is to assure that each county shall perpetually have available advanced plans looking to the future for not less than six years as a guide in carrying out a coordinated transportation program. The program may at any time be revised by a majority of the legislative authority but only after a public hearing thereon.

(2) Each six-year transportation program forwarded to the secretary in compliance with subsection (1) of this section shall contain information as to how a county will expend its moneys, including funds made available pursuant to chapter 47.30 RCW, for nonmotorized transportation purposes.

(3) Each six-year transportation program forwarded to the secretary in compliance with subsection (1) of this section shall contain information as to how

a county shall act to preserve railroad right-of-way in the event the railroad ceases to operate in the county's jurisdiction.

(4) The six-year plan for each county shall specifically set forth those projects and programs of regional significance for inclusion in the transportation improvement program within that region.

Passed the House March 11, 1997.

Passed the Senate April 10, 1997.

Approved by the Governor April 24, 1997.

Filed in Office of Secretary of State April 24, 1997.

CHAPTER 189

[Engrossed House Bill 1533]

COUNTY ROAD FUNDS—PERMITTED USES

AN ACT Relating to use of county road funds; and amending RCW 36.82.070.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 36.82.070 and 1963 c 4 s 36.82.070 are each amended to read as follows:

Any money paid to any county (~~from the motor vehicle~~) road fund may be used for the construction, alteration, repair, improvement, or maintenance of county roads and bridges thereon and for wharves necessary for ferriage of motor vehicle traffic, and for ferries, and for the acquiring, operating, and maintaining of machinery, equipment, quarries, or pits for the extraction of materials, and for the cost of establishing county roads, acquiring rights of way therefor, and expenses for the operation of the county engineering office, and for any of the following programs when directly related to county road purposes: (1) Insurance; (2) self-insurance programs; and (3) risk management programs; and for any other proper county road purpose. Such expenditure may be made either independently or in conjunction with the state or any city, town, or tax district within the county.

Passed the House March 11, 1997.

Passed the Senate April 10, 1997.

Approved by the Governor April 24, 1997.

Filed in Office of Secretary of State April 24, 1997.

CHAPTER 190

[House Bill 1593]

SOLID WASTE ROUTE COLLECTION VEHICLES—TRANSPORTATION OF PERSONS ON OUTSIDE PARTS

AN ACT Relating to solid waste route collection vehicles; and amending RCW 46.61.660.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 46.61.660 and 1961 c 12 s 46.56.070 are each amended to read as follows:

It shall be unlawful for any person to transport any living animal on the running board, fenders, hood, or other outside part of any vehicle unless suitable harness, cage or enclosure be provided and so attached as to protect such animal from falling or being thrown therefrom. It shall be unlawful for any person to transport any persons upon the running board, fenders, hood or other outside part of any vehicle, except that this provision shall not apply to authorized emergency vehicles or to solid waste collection vehicles that are engaged in collecting solid waste or recyclables on route at speeds of twenty miles per hour or less.

Passed the House March 7, 1997.

Passed the Senate April 11, 1997.

Approved by the Governor April 24, 1997.

Filed in Office of Secretary of State April 24, 1997.

CHAPTER 191

[Substitute House Bill 1594]

GARBAGE AND RECYCLING TRUCKS—FRONT-END LENGTH LIMITS RELAXED

AN ACT Relating to garbage and recycling trucks; and amending RCW 46.44.034.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 46.44.034 and 1991 c 143 s 1 are each amended to read as follows:

(1) The load, or any portion of any vehicle, operated alone upon the public highway of this state, or the load, or any portion of the front vehicle of a combination of vehicles, shall not extend more than three feet beyond the front wheels of such vehicle, or the front bumper, if equipped with front bumper. This subsection does not apply to a front-loading garbage truck or recycling truck while on route and actually engaged in the collection of solid waste or recyclables at speeds of twenty miles per hour or less.

(2) No vehicle shall be operated upon the public highways with any part of the permanent structure or load extending in excess of fifteen feet beyond the center of the last axle of such vehicle. This subsection does not apply to "specialized equipment" designated under 49 U.S.C. (({Sec-})) Sec. 231I that is operated on the interstate highway system, those designated portions of the federal-aid primary system, and routes constituting reasonable access from such highways to terminals and facilities for food, fuel, repairs, and rest.

Passed the House March 10, 1997.

Passed the Senate April 11, 1997.

Approved by the Governor April 24, 1997.

Filed in Office of Secretary of State April 24, 1997.

CHAPTER 192

[Substitute House Bill 1600]

SURFACE MINING PERMITS—REVIEW AND MODIFICATION

AN ACT Relating to surface mining; and amending RCW 78.44.081, 78.44.091, and 78.44.151.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 78.44.081 and 1993 c 518 s 11 are each amended to read as follows:

After July 1, 1993, no miner or permit holder may engage in surface mining without having first obtained a reclamation permit from the department. Operating permits issued by the department between January 1, 1971, and June 30, 1993, shall be considered reclamation permits (~~provided such permits substantially meet the protections, mitigations, and reclamation goals of RCW 78.44.091 and 78.44.131 within five years after July 1, 1993. State agencies and local government shall be exempt from this time limit for inactive sites. Prior to the use of an inactive site, the reclamation plan must be brought up to current standards~~). A separate permit shall be required for each noncontiguous surface mine. The reclamation permit shall consist of the permit forms and any exhibits attached thereto. The permit holder shall comply with the provisions of the reclamation permit unless waived and explained in writing by the department.

Prior to receiving a reclamation permit, an applicant must submit an application on forms provided by the department that shall contain the following information and shall be considered part of the reclamation permit:

- (1) Name and address of the legal landowner, or purchaser of the land under a real estate contract;
- (2) The name of the applicant and, if the applicants are corporations or other business entities, the names and addresses of their principal officers and resident agent for service of process;
- (3) A reasonably accurate description of the minerals to be surface mined;
- (4) Type of surface mining to be performed;
- (5) Estimated starting date, date of completion, and date of completed reclamation of surface mining;
- (6) Size and legal description of the permit area and maximum lateral and vertical extent of the disturbed area;
- (7) Expected area to be disturbed by surface mining during (a) the next twelve months, and (b) the following twenty-four months;
- (8) Any applicable SEPA documents; and
- (9) Other pertinent data as required by the department.

The reclamation permit shall be granted for the period required to deplete essentially all minerals identified in the reclamation permit on the land covered by the reclamation plan. The reclamation permit shall be valid until the reclamation is complete unless the permit is canceled by the department.

Sec. 2. RCW 78.44.091 and 1993 c 518 s 12 are each amended to read as follows:

An applicant shall provide a reclamation plan and copies acceptable to the department prior to obtaining a reclamation permit. The department shall have the sole authority to approve reclamation plans. Reclamation plans or modified reclamation plans submitted to the department after June 30, 1993, shall meet or exceed the minimum reclamation standards set forth in this chapter and by the department in rule. Each applicant shall also supply copies of the proposed plans and final reclamation plan approved by the department to the county, city, or town in which the mine will be located. The department shall solicit comment from local government prior to approving a reclamation plan. The reclamation plan shall include:

(1) A written narrative describing the proposed mining and reclamation scheme with:

(a) A statement of a proposed subsequent use of the land after reclamation that is consistent with the local land use designation. Approval of the reclamation plan shall not vest the proposed subsequent use of the land;

(b) If the permit holder is not the sole landowner, a copy of the conveyance or a written statement that expressly grants or reserves the right to extract minerals by surface mining methods;

(c) A simple and accurate legal description of the permit area and disturbed areas;

(d) The maximum depth of mining;

(e) A reasonably accurate description of the minerals to be mined;

(f) A description of the method of mining;

(g) A description of the sequence of mining that will provide, within limits of normal procedures of the industry, for completion of surface mining and associated disturbance on each portion of the permit area so that reclamation can be initiated at the earliest possible time on each segment of the mine;

(h) A schedule for progressive reclamation of each segment of the mine;

(i) Where mining on flood plains or in river or stream channels is contemplated, a thoroughly documented hydrogeologic evaluation that will outline measures that would protect against or would mitigate avulsion and erosion as determined by the department;

(j) Where mining is contemplated within critical aquifer recharge areas, special protection areas as defined by chapter 90.48 RCW and implementing rules, public water supply watersheds, sole source aquifers, wellhead protection areas, and designated aquifer protection areas as set forth in chapter 36.36 RCW, a thoroughly documented hydrogeologic analysis of the reclamation plan may be required; and

(k) Additional information as required by the department including but not limited to: The positions of reclamation setbacks and screening, conservation of topsoil, interim reclamation, revegetation, postmining erosion control, drainage control, slope stability, disposal of mine wastes, control of fill material,

development of wetlands, ponds, lakes, and impoundments, and rehabilitation of topography.

(2) Maps of the surface mine showing:

(a) All applicable data required in the narrative portion of the reclamation plan;

(b) Existing topographic contours;

(c) Contours depicting specifications for surface gradient restoration appropriate to the proposed subsequent use of the land and meeting the minimum reclamation standards;

(d) Locations and names of all roads, railroads, and utility lines on or adjacent to the area;

(e) Locations and types of proposed access roads to be built in conjunction with the surface mining;

(f) Detailed and accurate boundaries of the permit area, screening, reclamation setbacks, and maximum extent of the disturbed area; and

(g) Estimated depth to ground water and the locations of surface water bodies and wetlands both prior to and after mining.

(3) At least two cross sections of the mine including all applicable data required in the narrative and map portions of the reclamation plan.

(4) Evidence that the proposed surface mine has been approved under local zoning and land use regulations.

(5) Written approval of the reclamation plan by the landowner for mines permitted after June 30, 1993.

(6) Other supporting data and documents regarding the surface mine as reasonably required by the department.

If the department refuses to approve a reclamation plan in the form submitted by an applicant or permit holder, it shall notify the applicant or permit holder stating the reasons for its determination and describe such additional requirements to the applicant or permit holder's reclamation plan as are necessary for the approval of the plan by the department. If the department refuses to approve a complete reclamation plan within one hundred twenty days, the miner or permit holder may appeal this determination under the provisions of this chapter.

Only insignificant deviations may occur from the approved reclamation plan without prior written approval by the department for the proposed change.

~~((The department retains the authority to require that the reclamation plan be updated to the satisfaction of the department at least every ten years.))~~

Sec. 3. RCW 78.44.151 and 1993 c 518 s 23 are each amended to read as follows:

~~((The department and))~~ (1) The permit holder may modify the reclamation plan at any time during the term of the permit ~~((for any of the following reasons:~~

~~—(1) To modify the requirements so that they do not conflict with existing or new laws;~~

~~—(2) If the department determines that the previously adopted reclamation plan is impossible or impracticable to implement and maintain; or~~

~~—(3) The previously approved reclamation plan is not accomplishing the intent of this chapter as determined by the department)) provided that the modified reclamation plan meets the protections, mitigations, and reclamation goals of RCW 78.44.091, 78.44.131, and 78.44.141.~~

(2) The department may require a permit holder to modify the reclamation plan if the department determines:

(a) That the previously approved reclamation plan has not been modified during the past ten years; or

(b) That the permit holder has violated or is not substantially following the previously approved reclamation plan.

(3) Modified reclamation plans shall be reviewed by the department as lead agency under SEPA. Such SEPA analyses shall consider only those impacts relating directly to the proposed modifications. Copies of proposed and approved modifications shall be sent to the appropriate county, city, or town.

Passed the House March 12, 1997.

Passed the Senate April 14, 1997.

Approved by the Governor April 24, 1997.

Filed in Office of Secretary of State April 24, 1997.

CHAPTER 193

[House Bill 1604]

LIMOUSINE ADVERTISING—EXCEPTIONS FOR REQUIRED DISPLAY OF CERTIFIED BUSINESS IDENTIFIERS

AN ACT Relating to limousine advertising; and amending RCW 46.72A.080.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 46.72A.080 and 1996 c 87 s 11 are each amended to read as follows:

(1) No limousine carrier may advertise without listing the carrier's unified business identifier issued by the department in the advertisement and specifying the type of service offered as provided in RCW 46.04.274. No limousine carrier may advertise or hold itself out to the public as providing taxicab transportation services.

(2) All advertising, contracts, correspondence, cards, signs, posters, papers, and documents that show a limousine carrier's name or address shall list the carrier's unified business identifier and the type of service offered. The alphabetized listing of limousine carriers appearing in the advertising sections of telephone books or other directories and all advertising that shows the carrier's name or address must show the carrier's current unified business identifier.

(3) Advertising in the alphabetical listing in a telephone directory need not contain the carrier's certified business identifier.

(4) Advertising by electronic transmission need not contain the carrier's unified business identifier if the carrier provides it to the person selling the advertisement and it is recorded in the advertising contract.

((4)) (5) It is a gross misdemeanor for a person to (a) falsify a unified business identifier or use a false or inaccurate unified business identifier; (b) fail to specify the type of service offered; or (c) advertise or otherwise hold itself out to the public as providing taxicab transportation services in connection with a solicitation or identification as an authorized limousine carrier.

Passed the House March 5, 1997.

Passed the Senate April 11, 1997.

Approved by the Governor April 24, 1997.

Filed in Office of Secretary of State April 24, 1997.

CHAPTER 194

[House Bill 1743]

LONG-TERM CARE OMBUDSMAN PROGRAM—ADOPTION OF RULES

AN ACT Relating to the long-term care ombudsman program; amending RCW 43.190.030; and declaring an emergency.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 43.190.030 and 1995 c 399 s 105 are each amended to read as follows:

There is created the office of the state long-term care ombudsman. The department of community, trade, and economic development shall contract with a private nonprofit organization to provide long-term care ombudsman services as specified under, and consistent with, the federal older Americans act as amended, federal mandates, the goals of the state, and the needs of its citizens. The department of community, trade, and economic development shall ensure that all program and staff support necessary to enable the ombudsman to effectively protect the interests of residents, patients, and clients of all long-term care facilities is provided by the nonprofit organization that contracts to provide long-term care ombudsman services. The department of community, trade, and economic development shall adopt rules to carry out this chapter and the long-term care ombudsman provisions of the federal older Americans act, as amended, and applicable federal regulations. The long-term care ombudsman program shall have the following powers and duties:

(1) To provide services for coordinating the activities of long-term care ombudsmen throughout the state;

(2) Carry out such other activities as the department of community, trade, and economic development deems appropriate;

(3) Establish procedures consistent with RCW 43.190.110 for appropriate access by long-term care ombudsmen to long-term care facilities and patients' records, including procedures to protect the confidentiality of the records and

ensure that the identity of any complainant or resident will not be disclosed without the written consent of the complainant or resident, or upon court order;

(4) Establish a state-wide uniform reporting system to collect and analyze data relating to complaints and conditions in long-term care facilities for the purpose of identifying and resolving significant problems, with provision for submission of such data to the department of social and health services and to the federal department of health and human services, or its successor agency, on a regular basis; and

(5) Establish procedures to assure that any files maintained by ombudsman programs shall be disclosed only at the discretion of the ombudsman having authority over the disposition of such files, except that the identity of any complainant or resident of a long-term care facility shall not be disclosed by such ombudsman unless:

(a) Such complainant or resident, or the complainant's or resident's legal representative, consents in writing to such disclosure; or

(b) Such disclosure is required by court order.

****NEW SECTION. Sec. 2. This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately.***

*Sec. 2 was vetoed. See message at end of chapter.

Passed the House March 6, 1997.

Passed the Senate April 14, 1997.

Approved by the Governor April 24, 1997, with the exception of certain items that were vetoed.

Filed in Office of Secretary of State April 24, 1997.

Note: Governor's explanation of partial veto is as follows:

"I am returning herewith, without my approval as to section 2, House Bill No. 1743 entitled:

"AN ACT Relating to the long-term care ombudsman program;"

House Bill No. 1743 requires the Department of Community, Trade and Economic Development to adopt rules for the state long-term care ombudsman program. Section 2 of the bill is an emergency clause, implementing the bill immediately.

Although this legislation is important, it is not a matter necessary for the immediate preservation of the public peace, health or safety, or support of the state government and its existing public institutions.

For this reason, I have vetoed section 2 of House Bill No. 1743.

With the exception of section 2, I am approving House Bill No. 1743."

CHAPTER 195

[House Bill 1761]

MUTUAL AID AND INTERLOCAL AGREEMENTS—REVISION OF PROVISIONS

AN ACT Relating to mutual aid and interlocal agreements; adding a new section to chapter 38.52 RCW; and repealing RCW 38.52.090.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. Sec. 1. A new section is added to chapter 38.52 RCW to read as follows:

(1) The director of each local organization for emergency management may, in collaboration with other public and private agencies within this state, develop or cause to be developed mutual aid arrangements for reciprocal emergency management aid and assistance in case of disaster too great to be dealt with unassisted. Such arrangements must be consistent with the state emergency management plan and program, and in time of emergency it is the duty of each local organization for emergency management to render assistance in accordance with the provisions of such mutual aid arrangements. The adjutant general shall maintain and distribute a mutual aid and interlocal agreement handbook.

(2) The adjutant general and the director of each local organization for emergency management may, subject to the approval of the governor, enter into mutual aid arrangements with emergency management agencies or organizations in other states for reciprocal emergency management aid and assistance in case of disaster too great to be dealt with unassisted. All such arrangements must contain the language and provisions in subsection (3) of this section.

(3) Mutual aid and interlocal agreements must include the following:

Purpose

The purpose must state the reason the mutual aid or interlocal agreement or compact is coordinated, the parties to the agreement or compact, and the assistance to be provided.

Authorization

Article I, Section 10 of the Constitution of the United States permits a state to enter into an agreement or compact with another state, subject to the consent of Congress. Congress, through enactment of Title 50 U.S.C. Sections 2281(g), 2283 and the Executive Department, by issuance of Executive Orders No. 10186 of December 1, 1950, encourages the states to enter into emergency, disaster and civil defense mutual aid agreements or pacts.

Implementation

The conditions that guide the agreement or compacts may include, but are not limited to:

(a) A statement of which authority or authorities are authorized to request and receive assistance and the conditions that must exist for the request or receipt of assistance.

(b) A statement of how the requests for assistance may be made, what documentation of the request is required, the specifics of any details included in the request, and the required approval for the request.

(c) A statement of the direction and control relationship between the personnel and equipment provided by the jurisdiction to the requester and the requirements of the requester to coordinate the activities of the jurisdiction providing the assets.

(d) A statement of the circumstances by which the assisting jurisdiction may withdraw support from the requester and the method by which this is to be communicated.

General Fiscal Provisions

The terms of reimbursement must be stated defining the relationship between the requesting jurisdiction and the aiding jurisdiction, when reimbursement will be made, and details of the claim for reimbursement. The provisions may include statements that discuss but are not limited to:

- (a) A statement of what costs are incurred by the requesting jurisdiction.
- (b) A statement of what costs and compensation benefits are made to individuals from the aiding jurisdiction by the requesting jurisdiction.

Privileges and Immunities

The conditions and immunities that are enjoyed by the individuals from the aiding jurisdiction to the requesting jurisdiction must be stated. These provisions may include but are not limited to:

- (a) A statement of the privileges and immunities from liability and the law an employee of a supporting jurisdiction enjoys while supporting the requesting jurisdiction.
- (b) A statement of the privileges and immunities from liability and the law a volunteer from a supporting jurisdiction enjoys while supporting the requesting jurisdiction.
- (c) A statement on the use of the national guard between the requesting and supporting jurisdictions.
- (d) A hold harmless agreement between the signatory jurisdictions.
- (e) The precedence this agreement takes with existing agreements.
- (f) A time line by which information required by the agreement is exchanged and updated annually.
- (g) The time in which the agreement becomes effective.
- (h) The time and conditions when a signatory may withdraw and render the agreement ineffective.

NEW SECTION. Sec. 2. RCW 38.52.090 and 1995 c 391 s 3, 1987 c 185 s 6, 1986 c 266 s 29, 1984 c 38 s 9, 1974 ex.s. c 171 s 11, & 1951 c 178 s 10 are each repealed.

Passed the House March 6, 1997.

Passed the Senate April 11, 1997.

Approved by the Governor April 24, 1997.

Filed in Office of Secretary of State April 24, 1997.

CHAPTER 196

[Engrossed Substitute Senate Bill 5044]
AIDS-RELATED CRIMES

AN ACT Relating to crimes; amending RCW 9A.36.011, 9A.32.010, 70.24.034, and 70.24.105; and reenacting and amending RCW 9A.36.021 and 9A.04.080.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 9A.36.011 and 1986 c 257 s 4 are each amended to read as follows:

(1) A person is guilty of assault in the first degree if he or she, with intent to inflict great bodily harm:

(a) Assaults another with a firearm or any deadly weapon or by any force or means likely to produce great bodily harm or death; or

(b) Administers, exposes, or transmits to or causes to be taken by another, poison, the human immunodeficiency virus as defined in chapter 70.24 RCW, or any other destructive or noxious substance; or

(c) Assaults another and inflicts great bodily harm.

(2) Assault in the first degree is a class A felony.

Sec. 2. RCW 9A.36.021 and 1988 c 266 s 2, 1988 c 206 s 916, and 1988 c 158 s 2 are each reenacted and amended to read as follows:

(1) A person is guilty of assault in the second degree if he or she, under circumstances not amounting to assault in the first degree:

(a) Intentionally assaults another and thereby recklessly inflicts substantial bodily harm; or

(b) Intentionally and unlawfully causes substantial bodily harm to an unborn quick child by intentionally and unlawfully inflicting any injury upon the mother of such child; or

(c) Assaults another with a deadly weapon; or

(d) With intent to inflict bodily harm, administers to or causes to be taken by another, ~~poison((the human immunodeficiency virus as defined in chapter 70.24 RCW;))~~ or any other destructive or noxious substance; or

(e) ~~((With intent to inflict bodily harm, exposes or transmits human immunodeficiency virus as defined in chapter 70.24 RCW; or~~

~~—(f))~~ With intent to commit a felony, assaults another; or

~~((g))~~ (f) Knowingly inflicts bodily harm which by design causes such pain or agony as to be the equivalent of that produced by torture.

(2) Assault in the second degree is a class B felony.

Sec. 3. RCW 9A.32.010 and 1987 c 187 s 2 are each amended to read as follows:

Homicide is the killing of a human being by the act, procurement, or omission of another, death occurring ~~((within three years and a day))~~ at any time, and is either (1) murder, (2) homicide by abuse, (3) manslaughter, (4) excusable homicide, or (5) justifiable homicide.

**Sec. 4. RCW 9A.04.080 and 1995 c 287 s 5 and 1995 c 17 s 1 are each reenacted and amended to read as follows:*

(1) Prosecutions for criminal offenses shall not be commenced after the periods prescribed in this section.

(a) The following offenses may be prosecuted at any time after their commission:

(i) Murder;

(ii) Homicide by abuse;

(iii) Arson if a death results;

(iv) Assault in the first degree if the assault is committed by administration, exposure, or transmission of the human immunodeficiency virus as prohibited by RCW 9A.36.011(1)(b).

(b) The following offenses shall not be prosecuted more than ten years after their commission:

(i) Any felony committed by a public officer if the commission is in connection with the duties of his or her office or constitutes a breach of his or her public duty or a violation of the oath of office;

(ii) Arson if no death results; or

(iii) Violations of RCW 9A.44.040 or 9A.44.050 if the rape is reported to a law enforcement agency within one year of its commission; except that if the victim is under fourteen years of age when the rape is committed and the rape is reported to a law enforcement agency within one year of its commission, the violation may be prosecuted up to three years after the victim's eighteenth birthday or up to ten years after the rape's commission, whichever is later. If a violation of RCW 9A.44.040 or 9A.44.050 is not reported within one year, the rape may not be prosecuted: (A) More than three years after its commission if the violation was committed against a victim fourteen years of age or older; or (B) more than three years after the victim's eighteenth birthday or more than seven years after the rape's commission, whichever is later, if the violation was committed against a victim under fourteen years of age.

(c) Violations of the following statutes shall not be prosecuted more than three years after the victim's eighteenth birthday or more than seven years after their commission, whichever is later: RCW 9A.44.073, 9A.44.076, 9A.44.083, 9A.44.086, 9A.44.070, 9A.44.080, 9A.44.100(1)(b), or 9A.64.020.

(d) The following offenses shall not be prosecuted more than six years after their commission: Violations of RCW 9A.82.060 or 9A.82.080.

(e) The following offenses shall not be prosecuted more than five years after their commission: Any class C felony under chapter 74.09, 82.36, or 82.38 RCW.

(f) Bigamy shall not be prosecuted more than three years after the time specified in RCW 9A.64.010.

(g) No other felony may be prosecuted more than three years after its commission.

(h) No gross misdemeanor may be prosecuted more than two years after its commission.

(i) No misdemeanor may be prosecuted more than one year after its commission.

(2) The periods of limitation prescribed in subsection (1) of this section do not run during any time when the person charged is not usually and publicly resident within this state.

(3) If, before the end of a period of limitation prescribed in subsection (1) of this section, an indictment has been found or a complaint or an information has been filed, and the indictment, complaint, or information is set aside, then the period of limitation is extended by a period equal to the length of time from the finding or filing to the setting aside.

*Sec. 4 was vetoed. See message at end of chapter.

*Sec. 5. RCW 70.24.034 and 1988 c 206 s 910 are each amended to read as follows:

(1) ((When)) After the procedures of RCW 70.24.024 have been exhausted on one occasion for a person and the state or local public health officer, within his or her respective jurisdiction, knows or has reason to believe, because of ((medical information)) direct medical knowledge or reliable testimony of others in a position to have direct knowledge of a person's behavior, that ((α)) that person has a sexually transmitted disease and that the person continues to engage in behaviors that present an imminent danger to the public health as defined by the board by rule based upon generally accepted standards of medical and public health science, the public health officer;

(a) Shall inform the local law enforcement agency of his or her knowledge or beliefs, and shall convey to the local law enforcement agency all information in the health officer's possession, relating to sexually transmitted disease testing, diagnosis, or treatment concerning the person engaging in behavior that presents an imminent danger to the public health. The public health officer may provide the law enforcement agency with the identities of any individuals known to the public health officer through investigations conducted under RCW 70.24.024 to have been exposed to that person under circumstances that provide an opportunity for transmission of a sexually transmitted disease. The public health officer shall provide the local law enforcement agency with the identities of all individuals who agree to the release of identifying information and who are known by the public health officer to have been exposed to that person under circumstances that provide an opportunity for transmission of a sexually transmitted disease. A health care provider shall provide to the local law enforcement agency, upon presentation of a warrant, all information in his or her possession concerning the person engaging in behavior that presents an imminent danger to the public health that relates in any way to testing, diagnosis, or treatment for a sexually transmitted disease. No action taken in

good faith and in compliance with this subsection is a violation of RCW 70.24.105 or 70.02.020:

(b) May bring an action in superior court to detain the person in a facility designated by the board for a period of time necessary to accomplish a program of counseling and education, excluding any coercive techniques or procedures, designed to get the person to adopt nondangerous behavior. In no case may the period exceed ninety days under each order. The board shall establish, by rule, standards for counseling and education under this subsection. The public health officer shall request the prosecuting attorney to file such action in superior court. During that period, reasonable efforts will be made in a noncoercive manner to get the person to adopt nondangerous behavior.

(2) If an action is filed as outlined in subsection (1) of this section, the superior court, upon the petition of the prosecuting attorney, shall issue other appropriate court orders including, but not limited to, an order to take the person into custody immediately, for a period not to exceed seventy-two hours, excluding Saturdays, Sundays, and holidays, and place him or her in a facility designated or approved by the board. The person who is the subject of the order shall be given written notice of the order promptly, personally, and confidentially, stating the grounds and provisions of the order, including the factual bases therefor, the evidence relied upon for proof of infection and dangerous behavior, and the likelihood of repetition of such behaviors in the absence of such an order, and notifying the person that if he or she refuses to comply with the order he or she may appear at a hearing to review the order and that he or she may have an attorney appear on his or her behalf in the hearing at public expense, if necessary. If the person contests testing or treatment, no invasive medical procedures shall be carried out prior to a hearing being held pursuant to subsection (3) of this section.

(3) The hearing shall be conducted no later than ~~((forty-eight))~~ seventy-two hours, excluding Saturdays, Sundays, and holidays, after the receipt of the order. The person who is subject to the order has a right to be present at the hearing and may have an attorney appear on his or her behalf in the hearing, at public expense if necessary. If the order being contested includes detention for a period of fourteen days or longer, the person shall also have the right to a trial by jury upon request. Upon conclusion of the hearing or trial by jury, the court shall issue appropriate orders.

The court may continue the hearing upon the request of the person who is subject to the order for good cause shown for no more than five additional judicial days. If a trial by jury is requested, the court, upon motion, may continue the hearing for no more than ten additional judicial days. During the pendency of the continuance, the court may order that the person contesting the order remain in detention or may place terms and conditions upon the person which the court deems appropriate to protect public health.

(4) The burden of proof shall be on the state or local public health officer to show by clear and convincing evidence that grounds exist for the issuance of any court order pursuant to subsection (2) or (3) of this section. If the superior court dismisses the order, the fact that the order was issued shall be expunged from the records of the state or local department of health.

(5) Any hearing conducted by the superior court pursuant to subsection (2) or (3) of this section shall be closed and confidential unless a public hearing is requested by the person who is the subject of the order, in which case the hearing will be conducted in open court. Unless in open hearing, any transcripts or records relating thereto shall also be confidential and may be sealed by order of the court.

(6) Any order entered by the superior court pursuant to subsection (1) or (2) of this section shall impose terms and conditions no more restrictive than necessary to protect the public health.

*Sec. 5 was vetoed. See message at end of chapter.

Sec. 6. RCW 70.24.105 and 1994 c 72 s 1 are each amended to read as follows:

(1) No person may disclose or be compelled to disclose the identity of any person who has investigated, considered, or requested a test or treatment for a sexually transmitted disease, except as authorized by this chapter.

(2) No person may disclose or be compelled to disclose the identity of any person upon whom an HIV antibody test is performed, or the results of such a test, nor may the result of a test for any other sexually transmitted disease when it is positive be disclosed. This protection against disclosure of test subject, diagnosis, or treatment also applies to any information relating to diagnosis of or treatment for HIV infection and for any other confirmed sexually transmitted disease. The following persons, however, may receive such information:

(a) The subject of the test or the subject's legal representative for health care decisions in accordance with RCW 7.70.065, with the exception of such a representative of a minor child over fourteen years of age and otherwise competent;

(b) Any person who secures a specific release of test results or information relating to HIV or confirmed diagnosis of or treatment for any other sexually transmitted disease executed by the subject or the subject's legal representative for health care decisions in accordance with RCW 7.70.065, with the exception of such a representative of a minor child over fourteen years of age and otherwise competent;

(c) The state public health officer, a local public health officer, or the centers for disease control of the United States public health service in accordance with reporting requirements for a diagnosed case of a sexually transmitted disease;

(d) A health facility or health care provider that procures, processes, distributes, or uses: (i) A human body part, tissue, or blood from a deceased person with respect to medical information regarding that person; (ii) semen,

including that provided prior to March 23, 1988, for the purpose of artificial insemination; or (iii) blood specimens;

(e) Any state or local public health officer conducting an investigation pursuant to RCW 70.24.024, provided that such record was obtained by means of court ordered HIV testing pursuant to RCW 70.24.340 or 70.24.024;

(f) A person allowed access to the record by a court order granted after application showing good cause therefor. In assessing good cause, the court shall weigh the public interest and the need for disclosure against the injury to the patient, to the physician-patient relationship, and to the treatment services. Upon the granting of the order, the court, in determining the extent to which any disclosure of all or any part of the record of any such test is necessary, shall impose appropriate safeguards against unauthorized disclosure. An order authorizing disclosure shall: (i) Limit disclosure to those parts of the patient's record deemed essential to fulfill the objective for which the order was granted; (ii) limit disclosure to those persons whose need for information is the basis for the order; and (iii) include any other appropriate measures to keep disclosure to a minimum for the protection of the patient, the physician-patient relationship, and the treatment services, including but not limited to the written statement set forth in subsection (5) of this section;

(g) Local law enforcement agencies to the extent provided in RCW 70.24.034:

(h) Persons who, because of their behavioral interaction with the infected individual, have been placed at risk for acquisition of a sexually transmitted disease, as provided in RCW 70.24.022, if the health officer or authorized representative believes that the exposed person was unaware that a risk of disease exposure existed and that the disclosure of the identity of the infected person is necessary;

~~((h))~~ (i) A law enforcement officer, fire fighter, health care provider, health care facility staff person, or other persons as defined by the board in rule pursuant to RCW 70.24.340(4), who has requested a test of a person whose bodily fluids he or she has been substantially exposed to, pursuant to RCW 70.24.340(4), if a state or local public health officer performs the test;

~~((i))~~ (j) Claims management personnel employed by or associated with an insurer, health care service contractor, health maintenance organization, self-funded health plan, state-administered health care claims payer, or any other payer of health care claims where such disclosure is to be used solely for the prompt and accurate evaluation and payment of medical or related claims. Information released under this subsection shall be confidential and shall not be released or available to persons who are not involved in handling or determining medical claims payment; and

~~((j))~~ (k) A department of social and health services worker, a child placing agency worker, or a guardian ad litem who is responsible for making or reviewing placement or case-planning decisions or recommendations to the court regarding a child, who is less than fourteen years of age, has a sexually transmitted disease,

and is in the custody of the department of social and health services or a licensed child placing agency; this information may also be received by a person responsible for providing residential care for such a child when the department of social and health services or a licensed child placing agency determines that it is necessary for the provision of child care services.

(3) No person to whom the results of a test for a sexually transmitted disease have been disclosed pursuant to subsection (2) of this section may disclose the test results to another person except as authorized by that subsection.

(4) The release of sexually transmitted disease information regarding an offender, except as provided in subsection (2)(e) of this section, shall be governed as follows:

(a) The sexually transmitted disease status of a department of corrections offender shall be made available by department of corrections health care providers to a department of corrections superintendent or administrator as necessary for disease prevention or control and for protection of the safety and security of the staff, offenders, and the public. The information may be submitted to transporting officers and receiving facilities, including facilities that are not under the department of correction's jurisdiction.

(b) The sexually transmitted disease status of a person detained in a jail shall be made available by the local public health officer to a jail administrator as necessary for disease prevention or control and for protection of the safety and security of the staff, offenders, and the public. The information may be submitted to transporting officers and receiving facilities.

(c) Information regarding a department of corrections offender's sexually transmitted disease status is confidential and may be disclosed by a correctional superintendent or administrator or local jail administrator only as necessary for disease prevention or control and for protection of the safety and security of the staff, offenders, and the public. Unauthorized disclosure of this information to any person may result in disciplinary action, in addition to any other penalties as may be prescribed by law.

(5) Whenever disclosure is made pursuant to this section, except for subsections (2)(a) and (6) of this section, it shall be accompanied by a statement in writing which includes the following or substantially similar language: "This information has been disclosed to you from records whose confidentiality is protected by state law. State law prohibits you from making any further disclosure of it without the specific written consent of the person to whom it pertains, or as otherwise permitted by state law. A general authorization for the release of medical or other information is NOT sufficient for this purpose." An oral disclosure shall be accompanied or followed by such a notice within ten days.

(6) The requirements of this section shall not apply to the customary methods utilized for the exchange of medical information among health care providers in order to provide health care services to the patient, nor shall they apply within

health care facilities where there is a need for access to confidential medical information to fulfill professional duties.

(7) Upon request of the victim, disclosure of test results under this section to victims of sexual offenses under chapter 9A.44 RCW shall be made if the result is negative or positive. The county prosecuting attorney shall notify the victim of the right to such disclosure. Such disclosure shall be accompanied by appropriate counseling, including information regarding follow-up testing.

Passed the Senate March 17, 1997.

Passed the House April 16, 1997.

Approved by the Governor April 24, 1997, with the exception of certain items that were vetoed.

Filed in Office of Secretary of State April 24, 1997.

Note: Governor's explanation of partial veto is as follows:

"I am returning herewith, without my approval as to sections 4 and 5, Engrossed Substitute Senate Bill No. 5044 entitled:

"AN ACT Relating to crimes;"

This legislation relates to the criminal prosecution of persons who are infected with the human immunodeficiency virus (HIV) and other sexually transmitted diseases (STD's). ESSB 5044 raises the penalties for the crime of intentional exposure or transmission of HIV to another person by reclassifying it from second degree to first degree assault. I agree that this is an appropriate penalty when considering that the transmission of the HIV could lead to AIDS and eventual death.

Section 3 of the bill removes the "three years and a day" rule that currently prevents a homicide prosecution if death does not occur within that period of time following the criminal act. Under section 3, prosecutors are able to file homicide charges any time after the victim dies. An act which results in a homicide should not escape punishment and I agree with the purpose of section 3.

Section 4 of the bill does not add meaningfully to what prosecutors can accomplish under section 3 and therefore I have vetoed it.

Section 5 of the bill requires that public health officers inform law enforcement of any person with an STD whose behavior presents an imminent danger. As section 5 is written, it may adversely affect HIV/AIDS prevention efforts and could reverse the gains that have been made in slowing the spread of this disease and other STD's.

Current law allows public health officers to give the prosecutor the names of individuals who are intentionally spreading STD's. Section 5 of the bill does not add constructively to what local health officers are already empowered to do.

For these reasons I have vetoed sections 4 and 5 of Engrossed Substitute Senate Bill No. 5044.

With the exception of sections 4 and 5, Engrossed Substitute Senate Bill No. 5044 is approved."

CHAPTER 197

[Substitute Senate Bill 5102]

PERSONAL USE FOOD FISH LICENSES—ANNUAL RECREATIONAL SURCHARGE

AN ACT Relating to an annual recreational surcharge on personal use food fish licenses; and amending RCW 75.54.140.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 75.54.140 and 1993 sp.s. c 2 s 97 are each amended to read as follows:

Beginning January 1, 1994, persons who recreationally fish for salmon or marine bottomfish in marine area codes 5 through 13 and Lake Washington and have an annual food fish license shall be assessed an annual recreational surcharge of ten dollars, in addition to other licensing requirements. Persons who recreationally fish for salmon or marine bottomfish in marine area codes 5 through 13 and Lake Washington with a three-consecutive-day personal use food fish license shall be assessed an annual recreational surcharge of five dollars. Funds from the surcharge shall be deposited in the recreational fisheries enhancement account created in RCW 75.54.150, except that the first five hundred thousand dollars shall be deposited in the general fund before June 30, 1995, to repay the appropriation made by section 104, chapter 2, Laws of 1993 sp. sess.

Passed the Senate March 15, 1997.
 Passed the House April 15, 1997.
 Approved by the Governor April 24, 1997.
 Filed in Office of Secretary of State April 24, 1997.

CHAPTER 198

[Senate Bill 5154]

VEHICLE GROSS WEIGHT SCHEDULE EXTENSION

AN ACT Relating to maximum gross weight of vehicles; and amending RCW 46.44.041.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 46.44.041 and 1995 c 171 s 1 are each amended to read as follows:

No vehicle or combination of vehicles shall operate upon the public highways of this state with a gross load on any single axle in excess of twenty thousand pounds, or upon any group of axles in excess of that set forth in the following table, except that two consecutive sets of tandem axles may carry a gross load of thirty-four thousand pounds each, if the overall distance between the first and last axles of such consecutive sets of tandem axles is thirty-six feet or more.

Dis- tance in feet between the ex- tremes of any group of 2 or more consecu- tive axles	Maximum load in pounds carried on any group of 2 or more consecutive axles								
	2 axles	3 axles	4 axles	5 axles	6 axles	7 axles	8 axles	9 axles	
4	34,000								

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5	34,000						
6	34,000						
7	34,000						
8 & less							
	34,000	34,000					
more than 8							
	38,000	42,000					
9	39,000	42,500					
10	40,000	43,500					
11		44,000					
12		45,000	50,000				
13		45,500	50,500				
14		46,500	51,500				
15		47,000	52,000				
16		48,000	52,500	58,000			
17		48,500	53,500	58,500			
18		49,500	54,000	59,000			
19		50,000	54,500	60,000			
20		51,000	55,500	60,500	66,000		
21		51,500	56,000	61,000	66,500		
22		52,500	56,500	61,500	67,000		
23		53,000	57,500	62,500	68,000		
24		54,000	58,000	63,000	68,500	74,000	
25		54,500	58,500	63,500	69,000	74,500	
26		55,500	59,500	64,000	69,500	75,000	
27		56,000	60,000	65,000	70,000	75,500	
28		57,000	60,500	65,500	71,000	76,500	82,000
29		57,500	61,500	66,000	71,500	77,000	82,500
30		58,500	62,000	66,500	72,000	77,500	83,000
31		59,000	62,500	67,500	72,500	78,000	83,500
32		60,000	63,500	68,000	73,000	78,500	84,500
33			64,000	68,500	74,000	79,000	85,000
34			64,500	69,000	74,500	80,000	85,500
35			65,500	70,000	75,000	80,500	86,000
36			66,000	70,500	75,500	81,000	86,500
37			66,500	71,000	76,000	81,500	87,000
38			67,500	71,500	77,000	82,000	87,500
39			68,000	72,500	77,500	82,500	88,500
40			68,500	73,000	78,000	83,500	89,000
41			69,500	73,500	78,500	84,000	89,500
42			70,000	74,000	79,000	84,500	90,000
43			70,500	75,000	80,000	85,000	90,500
44			71,500	75,500	80,500	85,500	91,000
45			72,000	76,000	81,000	86,000	91,500
46			72,500	76,500	81,500	87,000	92,500
47			73,500	77,500	82,000	87,500	93,000
48			74,000	78,000	83,000	88,000	93,500
49			74,500	78,500	83,500	88,500	94,000
50			75,500	79,000	84,000	89,000	94,500
51			76,000	80,000	84,500	89,500	95,000
52			76,500	80,500	85,000	90,500	95,500
53			77,500	81,000	86,000	91,000	96,500
54			78,000	81,500	86,500	91,500	97,000
55			78,500	82,500	87,000	92,000	97,500
56			79,500	83,000	87,500	92,500	98,000
57			80,000	83,000	88,000	93,000	98,500
58				84,000	89,000	94,000	99,000
59				85,000	89,500	94,500	99,500

60	85,500	90,000	95,000	100,500	105,500
61	86,000	90,500	95,500	101,000	105,500
62	86,500	91,000	96,000	101,500	105,500
63	87,500	92,000	96,500	102,000	105,500
64	88,000	92,500	97,500	102,500	105,500
65	88,500	93,000	98,000	103,000	105,500
66	89,000	93,500	98,500	103,500	105,500
67	90,000	94,000	99,000	104,500	105,500
68	90,500	95,000	99,500	105,000	105,500
69	91,000	95,500	100,000	105,500	105,500
70	(92,000)	96,000	101,000	105,500	105,500
	91,500				
71	92,500	96,500	101,500	105,500	105,500
72	93,000	97,000	102,000	105,500	105,500
73	93,500	98,000	102,500	105,500	105,500
74	94,000	98,500	103,000	105,500	105,500
75	95,000	99,000	103,500	105,500	105,500
76	95,500	99,500	104,500	105,500	105,500
77	96,000	100,000	105,000	105,500	105,500
78	96,500	101,000	105,500	105,500	105,500
79	97,500	01,500	105,500	105,500	105,500
78	96,00	101,000	105,500	105,500	10,500
79	97,500	01,500	105,500	105,500	105,500
82	99,000	103,000	105,500	105,500	105,500
82	99,000	103,000	105,500	105,500	105,500
84		104,500	105,500	105,500	105,500
85		105,000	105,500	105,500	105,500
86 or more		105,500	105,500	105,500	105,500

When inches are involved: Under six inches take lower, six inches or over take higher. The maximum load on any axle in any group of axles shall not exceed the single axle or tandem axle allowance as set forth in the table above.

The maximum axle and gross weights specified in this section are subject to the braking requirements set up for the service brakes upon any motor vehicle or combination of vehicles as provided by law.

Loads of not more than eighty thousand pounds which may be legally hauled in the state bordering this state which also has a sales tax, are legal in this state when moving to a port district within four miles of the bordering state except on the interstate system. This provision does not allow the operation of a vehicle combination consisting of a truck tractor and three trailers.

Notwithstanding anything contained herein, a vehicle or combination of vehicles in operation on January 4, 1975, may operate upon the public highways of this state, including the interstate system within the meaning of section 127 of Title 23, United States Code, with an overall gross weight upon a group of two consecutive sets of dual axles which was lawful in this state under the laws, regulations, and procedures in effect in this state on January 4, 1975.

Passed the Senate February 6, 1997.

Passed the House April 14, 1997.

Approved by the Governor April 24, 1997.

Filed in Office of Secretary of State April 24, 1997.

CHAPTER 199

[Senate Bill 5299]

SHORELINE MANAGEMENT PERMITS—SERVICE OF PETITIONS FOR REVIEW

AN ACT Relating to shoreline management permits; and amending RCW 90.58.180.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 90.58.180 and 1995 c 347 s 310 are each amended to read as follows:

(1) Any person aggrieved by the granting, denying, or rescinding of a permit on shorelines of the state pursuant to RCW 90.58.140 may seek review from the shorelines hearings board by filing a petition for review within twenty-one days of the date of filing as defined in RCW 90.58.140(6).

Within seven days of the filing of any petition for review with the board as provided in this section pertaining to a final decision of a local government, the petitioner shall serve copies of the petition on the department (~~and~~), the office of the attorney general, and the local government. The department and the attorney general may intervene to protect the public interest and insure that the provisions of this chapter are complied with at any time within fifteen days from the date of the receipt by the department or the attorney general of a copy of the petition for review filed pursuant to this section. The shorelines hearings board shall schedule review proceedings on the petition for review without regard as to whether the period for the department or the attorney general to intervene has or has not expired.

(2) The department or the attorney general may obtain review of any final decision granting a permit, or granting or denying an application for a permit issued by a local government by filing a written petition with the shorelines hearings board and the appropriate local government within twenty-one days from the date the final decision was filed as provided in RCW 90.58.140(6).

(3) The review proceedings authorized in subsections (1) and (2) of this section are subject to the provisions of chapter 34.05 RCW pertaining to procedures in adjudicative proceedings. Judicial review of such proceedings of the shorelines hearings board is governed by chapter 34.05 RCW. The board shall issue its decision on the appeal authorized under subsections (1) and (2) of this section within one hundred eighty days after the date the petition is filed with the board or a petition to intervene is filed by the department or the attorney general, whichever is later. The time period may be extended by the board for a period of thirty days upon a showing of good cause or may be waived by the parties.

(4) Any person may appeal any rules, regulations, or guidelines adopted or approved by the department within thirty days of the date of the adoption or approval. The board shall make a final decision within sixty days following the hearing held thereon.

(5) The board shall find the rule, regulation, or guideline to be valid and enter a final decision to that effect unless it determines that the rule, regulation, or guideline:

- (a) Is clearly erroneous in light of the policy of this chapter; or
- (b) Constitutes an implementation of this chapter in violation of constitutional or statutory provisions; or
- (c) Is arbitrary and capricious; or
- (d) Was developed without fully considering and evaluating all material submitted to the department during public review and comment; or
- (e) Was not adopted in accordance with required procedures.

(6) If the board makes a determination under subsection (5) (a) through (e) of this section, it shall enter a final decision declaring the rule, regulation, or guideline invalid, remanding the rule, regulation, or guideline to the department with a statement of the reasons in support of the determination, and directing the department to adopt, after a thorough consultation with the affected local government and any other interested party, a new rule, regulation, or guideline consistent with the board's decision.

(7) A decision of the board on the validity of a rule, regulation, or guideline shall be subject to review in superior court, if authorized pursuant to chapter 34.05 RCW. A petition for review of the decision of the shorelines hearings board on a rule, regulation, or guideline shall be filed within thirty days after the date of final decision by the shorelines hearings board.

Passed the Senate March 12, 1997.

Passed the House April 16, 1997.

Approved by the Governor April 24, 1997.

Filed in Office of Secretary of State April 24, 1997.

CHAPTER 200

[Senate Bill 5326]

FIREARMS—ELIMINATION OF CERTAIN CARRYING RESTRICTIONS

AN ACT Relating to carrying a firearm; and amending RCW 9.41.050.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 9.41.050 and 1996 c 295 s 4 are each amended to read as follows:

(1)(a) Except in the person's place of abode or fixed place of business, a person shall not carry a pistol concealed on his or her person without a license to carry a concealed pistol.

(b) Every licensee shall have his or her concealed pistol license in his or her immediate possession at all times that he or she is required by this section to have a concealed pistol license and shall display the same upon demand to any police officer or to any other person when and if required by law to do so. Any violation of this subsection (1)(b) shall be a class 1 civil infraction under chapter ((7-84))

7.80 RCW and shall be punished accordingly pursuant to chapter ~~((7.84))~~ 7.80 RCW and the infraction rules for courts of limited jurisdiction.

(2) A person shall not carry or place a loaded pistol in any vehicle unless the person has a license to carry a concealed pistol and: (a) The pistol is on the licensee's person, (b) the licensee is within the vehicle at all times that the pistol is there, or (c) the licensee is away from the vehicle and the pistol is locked within the vehicle and concealed from view from outside the vehicle.

(3) A person at least eighteen years of age who is in possession of an unloaded pistol shall not leave the unloaded pistol in a vehicle unless the unloaded pistol is locked within the vehicle and concealed from view from outside the vehicle.

(4) ~~((Except as otherwise provided in this chapter, no person may carry a firearm unless it is unloaded and enclosed in an opaque case or secure wrapper or the person is:~~

- ~~—(a) Licensed under RCW 9.41.070 to carry a concealed pistol;~~
- ~~—(b) In attendance at a hunter's safety course or a firearms safety course;~~
- ~~—(c) Engaging in practice in the use of a firearm or target shooting at an established range authorized by the governing body of the jurisdiction in which such range is located or any other area where the discharge of a firearm is not prohibited;~~
- ~~—(d) Engaging in an organized competition involving the use of a firearm, or participating in or practicing for a performance by an organized group that uses firearms as a part of the performance;~~
- ~~—(e) Engaging in a lawful outdoor recreational activity such as hunting, fishing, camping, hiking, or horseback riding, only if, considering all of the attendant circumstances, including but not limited to whether the person has a valid hunting or fishing license, it is reasonable to conclude that the person is participating in lawful outdoor activities or is traveling to or from a legitimate outdoor recreation area;~~
- ~~—(f) In an area where the discharge of a firearm is permitted, and is not trespassing;~~
- ~~—(g) Traveling with any unloaded firearm in the person's possession to or from any activity described in (b), (c), (d), (e), or (f) of this subsection, except as provided in (h) of this subsection;~~
- ~~—(h) Traveling in a motor vehicle with a firearm, other than a pistol, that is unloaded and locked in the trunk or other compartment of the vehicle, placed in a gun rack, or otherwise secured in place in a vehicle, provided that this subsection (4)(h) does not apply to motor homes if the firearms are not within the driver's compartment of the motor home while the vehicle is in operation. Notwithstanding (a) of this subsection, and subject to federal and state park regulations regarding firearm possession therein, a motor home shall be considered a residence when parked at a recreational park, campground, or other temporary residential setting for the purposes of enforcement of this chapter;~~
- ~~—(i) On real property under the control of the person or a relative of the person;~~

- ~~— (j) At his or her residence;~~
- ~~— (k) Is a member of the armed forces of the United States, national guard, or organized reserves, when on duty;~~
- ~~— (l) Is a law enforcement officer;~~
- ~~— (m) Carrying a firearm from or to a vehicle for the purpose of taking or removing the firearm to or from a place of business for repair; or~~
- ~~— (n) An armed private security guard or armed private detective licensed by the department of licensing, while on duty or enroute to and from employment.~~
- ~~— (5)) Violation of any of the prohibitions of subsections (2) ((through (4))) and (3) of this section is a misdemeanor.~~
- ~~((6)) (5) Nothing in this section permits the possession of firearms illegal to possess under state or federal law.~~
- ~~((7) Any city, town, or county may enact an ordinance to exempt itself from the prohibition of subsection (4) of this section:))~~

Passed the Senate March 19, 1997.

Passed the House April 16, 1997.

Approved by the Governor April 24, 1997.

Filed in Office of Secretary of State April 24, 1997.

CHAPTER 201

[Senate Bill 5343]

TOWING SERVICES TAXATION—LOCATION OF RETAIL SALE

AN ACT Relating to the determination of where a retail sale of towing services occurs for tax purposes; and amending RCW 82.14.020.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 82.14.020 and 1983 2nd ex.s. c 3 s 31 are each amended to read as follows:

For purposes of this chapter:

(1) A retail sale consisting solely of the sale of tangible personal property shall be deemed to have occurred at the retail outlet at or from which delivery is made to the consumer;

(2) A retail sale consisting essentially of the performance of personal business or professional services shall be deemed to have occurred at the place at which such services were primarily performed, except that for the performance of a tow truck service, as defined in RCW 46.55.010, the retail sale shall be deemed to have occurred at the place of business of the operator of the tow truck service;

(3) A retail sale consisting of the rental of tangible personal property shall be deemed to have occurred (a) in the case of a rental involving periodic rental payments, at the primary place of use by the lessee during the period covered by each payment, or (b) in all other cases, at the place of first use by the lessee;

(4) A retail sale within the scope of the second paragraph of RCW 82.04.050, and a retail sale of taxable personal property to be installed by the seller shall be

deemed to have occurred at the place where the labor and services involved were primarily performed;

(5) A retail sale consisting of the providing to a consumer of telephone service, as defined in RCW 82.04.065, other than a sale of tangible personal property under subsection (1) of this section or a rental of tangible personal property under subsection (3) of this section, shall be deemed to have occurred at the situs of the telephone or other instrument through which the telephone service is rendered;

(6) "City" means a city or town;

(7) The meaning ascribed to words and phrases in chapters 82.04, 82.08 and 82.12 RCW, as now or hereafter amended, insofar as applicable, shall have full force and effect with respect to taxes imposed under authority of this chapter;

(8) "Taxable event" shall mean any retail sale, or any use of an article of tangible personal property, upon which a state tax is imposed pursuant to chapter 82.08 or 82.12 RCW, as they now exist or may hereafter be amended: PROVIDED, HOWEVER, That the term shall not include a retail sale taxable pursuant to RCW 82.08.150, as now or hereafter amended;

(9) "Treasurer or other legal depository" shall mean the treasurer or legal depository of a county or city.

Passed the Senate April 8, 1997.

Passed the House April 16, 1997.

Approved by the Governor April 24, 1997.

Filed in Office of Secretary of State April 24, 1997.

CHAPTER 202

[Substitute Senate Bill 5541]

TWO-WAY LEFT TURN LANES—RESTRICTION OF VEHICLE TRAVEL DISTANCE

AN ACT Relating to restricting the distance a vehicle may travel in a two-way left turn lane; and reenacting and amending RCW 46.61.290.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 46.61.290 and 1984 c 12 s 1 and 1984 c 7 s 68 are each reenacted and amended to read as follows:

The driver of a vehicle intending to turn shall do so as follows:

(1) Right turns. Both the approach for a right turn and a right turn shall be made as close as practicable to the right-hand curb or edge of the roadway.

(2) Left turns. The driver of a vehicle intending to turn left shall approach the turn in the extreme left-hand lane lawfully available to traffic moving in the direction of travel of the vehicle. Whenever practicable the left turn shall be made to the left of the center of the intersection and so as to leave the intersection or other location in the extreme left-hand lane lawfully available to traffic moving in the same direction as the vehicle on the roadway being entered.

(3) Two-way left turn lanes.

(a) The department of transportation and local authorities in their respective jurisdictions may designate a two-way left turn lane on a roadway. A two-way left turn lane is near the center of the roadway set aside for use by vehicles making left turns in either direction from or into the roadway.

(b) Two-way left turn lanes shall be designated by distinctive uniform roadway markings. The department of transportation shall determine and prescribe standards and specifications governing type, length, width, and positioning of the distinctive permanent markings. The standards and specifications developed shall be filed with the code reviser in accordance with the procedures set forth in the administrative procedure act, chapter 34.05 RCW. On and after July 1, 1971, permanent markings designating a two-way left turn lane shall conform to such standards and specifications.

(c) Upon a roadway where a center lane has been provided by distinctive pavement markings for the use of vehicles turning left from either direction, no vehicles may turn left from any other lane. A vehicle shall not be driven in this center lane for the purpose of overtaking or passing another vehicle proceeding in the same direction. No vehicle may travel further than three hundred feet within the lane. A signal, either electric or manual, for indicating a left turn movement, shall be made at least one hundred feet before the actual left turn movement is made.

(4) The department of transportation and local authorities in their respective jurisdictions may cause official traffic-control devices to be placed and thereby require and direct that a different course from that specified in this section be traveled by turning vehicles, and when the devices are so placed no driver of a vehicle may turn a vehicle other than as directed and required by the devices.

Passed the Senate March 12, 1997.

Passed the House April 14, 1997.

Approved by the Governor April 24, 1997.

Filed in Office of Secretary of State April 24, 1997.

CHAPTER 203

[Substitute Senate Bill 5569]

OVERTIME COMPENSATION FOR COMMISSIONED SALES PERSONS

AN ACT Relating to overtime compensation for commissioned salespersons; amending RCW 49.46.130 and 49.46.010; adding a new section to chapter 49.46 RCW; creating a new section; and declaring an emergency.

Be it enacted by the Legislature of the State of Washington:

***NEW SECTION.** *Sec. 1. A new section is added to chapter 49.46 RCW to read as follows:*

Section 3, chapter 289, Laws of 1975 1st ex. sess., codified as RCW 49.46.130, was adopted for the purpose of creating conformity between state overtime pay standards and the federal fair labor standards act. RCW 49.46.130(2)(h) was intended to incorporate alternative federal premium

guarantee standards for retail commissioned salespersons, found at 29 U.S.C. 207(i), into the state wage and hour law.

The legislature finds that retail sales typically peak during holiday seasons and events such as product promotions and new product arrivals. Retail commissioned salespersons can maximize their incomes, and are therefore most benefited, by maximizing the hours they work during periods when the sales per hour ratio is high. Employment policies that penalize employers for working retail commissioned salespersons more than forty hours in a peak sales work week are detrimental to the well-being of Washington's retail commissioned salespersons.

*Sec. 1 was vetoed. See message at end of chapter.

Sec. 2. RCW 49.46.130 and 1995 c 5 s 1 are each amended to read as follows:

(1) Except as otherwise provided in this section, no employer shall employ any of his employees for a work week longer than forty hours unless such employee receives compensation for his employment in excess of the hours above specified at a rate not less than one and one-half times the regular rate at which he is employed.

(2) This section does not apply to:

(a) Any person exempted pursuant to RCW 49.46.010(5). The payment of compensation or provision of compensatory time off in addition to a salary shall not be a factor in determining whether a person is exempted under RCW 49.46.010(5)(c);

(h) Employees who request compensating time off in lieu of overtime pay;

(c) Any individual employed as a seaman whether or not the seaman is employed on a vessel other than an American vessel;

(d) Seasonal employees who are employed at concessions and recreational establishments at agricultural fairs, including those seasonal employees employed by agricultural fairs, within the state provided that the period of employment for any seasonal employee at any or all agricultural fairs does not exceed fourteen working days a year;

(e) Any individual employed as a motion picture projectionist if that employee is covered by a contract or collective bargaining agreement which regulates hours of work and overtime pay;

(f) An individual employed as a truck or bus driver who is subject to the provisions of the Federal Motor Carrier Act (49 U.S.C. Sec. 3101 et seq. and 49 U.S.C. Sec. 10101 et seq.), if the compensation system under which the truck or bus driver is paid includes overtime pay, reasonably equivalent to that required by this subsection, for working longer than forty hours per week;

(g) Any individual employed (i) on a farm, in the employ of any person, in connection with the cultivation of the soil, or in connection with raising or harvesting any agricultural or horticultural commodity, including raising, shearing, feeding, caring for, training, and management of livestock, bees, poultry, and furbearing animals and wildlife, or in the employ of the owner or tenant or other

operator of a farm in connection with the operation, management, conservation, improvement, or maintenance of such farm and its tools and equipment; or (ii) in packing, packaging, grading, storing or delivering to storage, or to market or to a carrier for transportation to market, any agricultural or horticultural commodity; or (iii) commercial canning, commercial freezing, or any other commercial processing, or with respect to services performed in connection with the cultivation, raising, harvesting, and processing of oysters or in connection with any agricultural or horticultural commodity after its delivery to a terminal market for distribution for consumption;

(h) Any industry in which federal law provides for an overtime payment based on a work week other than forty hours. However, the provisions of the federal law regarding overtime payment based on a work week other than forty hours shall nevertheless apply to employees covered by this section without regard to the existence of actual federal jurisdiction over the industrial activity of the particular employer within this state. For the purposes of this subsection, "industry" means a trade, business, industry, or other activity, or branch, or group thereof, in which individuals are gainfully employed (section 3(h) of the Fair Labor Standards Act of 1938, as amended (Public Law 93-259).

(3) No employer shall be deemed to have violated subsection (1) of this section by employing any employee of a retail or service establishment for a work week in excess of the applicable work week specified in subsection (1) of this section if:

(a) The regular rate of pay of the employee is in excess of one and one-half times the minimum hourly rate required under RCW 49.46.020; and

(b) More than half of the employee's compensation for a representative period, of not less than one month, represents commissions on goods or services.

In determining the proportion of compensation representing commissions, all earnings resulting from the application of a bona fide commission rate is to be deemed commissions on goods or services without regard to whether the computed commissions exceed the draw or guarantee.

(4) No employer of commissioned salespeople primarily engaged in the business of selling automobiles, trucks, recreational vessels, recreational vessel trailers, recreational vehicle trailers, recreational campers, or manufactured housing to ultimate purchasers shall violate subsection (1) of this section with respect to such commissioned salespeople if the commissioned salespeople are paid the greater of:

(a) Compensation at the hourly rate, which may not be less than the rate required under RCW 49.46.020, for each hour worked up to forty hours per week, and compensation of one and one-half times that hourly rate for all hours worked over forty hours in one week; or

(b) A straight commission, a salary plus commission, or a salary plus bonus applied to gross salary.

((4)) (5) No public agency shall be deemed to have violated subsection (1) of this section with respect to the employment of any employee in fire protection activities or any employee in law enforcement activities (including security personnel in correctional institutions) if: (a) In a work period of twenty-eight consecutive days the employee receives for tours of duty which in the aggregate exceed two hundred forty hours; or (b) in the case of such an employee to whom a work period of at least seven but less than twenty-eight days applies, in his or her work period the employee receives for tours of duty which in the aggregate exceed a number of hours which bears the same ratio to the number of consecutive days in his or her work period as two hundred forty hours bears to twenty-eight days; compensation at a rate not less than one and one-half times the regular rate at which he or she is employed.

Sec. 3. RCW 49.46.010 and 1993 c 281 s 56 are each amended to read as follows:

As used in this chapter:

- (1) "Director" means the director of labor and industries;
- (2) "Wage" means compensation due to an employee by reason of employment, payable in legal tender of the United States or checks on banks convertible into cash on demand at full face value, subject to such deductions, charges, or allowances as may be permitted by rules of the director;
- (3) "Employ" includes to permit to work;
- (4) "Employer" includes any individual, partnership, association, corporation, business trust, or any person or group of persons acting directly or indirectly in the interest of an employer in relation to an employee;
- (5) "Employee" includes any individual employed by an employer but shall not include:
 - (a) Any individual (i) employed as a hand harvest laborer and paid on a piece rate basis in an operation which has been, and is generally and customarily recognized as having been, paid on a piece rate basis in the region of employment; (ii) who commutes daily from his or her permanent residence to the farm on which he or she is employed; and (iii) who has been employed in agriculture less than thirteen weeks during the preceding calendar year;
 - (b) Any individual employed in casual labor in or about a private home, unless performed in the course of the employer's trade, business, or profession;
 - (c) Any individual employed in a bona fide executive, administrative, or professional capacity or in the capacity of outside salesman as those terms are defined and delimited by rules of the director. However, those terms shall be defined and delimited by the Washington personnel resources board pursuant to chapter 41.06 RCW;
 - (d) Any individual engaged in the activities of an educational, charitable, religious, state or local governmental body or agency, or nonprofit organization where the employer-employee relationship does not in fact exist or where the services are rendered to such organizations gratuitously. If the individual receives

reimbursement in lieu of compensation for normally incurred out-of-pocket expenses or receives a nominal amount of compensation per unit of voluntary service rendered, an employer-employee relationship is deemed not to exist for the purpose of this section or for purposes of membership or qualification in any state, local government or publicly supported retirement system other than that provided under chapter 41.24 RCW;

(e) Any individual employed full time by any state or local governmental body or agency who provides voluntary services but only with regard to the provision of the voluntary services. The voluntary services and any compensation therefor shall not affect or add to qualification, entitlement or benefit rights under any state, local government, or publicly supported retirement system other than that provided under chapter 41.24 RCW;

(f) Any newspaper vendor or carrier;

(g) Any carrier subject to regulation by Part 1 of the Interstate Commerce Act;

(h) Any individual engaged in forest protection and fire prevention activities;

(i) Any individual employed by any charitable institution charged with child care responsibilities engaged primarily in the development of character or citizenship or promoting health or physical fitness or providing or sponsoring recreational opportunities or facilities for young people or members of the armed forces of the United States;

(j) Any individual whose duties require that he or she reside or sleep at the place of his or her employment or who otherwise spends a substantial portion of his or her work time subject to call, and not engaged in the performance of active duties;

(k) Any resident, inmate, or patient of a state, county, or municipal correctional, detention, treatment or rehabilitative institution;

(l) Any individual who holds a public elective or appointive office of the state, any county, city, town, municipal corporation or quasi municipal corporation, political subdivision, or any instrumentality thereof, or any employee of the state legislature;

(m) All vessel operating crews of the Washington state ferries operated by the department of transportation;

(n) Any individual employed as a seaman on a vessel other than an American vessel((-));

(6) "Occupation" means any occupation, service, trade, business, industry, or branch or group of industries or employment or class of employment in which employees are gainfully employed;

(7) "Retail or service establishment" means an establishment seventy-five percent of whose annual dollar volume of sales of goods or services, or both, is not for resale and is recognized as retail sales or services in the particular industry.

NEW SECTION. Sec. 4. Nothing in this act shall be construed to alter the terms, conditions, or practices contained in any collective bargaining agreement in

effect at the time of the effective date of this act until the expiration date of such agreement.

****NEW SECTION. Sec. 5. This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately.***

*Sec. 5 was vetoed. See message at end of chapter.

Passed the Senate March 13, 1997.

Passed the House April 16, 1997.

Approved by the Governor April 24, 1997, with the exception of certain items that were vetoed.

Filed in Office of Secretary of State April 24, 1997.

Note: Governor's explanation of partial veto is as follows:

"I am returning herewith, without my approval as to sections 1 and 5, Substitute Senate Bill No. 5569 entitled:

"AN ACT Relating to overtime compensation for commissioned salespersons;"

Section 1 of SSB 5569 is an attempt to interpret the legislative intent of the state wage and hour law, passed in 1975, and to thereby influence pending litigation. This is not only unfair and unjust, but also it raises constitutional questions. The power to interpret legislative intent rests with the judiciary. It is my opinion that a legislative body should not attempt to usurp that duty or interpret the intent or thoughts of a legislative body which met over twenty years ago.

The possibility of abuse by unscrupulous employers also concerns me. Under the auspices of this bill, an employer might attempt to assign commissioned sales person to non-sales duties in order to avoid paying overtime. I will direct the Department of Labor and Industries to assess the implementation of this statute and report its impact to both the legislature and my office.

Section 5 is an emergency clause, and is unnecessary.

For these reasons, I have vetoed sections 1 and 5 of Substitute Senate Bill No. 5569.

With the exceptions of sections 1 and 5, Substitute Senate Bill No. 5569 is approved."

CHAPTER 204

[Engrossed Senate Bill 5600]

INTERNAL OPERATION OF COUNTIES

AN ACT Relating to internal matters for the operation of counties; amending RCW 2.08.100, 36.40.200, 36.40.250, and 13.04.035; adding a new section to chapter 36.40 RCW; and repealing RCW 36.40.110.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 2.08.100 and 1939 c 189 s 1 are each amended to read as follows:

The county auditor of each county shall ~~((draw his warrant on the treasurer of such county on the first Monday of each month for the amount of salary due for the previous month from such county to the judge of the superior court thereof, and said warrant shall be paid by said treasurer out of the salary fund of said county; PROVIDED, That no such warrant shall be issued until the judge who is to receive the same shall have made an affidavit, in the manner provided by law, that no cause in his court remains pending and undecided contrary to the provisions of~~

~~RCW 2.08.240 and of section 20, Article 4, Constitution of the state of Washington)) pay superior court judges in the same means and manner provided for all other elected officials.~~

Sec. 2. RCW 36.40.200 and 1963 c 4 s 36.40.200 are each amended to read as follows:

All appropriations shall lapse at the end of the fiscal year: PROVIDED, That the appropriation accounts ((~~shall~~)) may remain open for a period of thirty days, and may, at the auditor's discretion, remain open for a period not to exceed sixty days thereafter for the payment of claims incurred against such appropriations prior to the close of the fiscal year.

After such period has expired all appropriations shall become null and void and any claim presented thereafter against any such appropriation shall be provided for in the next ensuing budget: PROVIDED, That this shall not prevent payments upon uncompleted improvements in progress at the close of the fiscal year.

Sec. 3. RCW 36.40.250 and 1995 c 193 s 1 are each amended to read as follows:

In lieu of adopting an annual budget, the county legislative authority of any county may adopt an ordinance or a resolution providing for biennial budgets with a mid-biennium review and modification for the second year of the biennium. The county legislative authority may repeal such an ordinance or resolution and revert to adopting annual budgets for a period commencing after the end of a biennial budget cycle. The county legislative authority of a county with a biennial budget cycle may adopt supplemental and emergency budgets in the same manner and subject to the same conditions as the county legislative authority in a county with an annual budget cycle.

The procedure and steps for adopting a biennial budget shall conform with the procedure and steps for adopting an annual budget and with requirements established by the state auditor. The state auditor shall establish requirements for preparing and adopting the mid-biennium review and modification for the second year of the biennium.

Expenditures included in the biennial budget, mid-term modification budget, supplemental budget, or emergency budget shall constitute the appropriations for the county during the applicable period of the budget and every county official shall be limited in making expenditures or incurring liabilities to the amount of the detailed appropriation item or classes in the budget.

In lieu of adopting an annual budget or a biennial budget with a mid-biennium review for all funds, the legislative authority of any county may adopt an ordinance or a resolution providing for a biennial budget or budgets for any one or more funds of the county, with a mid-biennium review and modification for the second year of the biennium, with the other funds remaining on an annual budget. The county legislative authority may repeal such an ordinance or resolution and revert to adopting annual budgets for a period commencing after the end of the biennial budget or biennial budgets for the specific agency fund or funds. The county

legislative authority of a county with a biennial budget cycle may adopt supplemental and emergency budgets in the same manner and subject to the same conditions as the county legislative authority in a county with an annual budget cycle.

The county legislative authority shall hold a public hearing on the proposed county property taxes and proposed road district property taxes prior to imposing the property tax levies.

NEW SECTION. Sec. 4. A new section is added to chapter 36.40 RCW to read as follows:

In addition to the supplemental appropriations provided in RCW 36.40.100 and 36.40.140, the county legislative authority may provide by resolution a policy for supplemental appropriations as a result of unanticipated funds from local revenue sources.

**Sec. 5. RCW 13.04.035 and 1996 c 284 s 1 are each amended to read as follows:*

Juvenile court shall be administered by the superior court, except that by local court rule and agreement with the legislative authority of the county this service may be administered by the legislative authority of the county. Juvenile probation counselor and detention services shall be administered by the superior court, except that (1) by local court rule and agreement with the county legislative authority, these services may be administered by the county legislative authority; (2) if a consortium of three or more counties, located east of the Cascade mountains and whose combined population exceeds five hundred thirty thousand, jointly operates a juvenile correctional facility, the county legislative authorities may prescribe for alternative administration of the juvenile correctional facility by ordinance; ~~((and))~~ (3) in any county with a population of one million or more, probation and detention services shall be administered in accordance with chapter 13.20 RCW; and (4) in any county with a population of at least two hundred fifty thousand but less than five hundred thousand, the county legislative authority may prescribe for alternative administration of these services by ordinance. The administrative body shall appoint an administrator of juvenile court, probation counselor, and detention services who shall be responsible for day-to-day administration of such services, and who may also serve in the capacity of a probation counselor. One person may, pursuant to the agreement of more than one administrative body, serve as administrator of more than one juvenile court.

**Sec. 5 was vetoed. See message at end of chapter.*

NEW SECTION. Sec. 6. RCW 36.40.110 and 1963 c 4 s 36.40.110 are each repealed.

Passed the Senate March 14, 1997.

Passed the House April 14, 1997.

Approved by the Governor April 24, 1997, with the exception of certain items that were vetoed.

Filed in Office of Secretary of State April 24, 1997.

Note: Governor's explanation of partial veto is as follows:

"I am returning herewith, without my approval as to section 5, Engrossed Senate Bill No. 5600 entitled:

"AN ACT Relating to internal matters for the operation of counties;"

This legislation is primarily a technical bill that deletes archaic statutes, makes other financial statutes more usable, and provides county auditors with more flexibility in the administration of their duties.

Section 5 of this bill would have allowed counties with populations between 250,000 and 499,999 to prescribe by ordinance alternative administration of juvenile probation and detention services. Such a provision would effectively allow a select few counties to give themselves exclusive control over juvenile services without the concurrence of the courts.

Current law already provides a process whereby counties may assume responsibility for these services upon agreement from the court. Courts should not be excluded, without their concurrence, from the decision making regarding the administration of juvenile detention and probation services. The courts see juvenile offenders who come before them firsthand, and have extensive knowledge of the types of services that are needed. Additionally, there appears to be no legitimate reason to differentiate between counties merely on the basis of population regarding the provision of these services.

For these reasons, I have vetoed section 5 of Engrossed Senate Bill No. 5600.

With the exception of section 5, Engrossed Senate Bill No. 5600 is approved."

CHAPTER 205

[Senate Bill 5754]

BOXING, KICKBOXING, MARTIAL ARTS, AND WRESTLING

AN ACT Relating to boxing, kickboxing, martial arts, and wrestling; amending RCW 67.08.002, 67.08.010, 67.08.015, 67.08.017, 67.08.030, 67.08.050, 67.08.060, 67.08.080, 67.08.090, 67.08.100, 67.08.110, 67.08.120, 67.08.130, 67.08.140, 67.08.170, and 67.08.180; adding new sections to chapter 67.08 RCW; and prescribing penalties.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 67.08.002 and 1993 c 278 s 8 are each amended to read as follows:

Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter.

(1) "Amateur" means a person who engages in athletic activities as a pastime and not as a professional.

(2) "Boxing" (~~includes, but is not limited to, sumo, judo, and karate in addition to fistcuffs~~) means a contest in which the contestants exchange blows with their fists, but does not include professional wrestling.

~~((2))~~ (3) "Department" means the department of licensing.

~~((3))~~ (4) "Director" means the director of the department of licensing or the director's designee.

~~((4))~~ (5) "Event" includes, but is not limited to, a boxing, wrestling, or martial arts contest, sparring, fisticuffs, match, show, or exhibition.

(6) "Face value" means the dollar value of a ticket or order, which value must reflect the dollar amount that the customer is required to pay or, for a complimentary ticket, would have been required to pay to purchase a ticket with equivalent seating priority, in order to view the event.

(7) "Gross receipts" means: The amount received from the sale of souvenirs, programs, and other concessions received by the promoter; and the face value of all tickets sold and complimentary tickets redeemed.

(8) "Kickboxing" means a type of boxing in which blows are delivered with the hand and any part of the leg below the hip, including the foot.

(9) "Martial arts" means a type of boxing including sumo, judo, karate, kung fu, tae kwon do, or other forms of full-contact martial arts or self-defense conducted on a full-contact basis.

(10) "Professional" means a person who has received or competed for money or other articles of value for participating in an event.

(11) "Promoter" means ~~((any))~~ a person, and ~~((in the case of a corporation, an officer, director, employee, or shareholder thereof))~~ includes any officer, director, employee, or stockholder of a corporate promoter, who produces, arranges, ~~((or))~~ stages ~~((any professional wrestling exhibition or boxing contest)),~~ holds, or gives an event in this state involving a professional boxing, martial arts, or wrestling event, or shows or causes to be shown in this state a closed circuit telecast of a match involving a professional participant whether or not the telecast originates in this state.

(12) "Tough man/rough man contest or competition" means an event that utilizes unlicensed, untrained, or otherwise licensed participants who engage in unsanctioned activities that do not comply with this chapter, including a full-contact, tournament-style martial arts contest, match, show, or exhibition in which contestants compete more than once per day.

~~((5))~~ (13) "Wrestling exhibition" or "wrestling show" means a form of sports entertainment in which the participants display their skills in a physical struggle against each other in the ring and either the outcome may be predetermined or the participants do not necessarily strive to win, or both.

Sec. 2. RCW 67.08.010 and 1993 c 278 s 10 are each amended to read as follows:

(1) The department shall have power to issue and for cause to revoke, suspend, or deny a license to conduct, hold, or promote boxing ~~((contests, sparring matches, or wrestling shows or exhibitions including a simultaneous telecast of any live, current or spontaneous boxing, sparring or wrestling match or performance on a closed circuit telecast within this state, whether originating in this state or elsewhere, and for which a charge is made)), martial arts, or wrestling events or closed circuit telecasts of these events as ~~((herein))~~ provided in this chapter under~~

such terms and conditions and at such times and places as the department may determine.

~~((Such licenses shall entitle the holder thereof to conduct boxing contests and sparring and/or wrestling matches and exhibitions under such terms and conditions and at such times and places as the department may determine.))~~

~~(2) In case the department ((shall refuse to grant a license to any applicant, or shall cancel)) revokes, suspends, or denies any license or issues a fine, such applicant, or ~~((the holder of such canceled))~~ license shall be entitled, upon application, to a hearing to be held ~~((not less than sixty days after the filing of such order at such place as the department may designate. PROVIDED, HOWEVER, That if it has been found by a valid finding and such finding is fully set forth in such order, that the applicant or licensee has been guilty of disobeying any provision of this chapter, such hearing shall be denied))~~ under chapter 34.05 RCW, the administrative procedure act.~~

Sec. 3. RCW 67.08.015 and 1993 c 278 s 12 are each amended to read as follows:

~~(1) In the interest of ensuring the safety and welfare of the participants, the department shall have power and it shall be its duty to direct, supervise, and control all boxing ((contests, sparring matches, and wrestling shows or exhibitions)), martial arts, and wrestling events conducted within ~~((the))~~ this state and ~~((no such boxing contest, sparring match, or wrestling show or exhibition shall be held or given within))~~ an event may not be held in this state except in accordance with the provisions of this chapter. The department may, in its discretion, issue and for cause deny, revoke, or suspend a license to promote, conduct, or hold ~~((or give))~~ boxing ~~((and sparring contests, and wrestling shows and exhibitions)),~~ kickboxing, martial arts, or wrestling events where an admission fee is charged by any person, club, corporation, organization, association, or fraternal society~~((: PROVIDED, HOWEVER, That))~~.~~

~~(2) All boxing ((contests, sparring or wrestling matches or exhibitions which)), kickboxing, martial arts, or wrestling events that:~~

~~((+)) (a) Are conducted by any common school, college, or university, whether public or private, or by the official student association thereof, whether on or off the school, college, or university grounds, where all the participating contestants are bona fide students enrolled in any common school, college, or university, within or without this state; or~~

~~((2)) (b) Are entirely amateur events promoted on a nonprofit basis or for charitable purposes; ((shall)) are not ((be)) subject to the licensing provisions of this chapter~~((: PROVIDED, FURTHER, That every contestant in any boxing contest or sparring match not conducted under the provisions of this chapter, prior to engaging in any such contest or match, shall be examined by a practicing physician at least once in each calendar year or, where such contest is conducted by a common school, college or university as further described in this section, once in each academic year in which~~~~

~~instance such physician shall also designate the maximum and minimum weights at which such contestant shall be medically certified to participate. PROVIDED FURTHER, That no contestant shall be permitted to participate in any such boxing contest, sparring or wrestling match or exhibition in any weight classification other than that or those for which he is certificated. PROVIDED FURTHER, That the organizations exempted by this section from the provisions of this chapter shall be governed by RCW 67.08.080 as said section applies to boxing contests or sparring matches or exhibitions conducted by organizations exempted by this section from the general provisions of this chapter).~~ ((No)) Δ boxing ((contest, sparring match, or wrestling show or exhibition shall)), martial arts, kickboxing, or wrestling event may not be conducted within the state except ((pursuant to)) under a license issued in accordance with ((the provisions of)) this chapter and the rules ((and regulations)) of the department except as ((hereinabove)) provided in this section.

Sec. 4. RCW 67.08.017 and 1993 c 278 s 11 are each amended to read as follows:

The director or the director's designee has the following authority in administering this chapter:

- (1) Adopt, amend, and rescind rules as deemed necessary to carry out this chapter;
- (2) Issue subpoenas and administer oaths in connection with an investigation, hearing, or proceeding held under this chapter;
- (3) Take or cause depositions to be taken and use other discovery procedures as needed in an investigation, hearing, or proceeding held under this chapter;
- (4) Compel attendance of witnesses at hearings;
- (5) In the course of investigating a complaint or report of unprofessional conduct, conduct practice reviews;
- (6) Take emergency action ordering summary suspension of a license, or restriction or limitation of the licensee's practice pending proceedings by the director;
- (7) Use the office of administrative hearings as authorized in chapter 34.12 RCW to conduct hearings. However, the director or the director's designee shall make the final decision in the hearing;
- (8) Enter into contracts for professional services determined to be necessary for adequate enforcement of this chapter;
- (9) Adopt standards of professional conduct or practice;
- (10) In the event of a finding of unprofessional conduct by an applicant or license holder, impose sanctions against a license applicant or license holder as provided by this chapter;
- (11) Enter into an assurance of discontinuance in lieu of issuing a statement of charges or conducting a hearing. The assurance shall consist of a statement of the law in question and an agreement not to violate the stated provision. The applicant or license holder shall not be required to admit to any violation of the

law, and the assurance shall not be construed as such an admission. Violation of an assurance under this subsection is grounds for disciplinary action;

(12) Designate individuals authorized to sign subpoenas and statements of charges;

(13) Employ the investigative, administrative, and clerical staff necessary for the enforcement of this chapter; ~~((and))~~

(14) Compel the attendance of witnesses at hearings; ~~and~~

(15) Establish and assess fines for violations of this chapter that may be subject to payment from a contestant's purse.

Sec. 5. RCW 67.08.030 and 1993 c 278 s 13 are each amended to read as follows:

(1) Every ~~((boxing))~~ promoter, as a condition for receiving a license, shall file with the department a ((good and sufficient)) surety bond in ((the sum of)) an amount to be determined by the department, but not less than ten thousand dollars ((with the department)), to cover all of the event locations applied for within the state during the license period, conditioned upon the faithful performance by such licensee of the provisions of this chapter, the payment of the taxes, officials, and contracts as provided for herein and the observance of all rules ~~((and regulations))~~ of the department~~((, which bond shall be subject to the approval of the attorney general))~~.

~~(2) ((Every promoter of a wrestling exhibition or closed circuit telecast as a condition of receiving a license as provided for under this chapter shall file a good and sufficient bond in the sum of one thousand dollars with the department in cities of less than one hundred fifty thousand inhabitants and of two thousand five hundred dollars in cities of more than one hundred fifty thousand inhabitants conditioned upon the faithful performance by such licensee of the provisions of this chapter, the payment of the taxes and officials provided for herein and the observance of all rules and regulations of the department, which bond shall be subject to the approval of the attorney general.~~

~~—(3))~~ Boxing promoters must obtain medical insurance in an amount set by the director, but not less than fifty thousand dollars, to cover any injuries incurred by participants at the time of ((the)) each event held in this state and provide proof of insurance to the department seventy-two hours before each event. The evidence of insurance must specify, at a minimum, the name of the insurance company, the insurance policy number, the effective date of the coverage, and evidence that each participant is covered by the insurance. The promoter must pay any deductible associated with the insurance policy.

(3) In lieu of the insurance requirement of subsection (2) of this section, a promoter of the boxing event who so chooses may, as a condition for receiving a license under this chapter, file proof of medical insurance coverage that is in effect for the entire term of the licensing period.

(4) The department shall cancel a boxing event if the promoter fails to provide proof of medical insurance within the proper time frame.

Sec. 6. RCW 67.08.050 and 1993 c 278 s 15 are each amended to read as follows:

(1) Any promoter (~~((as herein provided))~~) shall within seven days prior to the holding of any (~~(boxing contest or sparring match or exhibition))~~ event file with the department a statement setting forth the name of each licensee who is a potential participant, his or her manager or managers, and such other information as the department may require. (~~((Any promoter shall, within seven days before holding any wrestling exhibition or show, file with the department a statement setting forth the name of each contestant, his or her manager or managers, and such other information as the department may require.))~~) Participant changes (~~((within a twenty-four hour period))~~) regarding a wrestling (~~(exhibition or show))~~ event may be allowed after notice to the department, if the new participant holds a valid license under this chapter. The department may stop any (~~(event that is a part of a))~~ wrestling (~~(exhibition wherein any))~~ event in which a participant is not licensed under this chapter.

(2) Upon the termination of any (~~(contest or exhibition))~~ event the promoter shall file with the designated department representative a written report, duly verified as the department may require showing the number of tickets sold for (~~(such contest))~~ the event, the price charged for (~~(such))~~ the tickets and the gross proceeds thereof, and such other and further information as the department may require. The promoter shall pay to the department at the time of filing the (~~(above))~~ report under this section a tax equal to five percent of such gross receipts (~~(and said))~~. However, the tax may not be less than twenty-five dollars. The five percent of such gross receipts shall be immediately paid by the department into the state general fund.

~~((2))~~ (3) A complimentary ticket may not have a face value of less than the least expensive ticket available for sale to the general public. It must include charges and fees, such as dinner, gratuity, parking, surcharges, or other charges or fees that are charged to and must be paid by the customer in order to view the event. The number of untaxed complimentary tickets shall be limited to (~~(two))~~ five percent of the total tickets sold per event location, not to exceed three hundred tickets. All complimentary tickets exceeding this (~~(set amount))~~ exemption shall be subject to taxation.

Sec. 7. RCW 67.08.060 and 1993 c 278 s 17 are each amended to read as follows:

The department may appoint official inspectors at least one of which, in the absence of a member of the department, shall be present at any (~~(boxing contest or sparring match or exhibition))~~ event held under the provisions of this chapter (~~(and may be present at any wrestling exhibition or show))~~). Such inspectors shall carry a card signed by the director (~~(of the department))~~ evidencing their authority. It shall be their duty to see that all rules (~~(and regulations))~~ of the department and the provisions of this chapter are strictly complied with and to be present at the accounting of the gross receipts of any (~~(contest))~~ event, and such inspector is

authorized to receive from the licensee conducting the ~~((contest))~~ event the statement of receipts herein provided for and to immediately transmit such reports to the department. Each inspector shall receive a fee and travel expenses from the ~~((licensee))~~ promoter to be set by the ~~((department))~~ director for each ~~((contest))~~ event officially attended. ~~((Each inspector shall also receive from the state travel expenses in accordance with RCW 43.03.050 and 43.03.060 as now existing or hereafter amended.))~~

Sec. 8. RCW 67.08.080 and 1993 c 278 s 18 are each amended to read as follows:

~~((No))~~ A ~~((contest or sparring exhibition)),~~ kickboxing, or martial art event held in this state ~~((whether under the provisions of this chapter or otherwise shall))~~ may not be for more than ten rounds and no one round of any ~~((such contest or exhibition))~~ bout shall be scheduled for ~~((less than or))~~ longer than three minutes and there shall be not less than one minute intermission between each round. In the event of bouts involving state ~~((or)),~~ regional, national, or world championships the department may grant an extension of no more than two additional rounds to allow total bouts of twelve rounds ~~((, and in bouts involving national championships the department may grant an extension of no more than five additional rounds to allow total bouts of fifteen rounds)).~~ ~~((No))~~ A contestant in any boxing ~~((contest or sparring match or exhibition whether))~~ event under this chapter ~~((or otherwise shall))~~ may not be permitted to wear gloves weighing less than eight ounces. The ~~((department))~~ director shall ~~((promulgate))~~ adopt rules ~~((and regulations))~~ to assure clean and sportsmanlike conduct on the part of all contestants and officials, and the orderly and proper conduct of the ~~((contest))~~ event in all respects, and to otherwise make rules ~~((and regulations))~~ consistent with this chapter, but such rules ~~((and regulations))~~ shall apply only to ~~((contests))~~ events held under the provisions of this chapter.

Sec. 9. RCW 67.08.090 and 1993 c 278 s 19 are each amended to read as follows:

(1) Each contestant for boxing ~~((or sparring))~~ events shall be examined within ~~((eight))~~ twenty-four hours ~~((prior to))~~ before the contest by a competent physician appointed by the department. The physician shall ~~((forthwith and before such contest))~~ report in writing and over his or her signature before the event the physical condition of each and every contestant to the inspector present at such contest. No contestant whose physical condition is not approved by the examining physician shall be permitted to participate in any ~~((contest))~~ event. Blank forms of physicians' report shall be provided by the department and all questions upon such blanks shall be answered in full. The examining physician shall be paid a fee ~~((designated by the department))~~ and travel expenses by the promoter ~~((conducting such match or exhibition.~~

~~—The department may have a participant in a wrestling exhibition or show examined by a physician appointed by the department prior to the exhibition or show. A participant in a wrestling exhibition or show whose condition is not~~

approved by the examining physician shall not be permitted to participate in the exhibition or show)).

(2) The department may require that a physician be present at a wrestling event. The promoter shall pay any physician present at a wrestling event. ((No)) A boxing ((contest, sparring match, or exhibition shall)) event may not be held unless a licensed physician of the department or his or her duly appointed representative is present throughout the ((contest. The department may require that a physician be present at a wrestling exhibition or show. Any physician present at a wrestling show or exhibition shall be paid for by the promoter)) event.

(3) Any practicing physician and surgeon may be selected by the department as the examining physician. Such physician present at such contest shall have authority to stop any ((contest)) event when in the physician's opinion it would be dangerous to a contestant to continue, and in such event it shall be the physician's duty to stop ((such contest)) the event.

(4) The department may have a participant in a wrestling event examined by a physician appointed by the department prior to the event. A participant in a wrestling event whose condition is not approved by the examining physician shall not be permitted to participate in the event.

Sec. 10. RCW 67.08.100 and 1993 c 278 s 20 are each amended to read as follows:

(1) The department ((may grant annual licenses upon application in compliance with the rules and regulations prescribed by the director, and the payment of the fees, the amount of which is to be set by the director in accordance with RCW 43.24.086, prescribed to promoters, managers, referees, boxers, wrestlers, and seconds: PROVIDED, That the provisions of this section shall not apply to contestants or participants in strictly amateur contests and/or fraternal organizations and/or veterans' organizations chartered by congress or the defense department or any bona fide athletic club which is a member of the Pacific northwest association of the amateur athletic union of the United States, holding and promoting athletic contests and where all funds are used primarily for the benefit of their members:)) upon receipt of a properly completed application and payment of a nonrefundable fee, may grant an annual license to an applicant for the following: (a) Promoter; (b) manager; (c) boxer; (d) second; (e) wrestling participant; (f) inspectors; (g) judge; (h) timekeeper; (i) announcers; and (j) physicians.

(2) Any ((such)) license may be revoked, suspended, or denied by the ((department)) director for ((any cause which it shall deem sufficient)) a violation of this chapter or a rule adopted by the director.

(3) No person shall participate or serve in any of the above capacities unless licensed as provided in this chapter.

(4) The referees, judges, timekeepers, physicians, and inspectors for any boxing ((contest)) event shall be designated by the department from among ((such)) licensed ((referees)) officials.

(5) The referee for any wrestling (~~(exhibition or show)~~) event shall be provided by the promoter and shall be licensed ((by the department)) as a wrestling participant.

(6) A person may not be issued a license if the person has an unpaid fine outstanding to the department.

(7) A person may not be issued a license unless they are at least eighteen years of age.

(8) This section shall not apply to contestants or participants in events at which only amateurs are engaged in contests and/or fraternal organizations and/or veterans' organizations chartered by congress or the defense department or any recognized amateur sanctioning body recognized by the department, holding and promoting athletic events and where all funds are used primarily for the benefit of their members. Upon request of the department, a promoter, contestant, or participant shall provide sufficient information to reasonably determine whether this chapter applies.

Sec. 11. RCW 67.08.110 and 1993 c 278 s 21 are each amended to read as follows:

Any person or any member of any group of persons or corporation promoting boxing (~~(exhibitions or contests)~~) events who shall participate directly or indirectly in the purse or fee of any manager of any boxers or any boxer and any licensee who shall conduct or participate in any sham or fake boxing (~~(contest or sparring match or exhibition)~~) event shall (~~(thereby forfeit its license)~~) be subject to license revocation and (~~(the department shall declare such license canceled and void and)~~) such revoked licensee shall not (~~(thereafter)~~) be entitled to receive (~~(another such; or)~~) any license issued (~~(pursuant to the provisions of)~~) under this chapter.

Sec. 12. RCW 67.08.120 and 1993 c 278 s 22 are each amended to read as follows:

Any unlicensed participant contestant or licensee who (~~(shall participate in any sham or fake boxing contest, match, or exhibition and any licensee or participant who violates any rule or regulation of the department shall be penalized in the following manner: For the first offense he or she shall be restrained by order of the department for a period of not less than three months from participating in any contest held under the provisions of this chapter, such suspension to take effect immediately after the occurrence of the offense; for any second offense such contestant shall be forever suspended from participation in any contest held under the provisions of this chapter)~~) violates any rule of the department shall be fined, suspended, revoked, or any combination thereof, by order of the director. Assessed fines shall not exceed five hundred dollars for each violation of this chapter or any rule of the department.

Sec. 13. RCW 67.08.130 and 1993 c 278 s 23 are each amended to read as follows:

Whenever any licensee shall fail to make a report of any (~~(contest)~~) event within the time prescribed by this chapter or when such report is unsatisfactory to

the department, the director (~~(shall)~~) may examine the books and records of such licensee; he or she may subpoena and examine under oath any officer of such licensee and such other person or persons as he or she may deem necessary to a determination of the total gross receipts from any (~~(contest)~~) event and the amount of tax thereon. If, upon the completion of such examination it shall be determined that an additional tax is due, notice thereof shall be served upon the licensee, and if such licensee shall fail to pay such additional tax within twenty days after service of such notice such delinquent licensee shall (~~(forfeit)~~) be subject to revocation of its license and shall (~~(forever)~~) be disqualified from receiving any new license (~~(and)~~). In addition (~~(thereto)~~), such licensee (~~(and the members thereof)~~) shall be (~~(jointly and severally)~~) liable to this state in the penal sum of one thousand dollars to be collected by the attorney general by civil action in the name of the state in the manner provided by law.

Sec. 14. RCW 67.08.140 and 1993 c 278 s 24 are each amended to read as follows:

Any person, club, corporation, organization, association, fraternal society, participant, or promoter conducting or participating in boxing (~~(contests, sparring matches)~~) or wrestling (~~(shows or exhibitions)~~) events within this state without having first obtained a license therefor in the manner provided by this chapter is in violation of this chapter and shall be guilty of a misdemeanor excepting (~~(such contests)~~) the events excluded from the operation of this chapter by RCW 67.08.015. The attorney general, each prosecuting attorney, the department, or any citizen of any county where any person, club, corporation, organization, association, fraternal society, promoter, or participant shall threaten to hold, or appears likely to hold or participate in athletic (~~(contests or exhibitions)~~) events in violation of this chapter, may in accordance with the laws of this state governing injunctions, enjoin such person, club, corporation, organization, association, fraternal society, promoter, or participant from holding or participating in (~~(such contest or exhibition)~~) the event.

Sec. 15. RCW 67.08.170 and 1993 c 278 s 25 are each amended to read as follows:

A promoter shall ensure that adequate security personnel are in attendance at a wrestling (~~(exhibition)~~) or boxing (~~(contest)~~) event to control fans in attendance. The size of the security force shall be determined by mutual agreement of the promoter, the person in charge of operating the arena or other facility, and the department.

Sec. 16. RCW 67.08.180 and 1989 c 127 s 4 are each amended to read as follows:

(1) It is (~~(unlawful)~~) a violation of this chapter for any promoter or person associated with or employed by any promoter to destroy any ticket or ticket stub, whether sold or unsold, within three months after the date of any (~~(exhibition or show)~~) event.

(2) It is ~~((unlawful))~~ a violation of this chapter for ((any wrestler)) a wrestling participant to deliberately cut himself or herself or otherwise mutilate himself or herself while participating in a wrestling ~~((exhibition))~~ event.

(3) ~~((Any))~~ The department shall revoke the license of a licensee convicted under chapter 69.50 RCW ((shall have his or her license revoked)).

(4) The director shall revoke the license of a licensee testing positive for illegal use of a controlled substance as defined in RCW 69.50.101, and shall deny the application of an applicant testing positive for a controlled substance as defined in RCW 69.50.101.

(5) The striking of any person that is not a licensed participant at a wrestling ~~((exhibition or show shall))~~ event constitutes grounds for suspension, fine, revocation, or ~~((both))~~ any combination thereof.

NEW SECTION. Sec. 17. A person, including but not limited to a consumer, licensee, corporation, organization, and state and local governmental agency, may submit a written complaint to the department charging a license holder or applicant with unprofessional conduct and specifying the grounds for the complaint. If the department determines that the complaint merits investigation or if the department has reason to believe, without a formal complaint, that a license holder or applicant may have engaged in unprofessional conduct, the department shall investigate to determine whether there has been unprofessional conduct. A person who files a complaint under this section in good faith is immune from suit in any civil action related to the filing or contents of the complaint.

NEW SECTION. Sec. 18. (1) If the department determines, upon investigation, that there is reason to believe a violation of this chapter has occurred, the department shall prepare and serve upon the license holder or applicant a statement of charge or charges. The statement of charge or charges must be accompanied by a notice that the license holder or applicant may request a hearing to contest the charge or charges. The license holder or applicant must file a request for hearing with the department within twenty days after being served the statement of charges. The failure to request a hearing constitutes a default, whereupon the director may enter an order under RCW 34.05.440.

(2) If a hearing is requested, the time of the hearing shall be scheduled but the hearing shall not be held earlier than thirty days after service of the charges upon the license holder or applicant. A notice of hearing shall be issued at least twenty days before the hearing, specifying the time, date, and place of hearing.

NEW SECTION. Sec. 19. Upon a finding that a license holder or applicant has committed unprofessional conduct the director may issue an order providing for one or any combination of the following:

- (1) Revocation of the license;
- (2) Suspension of the license for a fixed or indefinite term;
- (3) Requiring the satisfactory completion of a specific program of remedial education;
- (4) Compliance with conditions of probation for a designated period of time;

(5) Payment of a fine not to exceed five hundred dollars for each violation of this chapter;

(6) Denial of the license request;

(7) Corrective action, including paying contestants the contracted purse or compensation; or

(8) Refund of fees billed to and collected from the consumer.

Any of the actions under this section may be totally or partly stayed by the director. All costs associated with compliance with orders issued under this section are the obligation of the license holder or applicant.

NEW SECTION. **Sec. 20.** If an order for payment of a fine is made as a result of a hearing and timely payment is not made as directed in the final order, the director may enforce the order for payment in the superior court in the county in which the hearing was held. This right of enforcement shall be in addition to any other rights the director may have as to any licensee ordered to pay a fine but shall not be construed to limit a licensee's ability to seek judicial review under chapter 34.05 RCW.

In addition for enforcement of an order of payment of a fine the director's order is conclusive proof of the validity of the order of payment of a fine and the terms of payment.

NEW SECTION. **Sec. 21.** The following conduct, acts, or conditions constitute unprofessional conduct for a license holder or applicant under this chapter:

(1) Conviction of a gross misdemeanor, felony, or the commission of an act involving moral turpitude, dishonesty, or corruption whether the act constitutes a crime or not. If the act constitutes a crime, conviction in a criminal proceeding is not a condition precedent to disciplinary action. Upon such a conviction, however, the judgment and sentence is conclusive evidence at the ensuing disciplinary hearing of the guilt of the license holder or applicant of the crime described in the indictment or information, and of the person's violation of the statute on which it is based. For the purposes of this section, conviction includes all instances in which a plea of guilty or nolo contendere is the basis for the conviction and all proceedings in which the sentence has been deferred or suspended. This section does not abrogate rights guaranteed under chapter 9.96 RCW;

(2) Misrepresentation or concealment of a material fact in obtaining a license or in reinstatement of a license;

(3) Advertising that is false, fraudulent, or misleading;

(4) Incompetence or negligence that results in injury to a person or that creates an unreasonable risk that a person may be harmed;

(5) Suspension, revocation, or restriction of a license to act as a professional athletic licensee by competent authority in a state, federal, or foreign jurisdiction, a certified copy of the order, stipulation, or agreement being conclusive evidence of the revocation, suspension, or restriction;

- (6) Violation of a statute or administrative rule regulating professional athletics;
- (7) Failure to cooperate with the department's investigations by:
 - (a) Not furnishing papers or documents;
 - (b) Not furnishing in writing a full and complete explanation regarding a matter under investigation by the department; or
 - (c) Not responding to subpoenas issued by the department, whether or not the recipient of the subpoena is the subject of the proceeding;
- (8) Failure to comply with an order issued by the director or an assurance of discontinuance entered into by the director;
- (9) Aiding or abetting an unlicensed person to act in a manner that requires a professional athletics licensee;
- (10) Misrepresentation or fraud in any aspect of the conduct of a professional athletics event; and
- (11) Interference with an investigation or disciplinary proceeding by willful misrepresentation of facts before the department or by the use of threats or harassment against any person to prevent them from providing evidence in a disciplinary proceeding or other legal action.

NEW SECTION. **Sec. 22.** (1) The director shall investigate complaints concerning unlicensed practice or conducting boxing, martial arts, or wrestling events in violation of this chapter. The director shall issue a cease and desist order to a person after notice and hearing and upon a determination that the person has violated this subsection. If the director makes a written finding of fact that the public interest will be irreparably harmed by delay in issuing an order, the director may issue a temporary cease and desist order. The cease and desist order shall not relieve the person violating this chapter from criminal prosecution, but the remedy of a cease and desist order shall be in addition to any criminal liability. The cease and desist order may be enforced under RCW 7.71.030. This method of enforcement of the cease and desist order may be used in addition to, or as an alternative to, provisions for enforcement of agency orders set out in chapter 34.05 RCW.

(2) The attorney general, a county prosecuting attorney, the director, a board, or a person may, in accordance with the law of this state governing injunctions, maintain an action in the name of this state to enjoin a person practicing without a license from engaging in the practice until the required license is secured. However, the injunction shall not relieve the person so practicing without a license from criminal prosecution for the practice, but the remedy by injunction shall be in addition to any criminal liability.

(3) The practice without a license when required by this chapter constitutes a gross misdemeanor.

NEW SECTION. **Sec. 23.** A person or business that violates an injunction issued under this chapter shall pay a civil penalty, as determined by the court, of not more than twenty-five thousand dollars, which shall be paid to the department.

For the purpose of this section, the superior court issuing an injunction shall retain jurisdiction and the cause shall be continued, and in such cases the attorney general acting in the name of the state may petition for the recovery of civil penalties.

NEW SECTION. Sec. 24. The director or individuals acting on the director's behalf are immune from suit in an action, civil or criminal, based on disciplinary proceedings or other official acts performed in the course of their duties in the administration and enforcement of this chapter.

NEW SECTION. Sec. 25. Sections 17 through 24 of this act are each added to chapter 67.08 RCW.

NEW SECTION. Sec. 26. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

Passed the Senate March 19, 1997.

Passed the House April 15, 1997.

Approved by the Governor April 24, 1997.

Filed in Office of Secretary of State April 24, 1997.

CHAPTER 206

[Senate Bill 5871]

MALICIOUS PROSECUTION ACTIONS OR COUNTERCLAIMS—INCLUSION OF PORT DISTRICT POLICE FORCES

AN ACT Relating to the definition of law enforcement officer; and amending RCW 4.24.350.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 4.24.350 and 1984 c 133 s 2 are each amended to read as follows:

(1) In any action for damages, whether based on tort or contract or otherwise, a claim or counterclaim for damages may be litigated in the principal action for malicious prosecution on the ground that the action was instituted with knowledge that the same was false, and unfounded, malicious and without probable cause in the filing of such action, or that the same was filed as a part of a conspiracy to misuse judicial process by filing an action known to be false and unfounded.

(2) In any action, claim, or counterclaim brought by a judicial officer, prosecuting authority, or law enforcement officer for malicious prosecution arising out of the performance or purported performance of the public duty of such officer, an arrest or seizure of property need not be an element of the claim, nor do special damages need to be proved. A judicial officer, prosecuting authority, or law enforcement officer prevailing in such an action may be allowed an amount up to one thousand dollars as liquidated damages, together with a reasonable attorneys' fee and other costs of suit. A government entity which has provided legal services to the prevailing judicial officer, prosecuting authority, or law enforcement officer

has reimbursement rights to any award for reasonable attorneys' fees and other costs, but shall have no such rights to any liquidated damages allowed.

(3) No action may be brought against an attorney under this section solely because of that attorney's representation of a party in a lawsuit.

(4) As used in this section:

(a) "Judicial officer" means a justice, judge, magistrate, or other judicial officer of the state or a city, town, or county.

(b) "Prosecuting authority" means any officer or employee of the state or a city, town, or county who is authorized by law to initiate a criminal or civil proceeding on behalf of the public.

(c) "Law enforcement officer" means a member of the state patrol, a sheriff or deputy sheriff, or a member of the police force of a city, town, university, ~~((or))~~ state college, or port district, or a "wildlife agent" or "ex officio wildlife agent" as defined in RCW 77.08.010.

Passed the Senate March 19, 1997.

Passed the House April 15, 1997.

Approved by the Governor April 24, 1997.

Filed in Office of Secretary of State April 24, 1997.

CHAPTER 207

[House Bill 1551]

HIGHER EDUCATION TUITION WAIVERS—INCREASE IN ALLOWED MAXIMUM

AN ACT Relating to higher education fiscal flexibility; and amending RCW 28B.15.740.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 28B.15.740 and 1995 1st sp.s. c 9 s 9 are each amended to read as follows:

(1) Subject to the limitations of RCW 28B.15.910, the governing boards of the state universities, the regional universities, The Evergreen State College, and the community colleges may waive all or a portion of tuition and fees for needy students who are eligible for resident tuition and fee rates pursuant to RCW 28B.15.012 and 28B.15.013. Subject to the limitations of RCW 28B.15.910, the governing boards of the state universities, the regional universities, The Evergreen State College, and the community colleges may waive all or a portion of tuition and fees for other students at the discretion of the governing boards, except on the basis of participation in intercollegiate athletic programs, not to exceed three-fourths of one percent of gross authorized operating fees revenue under RCW 28B.15.910 for the community colleges considered as a whole and not to exceed ~~((one))~~ two percent of gross authorized operating fees revenue for the other institutions of higher education.

(2) In addition to the tuition and fee waivers provided in subsection (1) of this section and subject to the provisions of RCW 28B.15.455, 28B.15.460, and 28B.15.910, a total dollar amount of tuition and fee waivers awarded by any state

university, regional university, or state college under this chapter, not to exceed one percent, as calculated in subsection (1) of this section, may be used for the purpose of achieving or maintaining gender equity in intercollegiate athletic programs. At any institution that has an underrepresented gender class in intercollegiate athletics, any such waivers shall be awarded:

(a) First, to members of the underrepresented gender class who participate in intercollegiate athletics, where such waivers result in saved or displaced money that can be used for athletic programs for the underrepresented gender class. Such saved or displaced money shall be used for programs for the underrepresented gender class; and

(b) Second, (i) to nonmembers of the underrepresented gender class who participate in intercollegiate athletics, where such waivers result in saved or displaced money that can be used for athletic programs for members of the underrepresented gender class. Such saved or displaced money shall be used for programs for the underrepresented gender class; or (ii) to members of the underrepresented gender class who participate in intercollegiate athletics, where such waivers do not result in any saved or displaced money that can be used for athletic programs for members of the underrepresented gender class.

Passed the House March 11, 1997.

Passed the Senate April 10, 1997.

Approved by the Governor April 24, 1997.

Filed in Office of Secretary of State April 24, 1997.

CHAPTER 208

[House Bill 1908]

FIRE FIGHTING TECHNICAL REVIEW COMMITTEE

AN ACT Relating to the enforcement of workplace safety standards by the department of labor and industries; adding a new section to chapter 49.17 RCW; and providing an expiration date.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. Sec. 1. A new section is added to chapter 49.17 RCW to read as follows:

(1) The director shall establish a fire fighting technical review committee to be composed of eight members appointed by the director. Four members must be representatives of fire fighters, two of whom must be members of the law enforcement officers' and fire fighters' retirement system, and be selected from a list of not less than six names submitted to the director by organizations, state-wide in scope, which through their affiliates embrace a cross-section and a majority of fire fighters in the state. Two members must be representatives of fire chiefs, and be selected from a list of at least five names submitted to the director by a recognized state-wide organization representing a majority of fire chiefs. Two members must be representatives of fire commissioners, and be selected from a list

of at least five names submitted to the director by a recognized state-wide organization representing a majority of fire commissioners.

(2) The director, or his or her designee, shall be an ex officio member of the committee. All appointments are for a term of three years, except the director may appoint the initial members to staggered terms of from one to three years. Members of the committee hold office until their successors are appointed. The director may remove any member for cause. In case of a vacancy, the director is authorized to appoint a person to serve for the remainder of the unexpired term. The director shall make all appointments in conformity with the plan in this subsection.

(3) The director or designee shall be the chair of the committee. The committee may meet at a time and place designated by the director, or a majority of the members, and shall hold meetings during the year to advise the director. Each member of the committee shall be reimbursed for travel expenses as authorized in RCW 43.03.050 and 43.03.060.

(4)(a) The purpose of the committee is to provide technical assistance to the department if an inspection or investigation under this chapter of an emergency response situation reveals a possible violation of RCW 49.17.060, or a safety or health standard adopted under this chapter. The committee may also provide technical assistance to the department if an inspection or investigation of an emergency response situation reveals possible noncompliance with industry consensus standards for fire fighting. If the department issues a citation under this chapter based on events in an emergency situation, the department shall consult with the committee before issuing a citation that includes a penalty authorized by RCW 49.17.140.

(b) The committee's recommendation is advisory only and does not limit the department's authority to assess a penalty. This section does not create a right or cause of action or add to any existing right or cause of action.

(5) For the purpose of this section, "emergency response situation" includes, but is not limited to, situations in which employees of a fire department or fire district are involved in a fire combat scene, a hazardous materials response situation, a rescue, or a response involving emergency medical services.

(6) This section expires July 1, 2001.

Passed the House March 13, 1997.

Passed the Senate April 11, 1997.

Approved by the Governor April 25, 1997.

Filed in Office of Secretary of State April 25, 1997.

CHAPTER 209

[Engrossed Substitute House Bill 1017]

STILLAGUAMISH RIVER AQUATIC LANDS—EXCHANGE OF STATE-OWNED LANDS
WITH PRIVATELY OWNED LANDS

AN ACT Relating to exchanges of state-owned aquatic lands with privately owned lands under the public interest standard; adding a new section to chapter 43.300 RCW; creating new sections; and declaring an emergency.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. Sec. 1. The legislature finds that the department of fish and wildlife manages a large amount of public land and that the department may have opportunities to improve the quality of its land holdings by participating in an exchange with private landowners or other public entities. The legislature declares that it is in the public interest to allow the department to exchange land with private landowners or with public entities if the exchange would provide significant fish and wildlife habitat or public access to the state's waterways.

NEW SECTION. Sec. 2. (1) Management of the following lands is withdrawn from the department of natural resources and transferred to the department of fish and wildlife: All that portion of the Stillaguamish River abutting Government Lot 2, Section 24, Township 32 North, Range 3 East of the W.M., Snohomish County, Washington, said portion containing four thousand one hundred sixty-six square feet, more or less, and being more particularly described as follows: Commencing at the Southwest corner of Section 24; thence South 88° 07' 37" East, along the South line of said Section 24, for a distance of 1324.17 feet to the Southwest corner of said Government Lot 2; thence North 62° 28' 55" East for a distance of 520.07 feet to the intersection of the ordinary high water line with the South line of an existing building, said point being the TRUE POINT OF BEGINNING; thence Easterly along said ordinary high water line for the following courses: North 78° 03' 17" East a distance of 24.61 feet; North 79° 37' 55" East a distance of 32.27 feet; North 81° 07' 53" East a distance of 35.69 feet; North 84° 24' 41" East a distance of 54.13 feet; North 78° 29' 25" East a distance of 50.31 feet; South 83° 22' 40" East a distance of 55.25 feet; South 36° 49' 43" East a distance of 7.77 feet; South 79° 10' 14" East a distance of 32.74 feet; South 82° 08' 20" East a distance of 14.90 feet; North 87° 25' 52" East a distance of 42.25 feet; North 89° 41' 06" East a distance of 59.93 feet; South 83° 55' 42" East a distance of 48.74 feet; South 77° 22' 30" East a distance of 3.11 feet to its intersection with the Southerly edge of an existing concrete parking structure; thence Westerly, following said Southerly edge for the following courses: South 89° 05' 53" West a distance of 132.32 feet; North 88° 39' 21" West a distance of 18.59 feet; North 88° 39' 10" West a distance of 14.89 feet; North 55° 10' 20" West a distance of 6.34 feet; North 87° 42' 58" West a distance of 30.83 feet to its intersection with the Southerly wall of an existing building; thence Westerly, following said Southerly wall for the following courses: North 89° 46' 21" West a distance of 160.46 feet; South 00° 13' 39" West a distance of 12.00 feet; North 89° 41' 55"

West a distance of 92.06 feet to the TRUE POINT OF BEGINNING. The department of fish and wildlife has full responsibility for management and control of the tidelands transferred by this section.

(2) For the purposes of this section, "W.M." means Willamette Meridian.

NEW SECTION. Sec. 3. A new section is added to chapter 43.300 RCW to read as follows:

(1) The department of fish and wildlife may exchange the tidelands and shorelands it manages with private or public landowners if the exchange is in the public interest.

(2) As used in this section, an exchange of tidelands and shorelands is in the public interest if the exchange would provide significant fish and wildlife habitat or public access to the state's waterways.

NEW SECTION. Sec. 4. This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately.

Passed the House February 28, 1997.

Passed the Senate April 14, 1997.

Approved by the Governor April 25, 1997.

Filed in Office of Secretary of State April 25, 1997.

CHAPTER 210

[Substitute House Bill 1024]

CONVERSION OF BANKED BEDS BACK TO NURSING HOME BEDS

AN ACT Relating to the notice requirements for bringing beds out of the bank under certificate of need provisions; and amending RCW 70.38.111 and 70.38.025.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 70.38.111 and 1995 1st sp.s. c 18 s 71 are each amended to read as follows:

(1) The department shall not require a certificate of need for the offering of an inpatient tertiary health service by:

(a) A health maintenance organization or a combination of health maintenance organizations if (i) the organization or combination of organizations has, in the service area of the organization or the service areas of the organizations in the combination, an enrollment of at least fifty thousand individuals, (ii) the facility in which the service will be provided is or will be geographically located so that the service will be reasonably accessible to such enrolled individuals, and (iii) at least seventy-five percent of the patients who can reasonably be expected to receive the tertiary health service will be individuals enrolled with such organization or organizations in the combination;

(b) A health care facility if (i) the facility primarily provides or will provide inpatient health services, (ii) the facility is or will be controlled, directly or indirectly, by a health maintenance organization or a combination of health

maintenance organizations which has, in the service area of the organization or service areas of the organizations in the combination, an enrollment of at least fifty thousand individuals, (iii) the facility is or will be geographically located so that the service will be reasonably accessible to such enrolled individuals, and (iv) at least seventy-five percent of the patients who can reasonably be expected to receive the tertiary health service will be individuals enrolled with such organization or organizations in the combination; or

(c) A health care facility (or portion thereof) if (i) the facility is or will be leased by a health maintenance organization or combination of health maintenance organizations which has, in the service area of the organization or the service areas of the organizations in the combination, an enrollment of at least fifty thousand individuals and, on the date the application is submitted under subsection (2) of this section, at least fifteen years remain in the term of the lease, (ii) the facility is or will be geographically located so that the service will be reasonably accessible to such enrolled individuals, and (iii) at least seventy-five percent of the patients who can reasonably be expected to receive the tertiary health service will be individuals enrolled with such organization;

if, with respect to such offering or obligation by a nursing home, the department has, upon application under subsection (2) of this section, granted an exemption from such requirement to the organization, combination of organizations, or facility.

(2) A health maintenance organization, combination of health maintenance organizations, or health care facility shall not be exempt under subsection (1) of this section from obtaining a certificate of need before offering a tertiary health service unless:

(a) It has submitted at least thirty days prior to the offering of services reviewable under RCW 70.38.105(4)(d) an application for such exemption; and

(b) The application contains such information respecting the organization, combination, or facility and the proposed offering or obligation by a nursing home as the department may require to determine if the organization or combination meets the requirements of subsection (1) of this section or the facility meets or will meet such requirements; and

(c) The department approves such application. The department shall approve or disapprove an application for exemption within thirty days of receipt of a completed application. In the case of a proposed health care facility (or portion thereof) which has not begun to provide tertiary health services on the date an application is submitted under this subsection with respect to such facility (or portion), the facility (or portion) shall meet the applicable requirements of subsection (1) of this section when the facility first provides such services. The department shall approve an application submitted under this subsection if it determines that the applicable requirements of subsection (1) of this section are met.

(3) A health care facility (or any part thereof) with respect to which an exemption was granted under subsection (1) of this section may not be sold or leased and a controlling interest in such facility or in a lease of such facility may not be acquired and a health care facility described in (1)(c) which was granted an exemption under subsection (1) of this section may not be used by any person other than the lessee described in (1)(c) unless:

(a) The department issues a certificate of need approving the sale, lease, acquisition, or use; or

(b) The department determines, upon application, that (i) the entity to which the facility is proposed to be sold or leased, which intends to acquire the controlling interest, or which intends to use the facility is a health maintenance organization or a combination of health maintenance organizations which meets the requirements of (1)(a)(i), and (ii) with respect to such facility, meets the requirements of (1)(a)(ii) or (iii) or the requirements of (1)(b)(i) and (ii).

(4) In the case of a health maintenance organization, an ambulatory care facility, or a health care facility, which ambulatory or health care facility is controlled, directly or indirectly, by a health maintenance organization or a combination of health maintenance organizations, the department may under the program apply its certificate of need requirements only to the offering of inpatient tertiary health services and then only to the extent that such offering is not exempt under the provisions of this section.

(5)(a) The department shall not require a certificate of need for the construction, development, or other establishment of a nursing home, or the addition of beds to an existing nursing home, that is owned and operated by a continuing care retirement community that:

(i) Offers services only to contractual members;

(ii) Provides its members a contractually guaranteed range of services from independent living through skilled nursing, including some assistance with daily living activities;

(iii) Contractually assumes responsibility for the cost of services exceeding the member's financial responsibility under the contract, so that no third party, with the exception of insurance purchased by the retirement community or its members, but including the medicaid program, is liable for costs of care even if the member depletes his or her personal resources;

(iv) Has offered continuing care contracts and operated a nursing home continuously since January 1, 1988, or has obtained a certificate of need to establish a nursing home;

(v) Maintains a binding agreement with the state assuring that financial liability for services to members, including nursing home services, will not fall upon the state;

(vi) Does not operate, and has not undertaken a project that would result in a number of nursing home beds in excess of one for every four living units operated by the continuing care retirement community, exclusive of nursing home beds; and

(vii) Has obtained a professional review of pricing and long-term solvency within the prior five years which was fully disclosed to members.

(b) A continuing care retirement community shall not be exempt under this subsection from obtaining a certificate of need unless:

(i) It has submitted an application for exemption at least thirty days prior to commencing construction of, is submitting an application for the licensure of, or is commencing operation of a nursing home, whichever comes first; and

(ii) The application documents to the department that the continuing care retirement community qualifies for exemption.

(c) The sale, lease, acquisition, or use of part or all of a continuing care retirement community nursing home that qualifies for exemption under this subsection shall require prior certificate of need approval to qualify for licensure as a nursing home unless the department determines such sale, lease, acquisition, or use is by a continuing care retirement community that meets the conditions of (a) of this subsection.

(6) A rural hospital, as defined by the department, reducing the number of licensed beds to become a rural primary care hospital under the provisions of Part A Title XVIII of the Social Security Act Section 1820, 42 U.S.C., 1395c et seq. may, within three years of the reduction of beds licensed under chapter 70.41 RCW, increase the number of licensed beds to no more than the previously licensed number without being subject to the provisions of this chapter.

(7) A rural health care facility licensed under RCW 70.175.100 formerly licensed as a hospital under chapter 70.41 RCW may, within three years of the effective date of the rural health care facility license, apply to the department for a hospital license and not be subject to the requirements of RCW 70.38.105(4)(a) as the construction, development, or other establishment of a new hospital, provided there is no increase in the number of beds previously licensed under chapter 70.41 RCW and there is no redistribution in the number of beds used for acute care or long-term care, the rural health care facility has been in continuous operation, and the rural health care facility has not been purchased or leased.

(8)(a) A nursing home that voluntarily reduces the number of its licensed beds to provide assisted living, licensed boarding home care, adult day care, adult day health, respite care, hospice, outpatient therapy services, congregate meals, home health, or senior wellness clinic, or to reduce to one or two the number of beds per room or to otherwise enhance the quality of life for residents in the nursing home, may convert the original facility or portion of the facility back, and thereby increase the number of nursing home beds to no more than the previously licensed number of nursing home beds without obtaining a certificate of need under this chapter, provided the facility has been in continuous operation and has not been purchased or leased. Any conversion to the original licensed bed capacity, or to any portion thereof, shall comply with the same life and safety code requirements as existed at the time the nursing home voluntarily reduced its licensed beds; unless waivers from such requirements were issued, in which case the converted beds

shall reflect the conditions or standards that then existed pursuant to the approved waivers.

(b) To convert beds back to nursing home beds under this subsection, the nursing home must:

(i) Give notice of its intent to preserve conversion options to the department of health no later than thirty days after the effective date of the license reduction; and

(ii) Give notice to the department of health and to the department of social and health services of the intent to convert beds back. If construction is required for the conversion of beds back, the notice of intent to convert beds back must be given (~~((no later than two years))~~), at a minimum, one year prior to the effective date of license modification reflecting the restored beds; otherwise, the notice must be given (~~((no later than one year))~~) a minimum of ninety days prior to the effective date of license modification reflecting the restored beds. Prior to any license modification to convert beds back to nursing home beds under this section, the licensee must demonstrate that the nursing home meets the certificate of need exemption requirements of this section.

The term "construction," as used in (b)(ii) of this subsection, is limited to those projects that are expected to equal or exceed the expenditure minimum amount, as determined under this chapter.

(c) Conversion of beds back under this subsection must be completed no later than four years after the effective date of the license reduction. However, for good cause shown, the four-year period for conversion may be extended by the department of health for one additional four-year period.

(d) Nursing home beds that have been voluntarily reduced under this section shall be counted as available nursing home beds for the purpose of evaluating need under RCW 70.38.115(2) (a) and (k) so long as the facility retains the ability to convert them back to nursing home use under the terms of this section.

(e) When a building owner has secured an interest in the nursing home beds, which are intended to be voluntarily reduced by the licensee under (a) of this subsection, the applicant shall provide the department with a written statement indicating the building owner's approval of the bed reduction.

Sec. 2. RCW 70.38.025 and 1991 c 158 s 1 are each amended to read as follows:

When used in this chapter, the terms defined in this section shall have the meanings indicated.

(1) "Board of health" means the state board of health created pursuant to chapter 43.20 RCW.

(2) "Capital expenditure" is an expenditure, including a force account expenditure (i.e., an expenditure for a construction project undertaken by a nursing home facility as its own contractor) which, under generally accepted accounting principles, is not properly chargeable as an expense of operation or maintenance. Where a person makes an acquisition under lease or comparable arrangement, or

through donation, which would have required review if the acquisition had been made by purchase, such expenditure shall be deemed a capital expenditure. Capital expenditures include donations of equipment or facilities to a nursing home facility which if acquired directly by such facility would be subject to certificate of need review under the provisions of this chapter and transfer of equipment or facilities for less than fair market value if a transfer of the equipment or facilities at fair market value would be subject to such review. The cost of any studies, surveys, designs, plans, working drawings, specifications, and other activities essential to the acquisition, improvement, expansion, or replacement of any plant or equipment with respect to which such expenditure is made shall be included in determining the amount of the expenditure.

(3) "Continuing care retirement community" means an entity which provides shelter and services under continuing care contracts with its members and which sponsors or includes a health care facility or a health service. A "continuing care contract" means a contract to provide a person, for the duration of that person's life or for a term in excess of one year, shelter along with nursing, medical, health-related, or personal care services, which is conditioned upon the transfer of property, the payment of an entrance fee to the provider of such services, or the payment of periodic charges for the care and services involved. A continuing care contract is not excluded from this definition because the contract is mutually terminable or because shelter and services are not provided at the same location.

(4) "Department" means the department of health.

(5) "Expenditure minimum" means, for the purposes of the certificate of need program, one million dollars adjusted by the department by rule to reflect changes in the United States department of commerce composite construction cost index; or a lesser amount required by federal law and established by the department by rule.

(6) "Health care facility" means hospices, hospitals, psychiatric hospitals, nursing homes, kidney disease treatment centers, ambulatory surgical facilities, and home health agencies, and includes such facilities when owned and operated by a political subdivision or instrumentality of the state and such other facilities as required by federal law and implementing regulations, but does not include ~~((Christian Science sanatoriums operated, listed, or certified by the First Church of Christ Scientist, Boston, Massachusetts))~~ any health facility or institution conducted by and for those who rely exclusively upon treatment by prayer or spiritual means in accordance with the creed or tenets of any well-recognized church or religious denomination, or any health facility or institution operated for the exclusive care of members of a convent as defined in RCW 84.36.800 or rectory, monastery, or other institution operated for the care of members of the clergy. In addition, the term does not include any nonprofit hospital: (a) Which is operated exclusively to provide health care services for children; (b) which does not charge fees for such services; and (c) if not contrary to federal law as necessary to the receipt of federal funds by the state.

(7) "Health maintenance organization" means a public or private organization, organized under the laws of the state, which:

(a) Is a qualified health maintenance organization under Title XIII, section 1310(d) of the Public Health Services Act; or

(b)(i) Provides or otherwise makes available to enrolled participants health care services, including at least the following basic health care services: Usual physician services, hospitalization, laboratory, x-ray, emergency, and preventive services, and out-of-area coverage; (ii) is compensated (except for copayments) for the provision of the basic health care services listed in (b)(i) to enrolled participants by a payment which is paid on a periodic basis without regard to the date the health care services are provided and which is fixed without regard to the frequency, extent, or kind of health service actually provided; and (iii) provides physicians' services primarily (A) directly through physicians who are either employees or partners of such organization, or (B) through arrangements with individual physicians or one or more groups of physicians (organized on a group practice or individual practice basis).

(8) "Health services" means clinically related (i.e., preventive, diagnostic, curative, rehabilitative, or palliative) services and includes alcoholism, drug abuse, and mental health services and as defined in federal law.

(9) "Health service area" means a geographic region appropriate for effective health planning which includes a broad range of health services.

(10) "Person" means an individual, a trust or estate, a partnership, a corporation (including associations, joint stock companies, and insurance companies), the state, or a political subdivision or instrumentality of the state, including a municipal corporation or a hospital district.

(11) "Provider" generally means a health care professional or an organization, institution, or other entity providing health care but the precise definition for this term shall be established by rule of the department, consistent with federal law.

(12) "Public health" means the level of well-being of the general population; those actions in a community necessary to preserve, protect, and promote the health of the people for which government is responsible; and the governmental system developed to guarantee the preservation of the health of the people.

(13) "Secretary" means the secretary of health or the secretary's designee.

(14) "Tertiary health service" means a specialized service that meets complicated medical needs of people and requires sufficient patient volume to optimize provider effectiveness, quality of service, and improved outcomes of care.

(15) "Hospital" means any health care institution which is required to qualify for a license under RCW 70.41.020(2); or as a psychiatric hospital under chapter 71.12 RCW.

Passed the House February 21, 1997.

Passed the Senate April 14, 1997.

Approved by the Governor April 25, 1997.

Filed in Office of Secretary of State April 25, 1997.

CHAPTER 211

[Substitute House Bill 1047]

TUITION WAIVERS—STATE EMPLOYEES AND MEMBERS OF THE WASHINGTON NATIONAL GUARD

AN ACT Relating to tuition waivers; amending RCW 28B.15.558; and repealing RCW 28B.15.535.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 28B.15.558 and 1996 c 305 s 3 are each amended to read as follows:

(1) The governing boards of the state universities, the regional universities, The Evergreen State College, and the community colleges may waive all or a portion of the tuition and services and activities fees for state employees as defined under subsection (2) of this section and members of the Washington national guard. The enrollment of these persons is pursuant to the following conditions:

(a) Such ~~((state employees))~~ persons shall register for and be enrolled in courses on a space available basis and no new course sections shall be created as a result of the registration;

(b) Enrollment information on ~~((state employees))~~ persons registered pursuant to this section shall be maintained separately from other enrollment information and shall not be included in official enrollment reports, nor shall such ~~((state employees))~~ persons be considered in any enrollment statistics ~~((which))~~ that would affect budgetary determinations; and

(c) ~~((State employees))~~ Persons registering on a space available basis shall be charged a registration fee of not less than five dollars.

(2) For the purposes of this section, "state employees" means persons employed half-time or more in one or more of the following employee classifications:

(a) Permanent employees ~~((employed half-time or more))~~ in classified service under chapter 41.06 RCW;

(b) Permanent employees ~~((employed half-time or more who are))~~ governed by chapter 41.56 RCW pursuant to the exercise of the option under RCW 41.56.201;

(c) Permanent classified employees and exempt paraprofessional employees of technical colleges ~~((employed half-time or more)); and ((nonacademic))~~

(d) Faculty, counselors, librarians, and exempt professional and administrative employees ~~((and members of the faculties and instructional staff employed half-time or more))~~ at institutions of higher education as defined in RCW 28B.10.016.

(3) In awarding waivers, an institution of higher education may award waivers to eligible persons employed by the institution before considering waivers for eligible persons who are not employed by the institution.

(4) If an institution of higher education exercises the authority granted under this section, it shall include all eligible state employees and members of the Washington national guard in the pool of persons eligible to participate in the program.

(5) In establishing eligibility to receive waivers, institutions of higher education may not discriminate between full-time employees and employees who are employed half-time or more.

NEW SECTION. Sec. 2. RCW 28B.15.535 and 1996 c 6 s 1, 1992 c 231 s 15, 1985 c 390 s 28, 1983 c 220 s 1, & 1979 c 82 s 2 are each repealed.

Passed the House March 7, 1997.

Passed the Senate April 9, 1997.

Approved by the Governor April 25, 1997.

Filed in Office of Secretary of State April 25, 1997.

CHAPTER 212

[Engrossed Substitute House Bill 1064]

HEALTH CARE SERVICE CONTRACTORS AND HEALTH MAINTENANCE ORGANIZATIONS—FINANCIAL AND REPORTING REQUIREMENTS

AN ACT Relating to the financial and reporting requirements of health care service contractors and health maintenance organizations; amending RCW 48.44.035, 48.44.037, 48.44.095, 48.46.080, and 48.46.235; adding a new section to chapter 48.44 RCW; and adding a new section to chapter 48.46 RCW.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 48.44.035 and 1990 c 120 s 3 are each amended to read as follows:

(1) For purposes of this section only, "limited health care service" means dental care services, vision care services, mental health services, chemical dependency services, pharmaceutical services, podiatric care services, and such other services as may be determined by the commissioner to be limited health services, but does not include hospital, medical, surgical, emergency, or out-of-area services except as those services are provided incidentally to the limited health services set forth in this subsection.

(2) For purposes of this section only, a "limited health care service contractor" means a health care service contractor that offers one and only one limited health care service.

(3) Except as provided in subsection (4) of this section, every limited health care service contractor must have and maintain a minimum net worth of three hundred thousand dollars.

(4) A limited health care service contractor registered before the effective date of this act that, on the effective date of this act, has a minimum net worth equal to

or greater than that required by subsection (3) of this section must continue to have and maintain the minimum net worth required by subsection (3) of this section. A limited health care service contractor registered before the effective date of this act that, on the effective date of this act, does not have the minimum net worth required by subsection (3) of this section must have and maintain a minimum net worth of:

(a) Thirty-five percent of the amount required by subsection (3) of this section by December 31, 1997;

(b) Seventy percent of the amount required by subsection (3) of this section by December 31, 1998; and

(c) One hundred percent of the amount required by subsection (3) of this section by December 31, 1999.

(f) For all limited health care service contractors that have had a certificate of registration for less than three years, their uncovered expenditures shall be either insured or guaranteed by a foreign or domestic carrier admitted in the state of Washington or by another carrier acceptable to the commissioner. All such contractors shall also deposit with the commissioner one-half of one percent of their projected premium for the next year in cash, approved surety bond, securities, or other form acceptable to the commissioner.

((4)) (6) For all limited health care service contractors that have had a certificate of registration for three years or more, their uncovered expenditures shall be assured by depositing with the insurance commissioner twenty-five percent of their last year's uncovered expenditures as reported to the commissioner and adjusted to reflect any anticipated increases or decreases during the ensuing year plus an amount for unearned prepayments; in cash, approved surety bond, securities, or other form acceptable to the commissioner. Compliance with subsection ((3)) (5) of this section shall also constitute compliance with this requirement.

((5)) (7) Limited health service contractors need not comply with RCW 48.44.030 or 48.44.037.

Sec. 2. RCW 48.44.037 and 1990 c 120 s 4 are each amended to read as follows:

(1)((a)) Except as provided in subsection (2) of this section, every health care service contractor must have ((a) and maintain a minimum net worth ((of one million five hundred thousand dollars at the time of initial registration under this chapter and a net worth of one million dollars thereafter. The commissioner is authorized to establish standards for reviewing a health care service contractor's financial integrity when, for any reason, its net worth is reduced below one million dollars. When satisfied that such a health care service contractor is financially stable and not hazardous to its enrolled participants, the commissioner may waive compliance with the one million dollar net worth standard otherwise required by this subsection. When such a health care service contractor's net worth falls below

~~five hundred thousand dollars, the commissioner shall require that net worth be increased to one million dollars:~~

~~— (b) A health care service contractor who fails to maintain the required net worth must cure that defect in compliance with an order of the commissioner rendered in conformity with rules adopted under chapter 34.05 RCW. The commissioner may take appropriate action to assure that the continued operation of the health care service contractor will not be hazardous to its enrolled participants)) equal to the greater of:~~

~~(a) Three million dollars; or~~

~~(b) Two percent of the annual premium earned, as reported on the most recent annual financial statement filed with the commissioner, on the first one hundred fifty million dollars of premium and one percent of the annual premium on the premium in excess of one hundred fifty million dollars.~~

~~(2) A health care service contractor registered before ((June 7, 1990;)) the effective date of this act that, on the effective date of this act, has a minimum net worth equal to or greater than that required by subsection (1) of this section must continue to have and maintain the minimum net worth required by subsection (1) of this section. A health care service contractor registered before the effective date of this act that, on the effective date of this act, does not have the minimum net worth required by subsection (1) of this section must have and maintain a minimum net worth of:~~

~~(a) ((Twenty-five percent of the amount required by subsection (1) of this section by December 31, 1990)) The amount required immediately prior to the effective date of this act until December 31, 1997;~~

~~(b) Fifty percent of the amount required by subsection (1) of this section by December 31, ((1994)) 1997;~~

~~(c) Seventy-five percent of the amount required by subsection (1) of this section by December 31, ((1992)) 1998; and~~

~~(d) One hundred percent of the amount required by subsection (1) of this section by December 31, ((1993)) 1999.~~

~~(3)(a) In determining net worth, no debt shall be considered fully subordinated unless the subordination is in a form acceptable to the commissioner. An interest obligation relating to the repayment of a subordinated debt must be similarly subordinated.~~

~~(b) The interest expenses relating to the repayment of a fully subordinated debt shall not be considered uncovered expenditures.~~

~~(c) A subordinated debt incurred by a note meeting the requirement of this section, and otherwise acceptable to the commissioner, shall not be considered a liability and shall be recorded as equity.~~

~~(4) Every health care service contractor shall, when determining liabilities, include an amount estimated in the aggregate to provide for any unearned premium and for the payment of all claims for health care expenditures which have been incurred, whether reported or unreported, which are unpaid and for which the~~

organization is or may be liable, and to provide for the expense of adjustment or settlement of the claims.

Liabilities shall be computed in accordance with regulations adopted by the commissioner upon reasonable consideration of the ascertained experience and character of the health care service contractor.

(5) All income from reserves on deposit with the commissioner shall belong to the depositing health care service contractor and shall be paid to it as it becomes available.

(6) Any funded reserve required by this chapter shall be considered an asset of the health care service contractor in determining the organization's net worth.

(7) A health care service contractor that has made a securities deposit with the commissioner may, at its option, withdraw the securities deposit or any part thereof after first having deposited or provided in lieu thereof an approved surety bond, a deposit of cash or securities, or any combination of these or other deposits of equal amount and value to that withdrawn. Any securities and surety bond shall be subject to approval by the commissioner before being substituted.

NEW SECTION. **Sec. 3.** A new section is added to chapter 48.44 RCW to read as follows:

(1) For purposes of this section:

(a) "Domestic health care service contractor" means a health care service contractor formed under the laws of this state; and

(b) "Foreign health care service contractor" means a health care service contractor formed under the laws of the United States, of a state or territory of the United States other than this state, or of the District of Columbia.

(2) If the minimum net worth of a domestic health care service contractor falls below the minimum net worth required by this chapter, the commissioner shall at once ascertain the amount of the deficiency and serve notice upon the domestic health care service contractor to cure the deficiency within ninety days after that service of notice.

(3) If the deficiency is not cured, and proof thereof filed with the commissioner within the ninety-day period, the domestic health care service contractor shall be declared insolvent and shall be proceeded against as authorized by this code, or the commissioner shall, consistent with chapters 48.04 and 34.05 RCW, suspend or revoke the registration of the domestic health care service contractor as being hazardous to its subscribers and the people in this state.

(4) If the deficiency is not cured the domestic health care service contractor shall not issue or deliver any individual or group contract after the expiration of the ninety-day period.

(5) If the minimum net worth of a foreign health care service contractor falls below the minimum net worth required by this chapter, the commissioner shall, consistent with chapters 48.04 and 34.05 RCW, suspend or revoke the foreign health care service contractor's registration as being hazardous to its subscribers or the people in this state.

Sec. 4. RCW 48.44.095 and 1993 c 492 s 295 are each amended to read as follows:

(1) Every health care service contractor shall annually, before the first day of March, file with the commissioner a statement verified by at least two of the principal officers of the health care service contractor showing its financial condition as of the last day of the preceding calendar year. The statement shall be in such form as is furnished or prescribed by the commissioner. The commissioner may for good reason allow a reasonable extension of the time within which such annual statement shall be filed.

(2) In addition to the requirements of subsection (1) of this section, every health care service contractor that is registered in this state shall annually, on or before March 1st of each year, file with the national association of insurance commissioners a copy of its annual statement, along with those additional schedules as prescribed by the commissioner for the preceding year. The information filed with the national association of insurance commissioners shall be in the same format and scope as that required by the commissioner and shall include the signed jurate page and the actuarial certification. Any amendments and addendums to the annual statement filing subsequently filed with the commissioner shall also be filed with the national association of insurance commissioners.

(3) Coincident with the filing of its annual statement and other schedules, each health care service contractor shall pay a reasonable fee directly to the national association of insurance commissioners in an amount approved by the commissioner to cover the costs associated with the analysis of the annual statement.

(4) Foreign health care service contractors that are domiciled in a state that has a law substantially similar to subsection (2) of this section are considered to be in compliance with this section.

(5) In the absence of actual malice, members of the national association of insurance commissioners, their duly authorized committees, subcommittees, and task forces, their delegates, national association of insurance commissioners employees, and all other persons charged with the responsibility of collecting, reviewing, analyzing, and disseminating the information developed from the filing of the annual statement shall be acting as agents of the commissioner under the authority of this section and shall not be subject to civil liability for libel, slander, or any other cause of action by virtue of their collection, review, analysis, or dissemination of the data and information collected for the filings required under this section.

(6) The commissioner may suspend or revoke the certificate of registration of any health care service contractor failing to file its annual statement or pay the fees when due or during any extension of time therefor which the commissioner, for good cause, may grant.

Sec. 5. RCW 48.46.080 and 1993 c 492 s 296 are each amended to read as follows:

(1) Every health maintenance organization shall annually, before the first day of March, file with the commissioner a statement verified by at least two of the principal officers of the health maintenance organization showing its financial condition as of the last day of the preceding calendar year.

(2) Such annual report shall be in such form as the commissioner shall prescribe and shall include:

(a) A financial statement of such organization, including its balance sheet and receipts and disbursements for the preceding year, which reflects at a minimum;

(i) All prepayments and other payments received for health care services rendered pursuant to health maintenance agreements;

(ii) Expenditures to all categories of health care facilities, providers, insurance companies, or hospital or medical service plan corporations with which such organization has contracted to fulfill obligations to enrolled participants arising out of its health maintenance agreements, together with all other direct expenses including depreciation, enrollment, and commission; and

(iii) Expenditures for capital improvements, or additions thereto, including but not limited to construction, renovation, or purchase of facilities and capital equipment;

(b) The number of participants enrolled and terminated during the report period. Every employer offering health care benefits to their employees through a group contract with a health maintenance organization shall furnish said health maintenance organization with a list of their employees enrolled under such plan;

(c) The number of doctors by type of practice who, under contract with or as an employee of the health maintenance organization, furnished health care services to consumers during the past year;

(d) A report of the names and addresses of all officers, directors, or trustees of the health maintenance organization during the preceding year, and the amount of wages, expense reimbursements, or other payments to such individuals for services to such organization. For partnership and professional service corporations, a report shall be made for partners or shareholders as to any compensation or expense reimbursement received by them for services, other than for services and expenses relating directly for patient care;

(e) Such other information relating to the performance of the health maintenance organization or the health care facilities or providers with which it has contracted as reasonably necessary to the proper and effective administration of this chapter, in accordance with rules and regulations; and

(f) Disclosure of any financial interests held by officers and directors in any providers associated with the health maintenance organization or any provider of the health maintenance organization.

(3) The commissioner may for good reason allow a reasonable extension of the time within which such annual statement shall be filed.

(4) In addition to the requirements of subsections (1) and (2) of this section, every health maintenance organization that is registered in this state shall annually,

on or before March 1st of each year, file with the national association of insurance commissioners a copy of its annual statement, along with those additional schedules as prescribed by the commissioner for the preceding year. The information filed with the national association of insurance commissioners shall be in the same format and scope as that required by the commissioner and shall include the signed jurate page and the actuarial certification. Any amendments and addendums to the annual statement filing subsequently filed with the commissioner shall also be filed with the national association of insurance commissioners.

(5) Coincident with the filing of its annual statement and other schedules, each health maintenance organization shall pay a reasonable fee directly to the national association of insurance commissioners in an amount approved by the commissioner to cover the costs associated with the analysis of the annual statement.

(6) Foreign health maintenance organizations that are domiciled in a state that has a law substantially similar to subsection (4) of this section are considered to be in compliance with this section.

(7) In the absence of actual malice, members of the national association of insurance commissioners, their duly authorized committees, subcommittees, and task forces, their delegates, national association of insurance commissioners employees, and all other persons charged with the responsibility of collecting, reviewing, analyzing, and disseminating the information developed from the filing of the annual statement shall be acting as agents of the commissioner under the authority of this section and shall not be subject to civil liability for libel, slander, or any other cause of action by virtue of their collection, review, analysis, or dissemination of the data and information collected for the filings required under this section.

(8) The commissioner may suspend or revoke the certificate of registration of any health maintenance organization failing to file its annual statement or pay the fees when due or during any extension of time therefor which the commissioner, for good cause, may grant.

~~((5))~~ (9) No person shall knowingly file with any public official or knowingly make, publish, or disseminate any financial statement of a health maintenance organization which does not accurately state the health maintenance organization's financial condition.

Sec. 6. RCW 48.46.235 and 1990 c 119 s 5 are each amended to read as follows:

(1) Except as provided in subsection (2) of this section, every health maintenance organization must have and maintain a minimum net worth equal to the greater of:

- (a) ~~((One))~~ Three million dollars; or
- (b) Two percent of annual premium ~~((revenues))~~ earned as reported on the most recent annual financial statement filed with the commissioner on the first one

hundred fifty million dollars of premium and one percent of annual premium on the premium in excess of one hundred fifty million dollars; or

(c) An amount equal to the sum of three months' uncovered expenditures as reported on the most recent financial statement filed with the commissioner.

(2) A health maintenance organization registered before ~~((June 7, 1990;))~~ the effective date of this act that, on the effective date of this act, has a minimum net worth equal to or greater than that required by subsection (1) of this section must continue to have and maintain the minimum net worth required by subsection (1) of this section. A health maintenance organization registered before the effective date of this act that, on the effective date of this act, does not have the minimum net worth required by subsection (1) of this section must have and maintain a minimum net worth of:

(a) ~~((Twenty-five percent of the amount required by subsection (1) of this section by December 31, 1990))~~ The amount required immediately prior to the effective date of this act until December 31, 1997;

(b) Fifty percent of the amount required by subsection (1) of this section by December 31, ~~((1991))~~ 1997;

(c) Seventy-five percent of the amount required by subsection (1) of this section by December 31, ~~((1992))~~ 1998; and

(d) One hundred percent of the amount required by subsection (1) of this section by December 31, ~~((1993))~~ 1999.

(3)(a) In determining net worth, no debt shall be considered fully subordinated unless the subordination clause is in a form acceptable to the commissioner. An interest obligation relating to the repayment of a subordinated debt must be similarly subordinated.

(b) The interest expenses relating to the repayment of a fully subordinated debt shall not be considered uncovered expenditures.

(c) A subordinated debt incurred by a note meeting the requirement of this section, and otherwise acceptable to the commissioner, shall not be considered a liability and shall be recorded as equity.

(4) Every health maintenance organization shall, when determining liabilities, include an amount estimated in the aggregate to provide for any unearned premium and for the payment of all claims for health care expenditures that have been incurred, whether reported or unreported, which are unpaid and for which such organization is or may be liable, and to provide for the expense of adjustment or settlement of such claims.

Such liabilities shall be computed in accordance with rules promulgated by the commissioner upon reasonable consideration of the ascertained experience and character of the health maintenance organization.

NEW SECTION. Sec. 7. A new section is added to chapter 48.46 RCW to read as follows:

(1) For purposes of this section:

(a) "Domestic health maintenance organization" means a health maintenance organization formed under the laws of this state; and

(b) "Foreign health maintenance organization" means a health maintenance organization formed under the laws of the United States, of a state or territory of the United States other than this state, or of the District of Columbia.

(2) If the minimum net worth of a domestic health maintenance organization falls below the minimum net worth required by this chapter, the commissioner shall at once ascertain the amount of the deficiency and serve notice upon the domestic health maintenance organization to cure the deficiency within ninety days after that service of notice.

(3) If the deficiency is not cured, and proof thereof filed with the commissioner within the ninety-day period, the domestic health maintenance organization shall be declared insolvent and shall be proceeded against as authorized by this code or the commissioner shall, consistent with chapters 48.04 and 34.05 RCW, suspend or revoke the registration of the domestic health maintenance organization as being hazardous to its subscribers and the people in this state.

(4) If the deficiency is not cured the domestic health maintenance organization shall not issue or deliver any health maintenance agreement after the expiration of the ninety-day period.

(5) If the minimum net worth of a foreign health maintenance organization falls below the minimum net worth required by this chapter, the commissioner shall, consistent with chapters 48.04 and 34.05 RCW, suspend or revoke the foreign health maintenance organization's registration as being hazardous to its subscribers, enrollees, or the people in this state.

Passed the House February 21, 1997.

Passed the Senate April 7, 1997.

Approved by the Governor April 25, 1997.

Filed in Office of Secretary of State April 25, 1997.

CHAPTER 213

[Engrossed Substitute House Bill 1419]

SOLID WASTE PERMITS

AN ACT Relating to solid waste permit renewal; amending RCW 70.95.030, 70.95.170, 70.95.180, and 70.95.190; adding a new section to chapter 70.95 RCW; and creating a new section.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 70.95.030 and 1992 c 174 s 16 are each amended to read as follows:

As used in this chapter, unless the context indicates otherwise:

(1) "City" means every incorporated city and town.

(2) "Commission" means the utilities and transportation commission.

(3) "Committee" means the state solid waste advisory committee.

- (4) "Department" means the department of ecology.
- (5) "Director" means the director of the department of ecology.
- (6) "Disposal site" means the location where any final treatment, utilization, processing, or deposit of solid waste occurs.
- (7) "Energy recovery" means a process operating under federal and state environmental laws and regulations for converting solid waste into usable energy and for reducing the volume of solid waste.
- (8) "Functional standards" means criteria for solid waste handling expressed in terms of expected performance or solid waste handling functions.
- (9) "Incineration" means a process of reducing the volume of solid waste operating under federal and state environmental laws and regulations by use of an enclosed device using controlled flame combustion.
- (10) "Jurisdictional health department" means city, county, city-county, or district public health department.
- (11) "Landfill" means a disposal facility or part of a facility at which solid waste is placed in or on land and which is not a land treatment facility.
- (12) "Local government" means a city, town, or county.
- (13) "Modify" means to substantially change the design or operational plans including, but not limited to, removal of a design element previously set forth in a permit application or the addition of a disposal or processing activity that is not approved in the permit.
- (14) "Multiple family residence" means any structure housing two or more dwelling units.
- ~~((14))~~ (15) "Person" means individual, firm, association, copartnership, political subdivision, government agency, municipality, industry, public or private corporation, or any other entity whatsoever.
- ~~((15))~~ (16) "Recyclable materials" means those solid wastes that are separated for recycling or reuse, such as papers, metals, and glass, that are identified as recyclable material pursuant to a local comprehensive solid waste plan. Prior to the adoption of the local comprehensive solid waste plan, adopted pursuant to RCW 70.95.110(2), local governments may identify recyclable materials by ordinance from July 23, 1989.
- ~~((16))~~ (17) "Recycling" means transforming or remanufacturing waste materials into usable or marketable materials for use other than landfill disposal or incineration.
- ~~((17))~~ (18) "Residence" means the regular dwelling place of an individual or individuals.
- ~~((18))~~ (19) "Sewage sludge" means a semisolid substance consisting of settled sewage solids combined with varying amounts of water and dissolved materials, generated from a wastewater treatment system, that does not meet the requirements of chapter 70.95J RCW.
- ~~((19))~~ (20) "Solid waste" or "wastes" means all putrescible and nonputrescible solid and semisolid wastes including, but not limited to, garbage,

rubbish, ashes, industrial wastes, swill, sewage sludge, demolition and construction wastes, abandoned vehicles or parts thereof, and recyclable materials.

~~((20))~~ (21) "Solid waste bandling" means the management, storage, collection, transportation, treatment, utilization, processing, and final disposal of solid wastes, including the recovery and recycling of materials from solid wastes, the recovery of energy resources from solid wastes or the conversion of the energy in solid wastes to more useful forms or combinations thereof.

~~((21))~~ (22) "Source separation" means the separation of different kinds of solid waste at the place where the waste originates.

~~((22))~~ (23) "Vehicle" includes every device physically capable of being moved upon a public or private highway, road, street, or watercourse and in, upon, or by which any person or property is or may be transported or drawn upon a public or private highway, road, street, or watercourse, except devices moved by human or animal power or used exclusively upon stationary rails or tracks.

~~((23))~~ (24) "Waste reduction" means reducing the amount or toxicity of waste generated or reusing materials.

Sec. 2. RCW 70.95.170 and 1969 ex.s. c 134 s 17 are each amended to read as follows:

After approval of the comprehensive solid waste plan by the department no solid waste ~~((disposal site or disposal site))~~ handling facility or facilities shall be maintained, established, ~~((substantially altered, expanded, or improved))~~ or modified until the county, city, or other person operating such site has obtained a permit from the jurisdictional health department pursuant to the provisions of RCW 70.95.180 or 70.95.190.

Sec. 3. RCW 70.95.180 and 1988 c 127 s 30 are each amended to read as follows:

(1) Applications for permits to operate a new or ~~((existing))~~ modified solid waste ~~((disposal sites))~~ handling facility shall be on forms prescribed by the department and shall contain a description of the proposed ~~((and existing))~~ facilities and operations at the site, plans and specifications for any new or additional facilities to be constructed, and such other information as the jurisdictional health department may deem necessary in order to determine whether the site and solid waste disposal facilities located thereon will comply with local and state regulations.

(2) Upon receipt of an application for a permit to establish ~~((, alter, expand, improve, or continue in use))~~ or modify a solid waste ~~((disposal site))~~ handling facility, the jurisdictional health department shall refer one copy of the application to the department which shall report its findings to the jurisdictional health department.

(3) The jurisdictional health department shall investigate every application as may be necessary to determine whether ~~((an existing or))~~ a proposed or modified site and facilities meet all solid waste, air, and other applicable laws and

regulations, and conforms with the approved comprehensive solid waste handling plan, and complies with all zoning requirements.

(4) When the jurisdictional health department finds that the permit should be issued, it shall issue such permit. Every application shall be approved or disapproved within ninety days after its receipt by the jurisdictional health department.

(5) The jurisdictional board of health may establish reasonable fees for permits and renewal of permits. All permit fees collected by the health department shall be deposited in the treasury and to the account from which the health department's operating expenses are paid.

Sec. 4. RCW 70.95.190 and 1984 c 123 s 9 are each amended to read as follows:

(1) Every permit for ((a) an existing solid waste ((disposal-site)) handling facility shall be renewed ((annually)) at least every five years on a date ((to-be)) established by the jurisdictional health department having jurisdiction of the site and as specified in the permit. If a permit is to be renewed for longer than one year, the local jurisdictional health department may hold a public hearing before making such a decision. Prior to renewing a permit, the health department shall conduct ((such inspections)) a review as it deems necessary to assure that the solid waste ((disposal-site and)) handling facility or facilities located on the site continues to meet minimum functional standards of the department, applicable local regulations, and are not in conflict with the approved solid waste management plan. A jurisdictional health department shall approve or disapprove a permit renewal within forty-five days of conducting its review. The department shall review and may appeal the renewal as set forth for the approval of permits in RCW 70.95.185.

~~((A renewal issued under this section shall not be considered valid unless it has been reviewed by the department.))~~

(2) The jurisdictional board of health may establish reasonable fees for permits reviewed under this section. All permit fees collected by the health department shall be deposited in the treasury and to the account from which the health department's operating expenses are paid.

NEW SECTION. Sec. 5. The legislature finds that:

(1) The scope of recycling activities in the state have expanded rapidly beyond traditional household materials and into the agricultural, commercial, and industrial sectors of the economy;

(2) A significant infrastructure has developed over the past several years to collect, process, remanufacture, and use commodities that would otherwise have been landfilled or incinerated;

(3) This infrastructure is linked to, but distinct from, the collection and disposal infrastructure for traditional household, commercial, and industrial wastes;

(4) The current solid waste permit system does not distinguish between materials collected and processed for use or reuse and those materials collected for disposal; and

(5) A comprehensive review is necessary to evaluate the feasibility of regulating commodities destined for use or reuse in a way that is less burdensome than the current permit system while still protecting public health.

NEW SECTION. Sec. 6. A new section is added to chapter 70.95 RCW to read as follows:

(1) The department, in conjunction with the solid waste advisory committee, shall conduct a comprehensive review of the solid waste permit system to determine how the use and reuse of materials can be improved. By December 15, 1997, the department shall submit a report to the appropriate standing committees of the legislature that provides specific legislative and regulatory changes to the solid waste permit system. The review shall include, but not be limited to:

(a) An analysis of the risks posed by materials destined for disposal and the risks posed by materials destined for use or reuse as a commodity;

(b) A method or methods to determine when a material is a solid waste or a commodity; and

(c) Recommendations to regulate materials in a manner that is commensurate with any risk the material may pose. These recommendations shall specifically identify the appropriate level of regulation for materials collected for:

(i) Use or reuse as a commodity;

(ii) Use or reuse as a solid waste; and

(iii) Final disposal.

(2) The department may recommend to exempt materials from solid waste permitting requirements or to establish general permits for materials or categories of materials.

(3) This section does not invalidate the existing authority of the department to exempt waste materials from regulation under this chapter before completing the review required under subsection (1) of this section.

(4) The review under subsection (1) of this section shall not include recommendations on the franchise system regulated by the utilities and transportation commission.

Passed the House March 12, 1997.

Passed the Senate April 14, 1997.

Approved by the Governor April 25, 1997.

Filed in Office of Secretary of State April 25, 1997.

CHAPTER 214

[House Bill 1615]

**STATE PARKS—EXCEPTIONS FOR CUTTING, BREAKING, INJURY, DESTRUCTION,
TAKING, AND REMOVAL OF VEGETATION AND NATURAL OBJECTS**

AN ACT Relating to offenses committed in state parks or parkways; amending RCW 43.51.180; and prescribing penalties.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 43.51.180 and 1987 c 380 s 15 are each amended to read as follows:

Every person who:

(1) Cuts, breaks, injures, destroys, takes, or removes any tree, shrub, timber, plant, or natural object in any park or parkway except in accordance with such rules as the commission may prescribe; or

(2) Kills, or pursues with intent to kill, any bird or animal in any park or parkway; or

(3) Takes any fish from the waters of any park or parkway, except in conformity with such general rules as the commission may prescribe; or

(4) Willfully mutilates, injures, defaces, or destroys any guidepost, notice, tablet, fence, inclosure, or work for the protection or ornamentation of any park or parkway; or

(5) Lights any fire upon any park or parkway, except in such places as the commission has authorized, or willfully or carelessly permits any fire which he or she has lighted or which is under his or her charge, to spread or extend to or burn any of the shrubbery, trees, timber, ornaments, or improvements upon any park or parkway, or leaves any campfire which he or she has lighted or which has been left in his or her charge, unattended by a competent person, without extinguishing it; or

(6) Places within any park or parkway or affixes to any object therein contained, without a written license from the commission, any word, character, or device designed to advertise any business, profession, article, thing, exhibition, matter, or event; or

(7) Violates any rule adopted, promulgated, or issued by the commission pursuant to the provisions of this chapter; shall be guilty of a misdemeanor unless the commission has specified by rule, when not inconsistent with applicable statutes, that violation of the rule is an infraction under chapter 7.84 RCW.

Passed the House March 11, 1997.

Passed the Senate April 14, 1997.

Approved by the Governor April 25, 1997.

Filed in Office of Secretary of State April 25, 1997.

CHAPTER 215

[House Bill 1802]

ANNUAL REPORTS BY AUTO TRANSPORTATION COMPANIES

AN ACT Relating to requiring auto transportation companies to file reports once per year; and amending RCW 81.24.020 and 46.16.125.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 81.24.020 and 1961 c 14 s 81.24.020 are each amended to read as follows:

~~By May 1st of each year, every~~ auto transportation company (~~((shall, between the first and fifteenth days of January, April, July and October of each year,))~~) must file with the commission a statement showing its gross operating revenue from intrastate operations for the preceding (~~((three months, or portion thereof,))~~) year and pay to the commission a fee of two-fifths of one percent of the amount of gross operating revenue(~~((--PROVIDED, That)),~~) However, the fee paid shall in no case be less than two dollars and fifty cents.

The percentage rate of gross operating revenue to be paid in any period may be decreased by the commission by general order entered before the fifteenth day of the month preceding the month in which (~~((such fees are))~~) the fee is due.

Sec. 2. RCW 46.16.125 and 1967 ex.s. c 83 s 60 are each amended to read as follows:

In addition to the fees required by RCW 46.16.070, operators of auto stages with seating capacity over six shall pay (~~((quarterly)),~~) at the time they file gross earning returns with the utilities and transportation commission, the sum of fifteen cents for each one hundred vehicle miles operated by each auto stage over the public highways of this state(~~((--PROVIDED, That)),~~) However, in the case of each auto stage propelled by steam, electricity, natural gas, diesel oil, butane, or propane, the payment required (~~((hereunder shall be))~~) in this section is twenty cents per one hundred miles of such operation. The commission shall transmit all (~~((such))~~) sums so collected to the state treasurer, who shall deposit the same in the motor vehicle fund. Any person failing to make any payment required by this section (~~((shall be))~~) is subject to a penalty of one hundred percent of the payment due (~~((hereunder))~~) in this section, in addition to any penalty provided for failure to submit a (~~((quarterly))~~) report. Any penalties so collected shall be credited to the public service revolving fund.

Passed the House March 6, 1997.

Passed the Senate April 15, 1997.

Approved by the Governor April 25, 1997.

Filed in Office of Secretary of State April 25, 1997.

CHAPTER 216

[House Bill 1828]

PRIVATE RESIDENCE CONVEYANCES—INSPECTION AND TESTING

AN ACT Relating to inspection requirements for private residence conveyances; and amending RCW 70.87.010 and 70.87.120.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 70.87.010 and 1983 c 123 s 1 are each amended to read as follows:

For the purposes of this chapter, except where a different interpretation is required by the context:

(1) "Owner" means any person having title to or control of a conveyance, as guardian, trustee, lessee, or otherwise;

(2) "Conveyance" means an elevator, escalator, dumbwaiter, belt moonlight [manlift], automobile parking elevator, or moving walk, all as defined in this section;

(3) "Existing installations" means all conveyances for which plans were completed and accepted by the owner, or for which the plans and specifications have been filed with and approved by the department before June 13, 1963, and work on the erection of which was begun not more than twelve months thereafter;

(4) "Elevator" means a hoisting or lowering machine equipped with a car or platform that moves in guides and serves two or more floors or landings of a building or structure;

(a) "Passenger elevator" means an elevator (i) on which passengers are permitted to ride and (ii) that may be used to carry freight or materials when the load carried does not exceed the capacity of the elevator;

(b) "Freight elevator" means an elevator (i) used primarily for carrying freight and (ii) on which only the operator, the persons necessary for loading and unloading, and other employees approved by the department are permitted to ride;

(c) "Sidewalk elevator" means a freight elevator that: (i) Operates between a sidewalk or other area outside the building and floor levels inside the building below the outside area, (ii) has no landing opening into the building at its upper limit of travel, and (iii) is not used to carry automobiles;

(5) "Escalator" means a power-driven, inclined, continuous stairway used for raising and lowering passengers;

(6) "Dumbwaiter" means a hoisting and lowering mechanism equipped with a car (a) that moves in guides in a substantially vertical direction, (b) the floor area of which does not exceed nine square feet, (c) the inside height of which does not exceed four feet, (d) the capacity of which does not exceed five hundred pounds, and (e) that is used exclusively for carrying materials;

(7) "Automobile parking elevator" means an elevator: (a) Located in either a stationary or horizontally moving hoistway; (b) used exclusively for parking automobiles where, during the parking process, each automobile is moved either under its own power or by means of a power-driven transfer device onto and off the elevator directly into parking spaces or cubicles in line with the elevator; and

(c) in which no persons are normally stationed on any level except the receiving level;

(8) "Moving walk" means a passenger carrying device (a) on which passengers stand or walk and (b) on which the passenger carrying surface remains parallel to its direction of motion;

(9) "Belt manlift" means a power driven endless belt provided with steps or platforms and a hand hold for the transportation of personnel from floor to floor;

(10) "Department" means the department of labor and industries;

(11) "Director" means the director of the department or his or her representative;

(12) "Inspector" means an elevator inspector of the department or an elevator inspector of a municipality having in effect an elevator ordinance pursuant to RCW 70.87.200;

(13) "Permit" means a permit issued by the department to construct, install, or operate a conveyance;

(14) "Person" means this state, a political subdivision, any public or private corporation, any firm, or any other entity as well as an individual;

(15) "One-man capacity manlift" means a single passenger, hand-powered counterweighted device, or electric-powered device, that travels vertically in guides and serves two or more landings;

(16) "Private residence conveyance" means a conveyance installed in or on the premises of a single-family dwelling and operated for transporting persons or property from one elevation to another.

Sec. 2. RCW 70.87.120 and 1993 c 281 s 61 are each amended to read as follows:

(1) The department shall appoint and employ inspectors, as may be necessary to carry out the provisions of this chapter, under the provisions of the rules adopted by the Washington personnel resources board in accordance with chapter 41.06 RCW.

(2)(a) Except as provided in (b) of this subsection, the department shall cause all conveyances to be inspected and tested at least once each year. Inspectors have the right during reasonable hours to enter into and upon any building or premises in the discharge of their official duties, for the purpose of making any inspection or testing any conveyance contained thereon or therein. Inspections and tests shall conform with the rules adopted by the department. The department shall inspect all installations before it issues any initial permit for operation. Permits shall not be issued until the fees required by this chapter have been paid.

(b)(i) Private residence conveyances operated exclusively for single-family use shall be inspected and tested only when required under RCW 70.87.100 or as necessary for the purposes of subsection (4) of this section.

(ii) The department may perform additional inspections of a private residence conveyance at the request of the owner of the conveyance. Fees for these inspections shall be in accordance with the schedule of fees adopted for operating

permits pursuant to RCW 70.87.030. An inspection requested under this subsection (2)(b)(ii) shall not be performed until the required fees have been paid.

(3) If inspection shows a conveyance to be in an unsafe condition, the department shall issue an inspection report in writing requiring the repairs or alterations to be made to the conveyance that are necessary to render it safe and may also suspend or revoke a permit pursuant to RCW 70.87.125 or order the operation of a conveyance discontinued pursuant to RCW 70.87.145.

(4) The department may investigate accidents and alleged or apparent violations of this chapter.

Passed the House March 12, 1997.

Passed the Senate April 15, 1997.

Approved by the Governor April 25, 1997.

Filed in Office of Secretary of State April 25, 1997.

CHAPTER 217

[Substitute House Bill 1955]

REAL ESTATE BROKERAGE RELATIONSHIPS

AN ACT Relating to real estate brokerage relationships including different licensees affiliated with the same broker representing different buyers and sellers in competing transactions involving the same property, termination of those relationships, and consumer information about those relationships; amending RCW 18.86.020, 18.86.040, 18.86.050, 18.86.060, 18.86.070, 18.86.080, and 18.86.120; creating a new section; providing an effective date; and declaring an emergency.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 18.86.020 and 1996 c 179 s 2 are each amended to read as follows:

(1) A licensee who performs real estate brokerage services for a buyer is a buyer's agent unless the:

(a) Licensee has entered into a written agency agreement with the seller, in which case the licensee is a seller's agent;

(b) Licensee has entered into a subagency agreement with the seller's agent, in which case the licensee is a seller's agent;

(c) Licensee has entered into a written agency agreement with both parties, in which case the licensee is a dual agent;

(d) Licensee is the seller or one of the sellers; or

(e) Parties agree otherwise in writing after the licensee has complied with RCW 18.86.030(1)(f).

(2) In a transaction in which different licensees affiliated with the same broker represent different parties, the broker is a dual agent, and must obtain the written consent of both parties as required under RCW 18.86.060. In such a case, each licensee shall solely represent the party with whom the licensee has an agency relationship, unless all parties agree in writing that both licensees are dual agents.

(3) A licensee may work with a party in separate transactions pursuant to different relationships, including, but not limited to, representing a party in one

transaction and at the same time not representing that party in a different transaction involving that party, if the licensee complies with this chapter in establishing the relationships for each transaction.

Sec. 2. RCW 18.86.040 and 1996 c 179 s 4 are each amended to read as follows:

(1) Unless additional duties are agreed to in writing signed by a seller's agent, the duties of a seller's agent are limited to those set forth in RCW 18.86.030 and the following, which may not be waived except as expressly set forth in (e) of this subsection:

(a) To be loyal to the seller by taking no action that is adverse or detrimental to the seller's interest in a transaction;

(b) To timely disclose to the seller any conflicts of interest;

(c) To advise the seller to seek expert advice on matters relating to the transaction that are beyond the agent's expertise;

(d) Not to disclose any confidential information from or about the seller, except under subpoena or court order, even after termination of the agency relationship; and

(e) Unless otherwise agreed to in writing after the seller's agent has complied with RCW 18.86.030(1)(f), to make a good faith and continuous effort to find a buyer for the property; except that a seller's agent is not obligated to seek additional offers to purchase the property while the property is subject to an existing contract for sale.

~~(2) ((A seller's agent may show alternative properties not owned by the seller to prospective buyers and may list competing properties for sale without breaching any duty to the seller))~~ (a) The showing of properties not owned by the seller to prospective buyers or the listing of competing properties for sale by a seller's agent does not in and of itself breach the duty of loyalty to the seller or create a conflict of interest.

(b) The representation of more than one seller by different licensees affiliated with the same broker in competing transactions involving the same buyer does not in and of itself breach the duty of loyalty to the sellers or create a conflict of interest.

Sec. 3. RCW 18.86.050 and 1996 c 179 s 5 are each amended to read as follows:

(1) Unless additional duties are agreed to in writing signed by a buyer's agent, the duties of a buyer's agent are limited to those set forth in RCW 18.86.030 and the following, which may not be waived except as expressly set forth in (e) of this subsection:

(a) To be loyal to the buyer by taking no action that is adverse or detrimental to the buyer's interest in a transaction;

(b) To timely disclose to the buyer any conflicts of interest;

(c) To advise the buyer to seek expert advice on matters relating to the transaction that are beyond the agent's expertise;

(d) Not to disclose any confidential information from or about the buyer, except under subpoena or court order, even after termination of the agency relationship; and

(e) Unless otherwise agreed to in writing after the buyer's agent has complied with RCW 18.86.030(1)(f), to make a good faith and continuous effort to find a property for the buyer; except that a buyer's agent is not obligated to: (i) Seek additional properties to purchase while the buyer is a party to an existing contract to purchase; or (ii) show properties as to which there is no written agreement to pay compensation to the buyer's agent.

(2) ~~((A buyer's agent may show properties in which the buyer is interested to other prospective buyers without breaching any duty to the buyer))~~ (a) The showing of property in which a buyer is interested to other prospective buyers by a buyer's agent does not in and of itself breach the duty of loyalty to the buyer or create a conflict of interest.

(b) The representation of more than one buyer by different licensees affiliated with the same broker in competing transactions involving the same property does not in and of itself breach the duty of loyalty to the buyers or create a conflict of interest.

Sec. 4. RCW 18.86.060 and 1996 c 179 s 6 are each amended to read as follows:

(1) Notwithstanding any other provision of this chapter, a licensee may act as a dual agent only with the written consent of both parties to the transaction after the dual agent has complied with RCW 18.86.030(1)(f), which consent must include a statement of the terms of compensation.

(2) Unless additional duties are agreed to in writing signed by a dual agent, the duties of a dual agent are limited to those set forth in RCW 18.86.030 and the following, which may not be waived except as expressly set forth in (e) and (f) of this subsection:

(a) To take no action that is adverse or detrimental to either party's interest in a transaction;

(b) To timely disclose to both parties any conflicts of interest;

(c) To advise both parties to seek expert advice on matters relating to the transaction that are beyond the dual agent's expertise;

(d) Not to disclose any confidential information from or about either party, except under subpoena or court order, even after termination of the agency relationship;

(e) Unless otherwise agreed to in writing after the dual agent has complied with RCW 18.86.030(1)(f), to make a good faith and continuous effort to find a buyer for the property; except that a dual agent is not obligated to seek additional offers to purchase the property while the property is subject to an existing contract for sale; and

(f) Unless otherwise agreed to in writing after the dual agent has complied with RCW 18.86.030(1)(f), to make a good faith and continuous effort to find a

property for the buyer; except that a dual agent is not obligated to: (i) Seek additional properties to purchase while the buyer is a party to an existing contract to purchase; or (ii) show properties as to which there is no written agreement to pay compensation to the dual agent.

(3) ~~((A dual agent may show alternative properties not owned by the seller to prospective buyers and may list competing properties for sale without breaching any duty to the seller))~~ (a) The showing of properties not owned by the seller to prospective buyers or the listing of competing properties for sale by a dual agent does not in and of itself constitute action that is adverse or detrimental to the seller or create a conflict of interest.

(b) The representation of more than one seller by different licensees affiliated with the same broker in competing transactions involving the same buyer does not in and of itself constitute action that is adverse or detrimental to the sellers or create a conflict of interest.

(4) ~~((A dual agent may show properties in which the buyer is interested to other prospective buyers without breaching any duty to the buyer))~~ (a) The showing of property in which a buyer is interested to other prospective buyers or the presentation of additional offers to purchase property while the property is subject to a transaction by a dual agent does not in and of itself constitute action that is adverse or detrimental to the buyer or create a conflict of interest.

(b) The representation of more than one buyer by different licensees affiliated with the same broker in competing transactions involving the same property does not in and of itself constitute action that is adverse or detrimental to the buyers or create a conflict of interest.

Sec. 5. RCW 18.86.070 and 1996 c 179 s 7 are each amended to read as follows:

(1) The agency relationships set forth in this chapter commence at the time that the licensee undertakes to provide real estate brokerage services to a principal and continue until the earliest of the following:

(a) Completion of performance by the licensee;

(b) Expiration of the term agreed upon by the parties; ~~((or))~~

(c) Termination of the relationship by mutual agreement of the parties; or

(d) Termination of the relationship by notice from either party to the other. However, such a termination does not affect the contractual rights of either party.

(2) Except as otherwise agreed to in writing, a licensee owes no further duty after termination of the agency relationship, other than the duties of:

(a) Accounting for all moneys and property received during the relationship; and

(b) Not disclosing confidential information.

Sec. 6. RCW 18.86.080 and 1996 c 179 s 8 are each amended to read as follows:

(1) In any real estate transaction, the broker's compensation may be paid by the seller, the buyer, a third party, or by sharing the compensation between brokers.

(2) An agreement to pay or payment of compensation does not establish an agency relationship between the party who paid the compensation and the licensee.

(3) A seller may agree that a seller's agent may share with another broker the compensation paid by the seller.

(4) A buyer may agree that a buyer's agent may share with another broker the compensation paid by the buyer.

(5) A broker may be compensated by more than one party for real estate brokerage services in a real estate transaction, if those parties consent in writing at or before the time of signing an offer in the transaction.

(6) A buyer's agent or dual agent may receive compensation based on the purchase price without breaching any duty to the buyer.

(7) Nothing contained in this chapter (~~obligates a buyer or seller to pay compensation to a licensee, unless the buyer or seller has entered into a written agreement with the licensee specifying the terms of such compensation~~) negates the requirement that an agreement authorizing or employing a licensee to sell or purchase real estate for compensation or a commission be in writing and signed by the seller or buyer.

Sec. 7. RCW 18.86.120 and 1996 c 179 s 13 are each amended to read as follows:

The pamphlet required under RCW 18.86.030(1)(f) shall consist of the entire text of RCW 18.86.010 through 18.86.030(;) and 18.86.040 through 18.86.110(;) ~~and 18.86.900~~) with a separate cover page. The pamphlet shall be 8 1/2 by 11 inches in size, the text shall be in print no smaller than 10-point type, the cover page shall be in print no smaller than 12-point type, and the title of the cover page "The Law of Real Estate Agency" shall be in print no smaller than 18-point type. The cover page shall be in the following form:

The Law of Real Estate Agency

This pamphlet describes your legal rights in dealing with a real estate broker or salesperson. Please read it carefully before signing any documents.

The following is only a brief summary of the attached law:

Sec. 1. Definitions. Defines the specific terms used in the law.

Sec. 2. Relationships between Licensees and the Public. States that a licensee who works with a buyer or tenant represents that buyer or tenant—unless the licensee is the listing agent, a seller's subagent, a dual agent, the seller personally or the parties agree otherwise. Also states that in a transaction involving two different licensees affiliated with the same broker, the broker is a dual agent and each licensee solely represents his or her client—unless the parties agree in writing that both licensees are dual agents.

Sec. 3. Duties of a Licensee Generally. Prescribes the duties that are owed by all licensees, regardless of who the licensee represents.

Requires disclosure of the licensee's agency relationship in a specific transaction.

Sec. 4. Duties of a Seller's Agent. Prescribes the additional duties of a licensee representing the seller or landlord only.

Sec. 5. Duties of a Buyer's Agent. Prescribes the additional duties of a licensee representing the buyer or tenant only.

Sec. 6. Duties of a Dual Agent. Prescribes the additional duties of a licensee representing both parties in the same transaction, and requires the written consent of both parties to the licensee acting as a dual agent.

Sec. 7. Duration of Agency Relationship. Describes when an agency relationship begins and ends. Provides that the duties of accounting and confidentiality continue after the termination of an agency relationship.

Sec. 8. Compensation. Allows brokers to share compensation with cooperating brokers. States that payment of compensation does not necessarily establish an agency relationship. Allows brokers to receive compensation from more than one party in a transaction with the parties' consent.

Sec. 9. Vicarious Liability. Eliminates the common law liability of a party for the conduct of the party's agent or subagent, unless the agent or subagent is insolvent. Also limits the liability of a broker for the conduct of a subagent associated with a different broker.

Sec. 10. Imputed Knowledge and Notice. Eliminates the common law rule that notice to or knowledge of an agent constitutes notice to or knowledge of the principal.

Sec. 11. Interpretation. This law replaces the fiduciary duties owed by an agent to a principal under the common law, to the extent that it conflicts with the common law.

~~((Sec. 12. Effective Date. This law generally takes effect on January 1, 1997.))~~

NEW SECTION. Sec. 8. Amendments set forth in sections 1 through 6 of this act are not required to be included in the pamphlet on the law of real estate agency required under RCW 18.86.030(1)(f) and 18.86.120 until January 1, 1998.

NEW SECTION. Sec. 9. Sections 1 through 6 and 8 of this act are necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and take effect immediately.

NEW SECTION. Sec. 10. Section 7 of this act takes effect January 1, 1998.

Passed the House March 13, 1997.

Passed the Senate April 15, 1997.

Approved by the Governor April 25, 1997.

Filed in Office of Secretary of State April 25, 1997.

CHAPTER 218

[Engrossed Second Substitute House Bill 1969]

PUBLIC WATER SYSTEMS—REGULATION

AN ACT Relating to regulation of public water systems; amending RCW 70.119.030, 70.119A.115, 70.119A.170, and 43.84.092; creating a new section; and declaring an emergency.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. Sec. 1. The legislature finds and declares that:

(1) The provision of safe and reliable water supplies to the people of the state of Washington is fundamental to ensuring public health and continuing economic vitality of this state.

(2) The department of health, pursuant to legislative directive in 1995, has provided a report that incorporates the findings and recommendations of the water supply advisory committee as to progress in meeting the objectives of the public health improvement plan, changes warranted by the recent congressional action reauthorizing the federal safe drinking water act, and new approaches to providing services under the general principles of regulatory reform.

(3) The environmental protection agency has recently completed a national assessment of public water system capital needs, which has identified over four billion dollars in such needs in the state of Washington.

(4) The changes to the safe drinking water act offer the opportunity for the increased ability of the state to tailor federal requirements and programs to meet the conditions and objectives within this state.

(5) The department of health and local governments should be provided with adequate authority, flexibility, and resources to be able to implement the principles and recommendations adopted by the water supply advisory committee.

(6) Statutory changes are necessary to eliminate ambiguity or conflicting authorities, provide additional information and tools to consumers and the public, and make necessary changes to be consistent with federal law.

(7) A basic element to the protection of the public's health from waterborne disease outbreaks is systematic and comprehensive monitoring of water supplies for all contaminants, including hazardous substances with long-term health effects, and routine field visits to water systems for technical assistance and evaluation.

(8) The water systems of this state should have prompt and full access to the newly created federal state revolving fund program to help meet their financial needs and to achieve and maintain the technical, managerial, and financial capacity necessary for long-term compliance with state and federal regulations. This requires authority for streamlined program administration and the provision of the necessary state funds required to match the available federal funds.

(9) Stable, predictable, and adequate funding is essential to a state-wide drinking water program that meets state public health objectives and provides the necessary state resources to utilize the new flexibility, opportunities, and programs under the safe drinking water act.

Sec. 2. RCW 70.119.030 and 1995 c 376 s 6 are each amended to read as follows:

(1) A public water system shall have a certified operator if:

(a) It is a group A water system; or

(b) It is a public water system using a surface water source or a ground water source under the direct influence of surface water.

(2) The certified operators shall be in charge of the technical direction of a water system's operation, or an operating shift of such a system, or a major segment of a system necessary for monitoring or improving the quality of water. The operator shall be certified as provided in RCW 70.119.050.

(3) A certified operator may provide required services to more than one system or to a group of systems. The amount of time that a certified operator shall be required to be present at any given system shall be based upon the time required to properly operate and maintain the public water system as designed and constructed in accordance with RCW 43.20.050. The employing or appointing officials shall designate the position or positions requiring mandatory certification within their individual systems and shall assure that such certified operators are responsible for the system's technical operation.

(4) The department shall, in establishing by rule or otherwise the requirements for public water systems with fewer than one hundred connections, phase in such requirements in order to assure that (a) an adequate number of certified operators are available to serve the additional systems, (b) the systems have adequate notice and time to plan for securing the services of a certified operator, (c) the department has the additional data and other administrative capacity, (d) adequate training is available to certify additional operators as necessary, and (e) any additional requirements under federal law are satisfied. The department shall require certified operators for all Group A systems as necessary to conform to federal law or implementing rules or guidelines. Unless necessary to conform to federal law, rules, or guidelines, the department shall not require a certified operator for a system with fewer than one hundred connections unless that system is determined by the department to be in significant noncompliance with operational, monitoring, or water quality standards ((which)) that would put the public health at risk, as defined by the department by rule, or has, or is required to have, water treatment facilities other than simple disinfection.

(5) Any examination required by the department as a prerequisite for the issuance of a certificate under this chapter shall be offered in each region where the department has a regional office.

(6) Operators not required to be certified by this chapter are encouraged to become certified on a voluntary basis.

Sec. 3. RCW 70.119A.115 and 1994 c 252 s 3 are each amended to read as follows:

The department shall develop and implement a voluntary consolidated source monitoring program sufficient to accurately characterize the source water quality

of the state's drinking water supplies and to maximize the flexibility allowed in the federal safe drinking water act to allow public water systems to be waived from full testing requirements for organic and inorganic chemicals under the federal safe drinking water act. The department shall ~~((pay))~~ arrange for the initial sampling and provide for testing and programmatic costs ~~((for the area-wide waiver program))~~ to the extent that the legislature provides funding for this purpose in water system operating permit fees or through specific appropriation of funds from other sources. The department shall assess a fee using its authority under RCW 43.20B.020, sufficient to cover all testing and directly related costs to public water systems that ~~((apply for an area-wide waiver))~~ otherwise are not funded. The department shall adjust the amount of the fee based on the size of the public drinking water system. Fees charged by the department for this purpose may not vary by more than a factor of ten. The department shall, to the ~~((maximum))~~ extent ~~((possible))~~ feasible and cost-effective, use the services of local governments, local health departments, and private laboratories to implement the ~~((area-wide))~~ testing program. The department shall consult with the departments of agriculture and ecology for the purpose of exchanging water quality and other information.

Sec. 4. RCW 70.119A.170 and 1995 c 376 s 10 are each amended to read as follows:

(1) A drinking water assistance account is created in the state treasury. Such subaccounts as are necessary to carry out the purposes of this chapter are permitted to be established within the account. The purpose of the account is to allow the state to ~~((take advantage of))~~ use any federal funds that become available ~~((for safe drinking water))~~ to states from congress to fund a state revolving loan fund program as part of the reauthorization of the federal safe drinking water act. Expenditures from the account may only be made by the secretary ~~((or))~~, the public works board, or the department of community, trade, and economic development, after appropriation. Moneys in the account may only be used, consistent with federal law, to assist water systems to provide safe drinking water through a program administered through the department of health ~~((and))~~, the public works board, and the department of community, trade, and economic development and for other activities authorized under federal law. Money may be placed in the account from the proceeds of bonds when authorized by the legislature, transfers from other state funds or accounts, federal capitalization grants or other financial assistance, all repayments of moneys borrowed from the account, all interest payments made by borrowers from the account or otherwise earned on the account, or any other lawful source. ~~((Expenditures from the account may only be made by the secretary or the public works board after appropriation.))~~ All interest earned on moneys deposited in the account, including repayments, shall remain in the account and may be used for any eligible purpose. Moneys in the account may only be used to assist local governments and water systems to provide safe and reliable drinking water, for other services and assistance authorized by federal law to be funded from these federal funds, and to administer the program.

(2) The department and the public works board shall establish and maintain a program to use the moneys in the drinking water assistance account as provided by the federal government under the safe drinking water act. The department and the public works board, in consultation with purveyors, local governments, local health jurisdictions, financial institutions, commercial construction interests, other state agencies, and other affected and interested parties, shall by January 1, 1999, adopt final joint rules and requirements for the provision of financial assistance to public water systems as authorized under federal law. Prior to the effective date of the final rules, the department and the public works board may establish and utilize guidelines for the sole purpose of ensuring the timely procurement of financial assistance from the federal government under the safe drinking water act, but such guidelines shall be converted to rules by January 1, 1999. The department and the public works board shall make every reasonable effort to ensure the state's receipt and disbursement of federal funds to eligible public water systems as quickly as possible after the federal government has made them available. By December 15, 1997, the department and the public works board shall provide a report to the appropriate committees of the legislature reflecting the input from the affected interests and parties on the status of the program. The report shall include significant issues and concerns, the status of rulemaking and guidelines, and a plan for the adoption of final rules.

(3) If the department, public works board, or any other department, agency, board, or commission of state government participates in providing service under this section, the administering entity shall endeavor to provide cost-effective and timely services. Mechanisms to provide cost-effective and timely services include: (a) Adopting federal guidelines by reference into administrative rules; (b) using existing management mechanisms rather than creating new administrative structures; (c) investigating the use of service contracts, either with other governmental entities or with nongovernmental service providers; (d) the use of joint or combined financial assistance applications; and (e) any other method or practice designed to streamline and expedite the delivery of services and financial assistance.

(4) The department shall have the authority to establish assistance priorities and carry out oversight and related activities, other than financial administration, with respect to assistance provided with federal funds. The department, the public works board, and the department of community, trade, and economic development shall jointly develop, with the assistance of water purveyors and other affected and interested parties, a memorandum of understanding setting forth responsibilities and duties for each of the parties. The memorandum of understanding at a minimum, shall include:

(a) Responsibility for developing guidelines for providing assistance to public water systems and related oversight prioritization and oversight responsibilities including requirements for prioritization of loans or other financial assistance to public water systems;

(b) Department submittal of preapplication information to the public works board for review and comment;

(c) Department submittal of a prioritized list of projects to the public works board for determination of:

(i) Financial capability of the applicant; and

(ii) Readiness to proceed, or the ability of the applicant to promptly commence the project;

(d) A process for determining consistency with existing water resource planning and management, including coordinated water supply plans, regional water resource plans, and comprehensive plans under the growth management act, chapter 36.70A RCW;

(e) A determination of:

(i) Least-cost solutions, including consolidation and restructuring of small systems, where appropriate, into more economical units;

(ii) The provision of regional facilities;

(iii) Projects and activities that facilitate compliance with the federal safe drinking water act; and

(iv) Projects and activities that are intended to achieve the public health objectives of federal and state drinking water laws;

(f) Implementation of water conservation and other demand management measures consistent with state guidelines for water utilities;

(g) Assistance for the necessary planning and engineering to assure that consistency, coordination, and proper professional review are incorporated into projects or activities proposed for funding;

(h) Minimum standards for water system capacity, financial viability, and water system planning;

(i) Testing and evaluation of the water quality of the state's public water system to assure that priority for financial assistance is provided to systems and areas with threats to public health from contaminated supplies and reduce in appropriate cases the substantial increases in costs and rates that customers of small systems would otherwise incur under the monitoring and testing requirements of the federal safe drinking water act;

(j) Coordination, to the maximum extent possible, with other state programs that provide financial assistance to public water systems and state programs that address existing or potential water quality or drinking contamination problems;

(k) Definitions of "affordability" and "disadvantaged community" that are consistent with these and similar terms in use by other state or federal assistance programs;

(l) Criteria for the financial assistance program for public water systems, which shall include, but are not limited to:

(i) Determining projects addressing the most serious risk to human health;

(ii) Determining the capacity of the system to effectively manage its resources, including meeting state financial viability criteria; and

(iii) Determining the relative benefit to the community served; and

(m) Ensure that each agency fulfills the audit, accounting, and reporting requirements under federal law for its portion of the administration of this program.

(5) The department and the public works board shall begin the process to disburse funds no later than October 1, 1997, and shall adopt such rules as are necessary under chapter 34.05 RCW to administer the program by January 1, 1999.

Sec. 5. RCW 43.84.092 and 1996 c 262 s 4 are each amended to read as follows:

(1) All earnings of investments of surplus balances in the state treasury shall be deposited to the treasury income account, which account is hereby established in the state treasury.

(2) The treasury income account shall be utilized to pay or receive funds associated with federal programs as required by the federal cash management improvement act of 1990. The treasury income account is subject in all respects to chapter 43.88 RCW, but no appropriation is required for refunds or allocations of interest earnings required by the cash management improvement act. Refunds of interest to the federal treasury required under the cash management improvement act fall under RCW 43.88.180 and shall not require appropriation. The office of financial management shall determine the amounts due to or from the federal government pursuant to the cash management improvement act. The office of financial management may direct transfers of funds between accounts as deemed necessary to implement the provisions of the cash management improvement act, and this subsection. Refunds or allocations shall occur prior to the distributions of earnings set forth in subsection (4) of this section.

(3) Except for the provisions of RCW 43.84.160, the treasury income account may be utilized for the payment of purchased banking services on behalf of treasury funds including, but not limited to, depository, safekeeping, and disbursement functions for the state treasury and affected state agencies. The treasury income account is subject in all respects to chapter 43.88 RCW, but no appropriation is required for payments to financial institutions. Payments shall occur prior to distribution of earnings set forth in subsection (4) of this section.

(4) Monthly, the state treasurer shall distribute the earnings credited to the treasury income account. The state treasurer shall credit the general fund with all the earnings credited to the treasury income account except:

(a) The following accounts and funds shall receive their proportionate share of earnings based upon each account's and fund's average daily balance for the period: The capitol building construction account, the Cedar River channel construction and operation account, the Central Washington University capital projects account, the charitable, educational, penal and reformatory institutions account, the common school construction fund, the county criminal justice assistance account, the county sales and use tax equalization account, the data processing building construction account, the deferred compensation administrative account, the deferred compensation principal account, the department of retirement

systems expense account, the drinking water assistance account, the Eastern Washington University capital projects account, the education construction fund, the emergency reserve fund, the federal forest revolving account, the health services account, the public health services account, the health system capacity account, the personal health services account, the highway infrastructure account, the industrial insurance premium refund account, the judges' retirement account, the judicial retirement administrative account, the judicial retirement principal account, the local leasehold excise tax account, the local real estate excise tax account, the local sales and use tax account, the medical aid account, the mobile home park relocation fund, the municipal criminal justice assistance account, the municipal sales and use tax equalization account, the natural resources deposit account, the perpetual surveillance and maintenance account, the public employees' retirement system plan I account, the public employees' retirement system plan II account, the Puyallup tribal settlement account, the resource management cost account, the site closure account, the special wildlife account, the state employees' insurance account, the state employees' insurance reserve account, the state investment board expense account, the state investment board commingled trust fund accounts, the supplemental pension account, the teachers' retirement system plan I account, the teachers' retirement system plan II account, the transportation infrastructure account, the tuition recovery trust fund, the University of Washington bond retirement fund, the University of Washington building account, the volunteer fire fighters' relief and pension principal account, the volunteer fire fighters' relief and pension administrative account, the Washington judicial retirement system account, the Washington law enforcement officers' and fire fighters' system plan I retirement account, the Washington law enforcement officers' and fire fighters' system plan II retirement account, the Washington state patrol retirement account, the Washington State University building account, the Washington State University bond retirement fund, the water pollution control revolving fund, and the Western Washington University capital projects account. Earnings derived from investing balances of the agricultural permanent fund, the normal school permanent fund, the permanent common school fund, the scientific permanent fund, and the state university permanent fund shall be allocated to their respective beneficiary accounts. All earnings to be distributed under this subsection (4)(a) shall first be reduced by the allocation to the state treasurer's service fund pursuant to RCW 43.08.190.

(b) The following accounts and funds shall receive eighty percent of their proportionate share of earnings based upon each account's or fund's average daily balance for the period: The aeronautics account, the aircraft search and rescue account, the central Puget Sound public transportation account, the city hardship assistance account, the county arterial preservation account, the department of licensing services account, the economic development account, the essential rail assistance account, the essential rail banking account, the ferry bond retirement fund, the gasohol exemption holding account, the grade crossing protective fund,

the high capacity transportation account, the highway bond retirement fund, the highway construction stabilization account, the highway safety account, the marine operating fund, the motor vehicle fund, the motorcycle safety education account, the pilotage account, the public transportation systems account, the Puget Sound capital construction account, the Puget Sound ferry operations account, the recreational vehicle account, the rural arterial trust account, the safety and education account, the small city account, the special category C account, the state patrol highway account, the transfer relief account, the transportation capital facilities account, the transportation equipment fund, the transportation fund, the transportation improvement account, the transportation revolving loan account, and the urban arterial trust account.

(5) In conformance with Article II, section 37 of the state Constitution, no treasury accounts or funds shall be allocated earnings without the specific affirmative directive of this section.

NEW SECTION. Sec. 6. This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately.

Passed the House March 15, 1997.

Passed the Senate April 15, 1997.

Approved by the Governor April 25, 1997.

Filed in Office of Secretary of State April 25, 1997.

CHAPTER 219

[Substitute House Bill 2044]

PERSONAL WIRELESS SERVICE FACILITIES—DEFINITIONS

AN ACT Relating to revising definitions for personal wireless service facilities; and amending RCW 43.21C.0384, 80.36.375, 19.27A.027, and 70.92.170.

Be it enacted by the Legislature of the State of Washington:

***Sec. 1.** *RCW 43.21C.0384 and 1996 c 323 s 2 are each amended to read as follows:*

(1) Decisions pertaining to applications to site personal wireless service facilities are not subject to the requirements of RCW 43.21C.030(2)(c), if those facilities meet the following requirements:

(a)(i) The facility to be sited is a microcell and is to be attached to an existing structure that is not a residence or school and does not contain a residence or a school; or (ii) the facility includes personal wireless service antennas, other than a microcell, and is to be attached to an existing structure (that may be an existing tower) that is not a residence or school and does not contain a residence or a school, and the existing structure to which it is to be attached is located in a commercial, industrial, manufacturing, forest, or agricultural zone; or (iii) the siting project involves constructing a personal

wireless service tower less than sixty feet in height that is located in a commercial, industrial, manufacturing, forest, or agricultural zone; and

(b) The project is not in a designated environmentally sensitive area; and

(c) The project does not consist of a series of actions: (i) Some of which are not categorically exempt; or (ii) that together may have a probable significant adverse environmental impact.

(2) The department of ecology shall adopt rules to create a categorical exemption for microcells and other personal wireless service facilities that meet the conditions set forth in subsection (1) of this section.

(3) For the purposes of this section:

(a) "Personal wireless services" means commercial mobile services, unlicensed wireless services, and common carrier wireless exchange access services, as defined by federal laws and regulations.

(b) "Personal wireless service (~~facilities~~ means facilities for the provision of personal wireless services) facility" means a wireless communication facility, including a microcell, that is a facility for the transmission and/or reception of radio frequency signals, and which may include antennas, equipment shelter or cabinet, transmission cables, a support structure to achieve the necessary elevation, and reception and transmission devices and antennas.

(c) "Microcell" means a wireless communication facility consisting of an antenna that is either: (i) Four feet in height and with an area of not more than five hundred eighty square inches; or (ii) if a tubular antenna, no more than four inches in diameter and no more than six feet in length.

*Sec. 1 was vetoed. See message at end of chapter.

Sec. 2. RCW 80.36.375 and 1996 c 323 s 3 are each amended to read as follows:

(1) If a personal wireless service provider applies to site several microcells and/or minor facilities in a single geographical area:

(a) If one or more of the microcells and/or minor facilities are not exempt from the requirements of RCW 43.21C.030(2)(c), local governmental entities are encouraged: (i) To allow the applicant, at the applicant's discretion, to file a single set of documents required by chapter 43.21C RCW that will apply to all the microcells and/or minor facilities to be sited; and (ii) to render decisions under chapter 43.21C RCW regarding all the microcells and/or minor facilities in a single administrative proceeding; and

(b) Local governmental entities are encouraged: (i) To allow the applicant, at the applicant's discretion, to file a single set of documents for land use permits that will apply to all the microcells and/or minor facilities to be sited; and (ii) to render decisions regarding land use permits for all the microcells and/or minor facilities in a single administrative proceeding.

(2) For the purposes of this section:

(a) "Personal wireless services" means commercial mobile services, unlicensed wireless services, and common carrier wireless exchange access services, as defined by federal laws and regulations.

(b) "Microcell" means a wireless communication facility consisting of an antenna that is either: (i) Four feet in height and with an area of not more than five hundred eighty square inches; or (ii) if a tubular antenna, no more than four inches in diameter and no more than six feet in length.

(c) "Minor facility" means a wireless communication facility consisting of up to three antennas, each of which is either: (i) Four feet in height and with an area of not more than five hundred eighty square inches; or (ii) if a tubular antenna, no more than four inches in diameter and no more than six feet in length; and the associated equipment cabinet that is six feet or less in height and no more than forty-eight square feet in floor area.

**Sec. 3. RCW 19.27A.027 and 1996 c 323 s 4 are each amended to read as follows:*

(1) The state building code council shall exempt equipment shelters of personal wireless service facilities from building envelope insulation requirements.

(2) For the purposes of this section, "personal wireless service (~~facilities~~ means facilities for the provision of personal wireless services) facility" means a wireless communication facility, including a microcell, that is a facility for the transmission and/or reception of radio frequency signals, and which may include antennas, equipment shelter or cabinet, transmission cables, a support structure to achieve the necessary elevation, and reception and transmission devices and antennas.

**Sec. 3 was vetoed. See message at end of chapter.*

**Sec. 4. RCW 70.92.170 and 1996 c 323 s 5 are each amended to read as follows:*

(1) The state building code council shall amend its rules under chapter 70.92 RCW, to the extent practicable while still maintaining the certification of those regulations under the federal Americans with disabilities act, to exempt personal wireless services equipment shelters, or the room or enclosure housing equipment for personal wireless service facilities, that meet the following conditions: (a) The shelter is not staffed; and (b) to conduct maintenance activities, employees who visit the shelter must be able to climb.

(2) For the purposes of this section, "personal wireless service (~~facilities~~ means facilities for the provision of personal wireless services) facility" means a wireless communication facility, including a microcell, that is a facility for the transmission and/or reception of radio frequency signals, and which may include antennas, equipment shelter or cabinet, transmission cables, a support structure to achieve the necessary elevation, and reception and transmission devices and antennas.

**Sec. 4 was vetoed. See message at end of chapter.*

Passed the House March 11, 1997.

Passed the Senate April 15, 1997.

Approved by the Governor April 25, 1997, with the exception of certain items that were vetoed.

Filed in Office of Secretary of State April 25, 1997.

Note: Governor's explanation of partial veto is as follows:

"I am returning herewith, without my approval as to sections 1, 3, and 4, Substitute House Bill No. 2044 entitled:

"AN ACT Relating to revising definitions for personal wireless service facilities;"

SHB 2044 concerns the siting of personal wireless service facilities. Under current law, the siting of certain personal wireless service facilities is exempt from the Environmental Impact Statement (EIS) process under the State Environmental Protection Act (SEPA). Sections 1, 3, and 4 of this bill change the definition of "personal wireless service facility" in a way that arguably, though unintentionally, expands the definition to include radio transmission towers, the siting of which would then also be exempt, under certain conditions, from SEPA-EIS review. This is an unintended consequence that should not be risked. The current law, with its current definition, is preferable to the uncertainty created by the new definition in this bill.

I am approving the remainder of the bill, section 2, which was the primary focus of the participants in the legislative process this session. It encourages local governments to permit single applications and single administrative proceedings for the SEPA review of microcells with two or three antennas.

For these reasons, I have vetoed sections 1, 3, and 4 of Substitute House Bill No. 2044.

With the exception of sections 1, 3, and 4, Substitute House Bill No. 2044 is approved."

CHAPTER 220

[Engrossed Substitute House Bill 2192]

STADIUM AND EXHIBITION CENTER FINANCING

AN ACT Relating to a mechanism for financing stadium and exhibition centers and education technology grants; amending RCW 82.29A.130, 67.70.240, 67.70.042, 39.42.060, 43.79A.040, 36.38.010, 36.32.235, 39.04.010, 39.10.120, 67.28.180, and 82.14.049; reenacting and amending RCW 42.17.310; adding a new section to chapter 82.08 RCW; adding a new section to chapter 82.14 RCW; adding new sections to chapter 67.70 RCW; adding new sections to chapter 43.330 RCW; adding a new section to chapter 36.38 RCW; adding a new section to chapter 39.30 RCW; adding a new chapter to Title 36 RCW; adding a new chapter to Title 43 RCW; creating new sections; providing a contingent expiration date; providing for the submission of certain sections of this act to a vote of the people; and declaring an emergency.

Be it enacted by the Legislature of the State of Washington:

PART I

AUTHORITY CREATION AND POWERS

NEW SECTION. Sec. 101. The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Design" includes architectural, engineering, and other related professional services.

(2) "Develop" means, generally, the process of planning, designing, financing, constructing, owning, operating, and leasing a project such as a stadium and exhibition center.

(3) "Permanent seat license" means a transferable license sold to a third party that, subject to certain conditions, restrictions, and limitations, entitles the third party to purchase a season ticket to professional football games of the professional football team played in the stadium and exhibition center for so long as the team plays its games in that facility.

(4) "Preconstruction" includes negotiations, including negotiations with any team affiliate, planning, studies, design, and other activities reasonably necessary before constructing a stadium and exhibition center.

(5) "Professional football team" means a team that is a member of the national football league or similar professional football association.

(6) "Public stadium authority operation" means the formation and ongoing operation of the public stadium authority, including the hiring of employees, agents, attorneys, and other contractors, and the acquisition and operation of office facilities.

(7) "Site acquisition" means the purchase or other acquisition of any interest in real property including fee simple interests and easements, which property interests constitute the site for a stadium and exhibition center.

(8) "Site preparation" includes demolition of existing improvements, environmental remediation, site excavation, shoring, and construction and maintenance of temporary traffic and pedestrian routing.

(9) "Stadium and exhibition center" means an open-air stadium suitable for national football league football and for Olympic and world cup soccer, with adjacent exhibition facilities, together with associated parking facilities and other ancillary facilities.

(10) "Team affiliate" means a professional football team that will use the stadium and exhibition center, and any affiliate of the team designated by the team. An "affiliate of the team" means any person or entity that controls, is controlled by, or is under common control with the team.

NEW SECTION. Sec. 102. (1) A public stadium authority may be created in any county that has entered into a letter of intent relating to the development of a stadium and exhibition center under chapter . . . , Laws of 1997 (this act) with a team affiliate or an entity that has a contractual right to become a team affiliate.

(2) A public stadium authority shall be created upon adoption of a resolution providing for the creation of such an authority by the county legislative authority in which the proposed authority is located.

(3) A public stadium authority shall constitute a body corporate and shall possess all the usual powers of a corporation for public purposes as well as all other powers that may now or hereafter be specifically conferred by statute, including, but not limited to, the authority to hire employees, staff, and services, to enter into contracts, and to sue and be sued.

(4) The legislative authority of the county in which the public stadium authority is located, or the council of any city located in that county, may transfer property to the public stadium authority created under this chapter. Property encumbered by debt may be transferred by a county legislative authority or a city council to a public stadium authority created to develop a stadium and exhibition center under section 105 of this act, but obligation for payment of the debt may not be transferred.

NEW SECTION. Sec. 103. (1) A public stadium authority shall be governed by a board of directors consisting of seven members appointed by the governor. The speaker of the house of representatives, the minority leader of the house of representatives, the majority leader of the senate, and the minority leader of the senate shall each recommend to the governor a person to be appointed to the board.

(2) Members of the board of directors shall serve four-year terms of office, except that three of the initial seven board members shall serve two-year terms of office. The governor shall designate the initial terms of office for the initial members who are appointed.

(3) A vacancy shall be filled in the same manner as the original appointment was made and the person appointed to fill a vacancy shall serve for the remainder of the unexpired term of the office for the position to which he or she was appointed.

(4) A director appointed by the governor may be removed from office by the governor.

NEW SECTION. Sec. 104. (1) There is created a public stadium authority advisory committee comprised of five members. The advisory committee consists of: The director of the office of financial management, who shall serve as chair; two members appointed by the house of representatives, one each appointed by the speaker of the house of representatives and the minority leader of the house of representatives; and two members appointed by the senate, one each appointed by the majority leader of the senate and the minority leader of the senate.

(2) The advisory committee, prior to the final approval of any lease with the master tenant or sale of stadium naming rights, shall review and comment on the proposed lease agreement or sale of stadium naming rights.

NEW SECTION. Sec. 105. (1) The public stadium authority is authorized to acquire, construct, own, remodel, maintain, equip, reequip, repair, and operate a stadium and exhibition center as defined in section 101 of this act.

(2) The public stadium authority may enter into agreements under chapter 39.34 RCW for the joint provision and operation of a stadium and exhibition center and may enter into contracts under chapter 39.34 RCW where any party to the contract provides and operates the stadium and exhibition center for the other party or parties to the contract.

(3) Any employees of the public stadium authority shall be unclassified employees not subject to the provisions of chapter 41.06 RCW and a public

stadium authority may contract with a public or private entity for the operation or management of the stadium and exhibition center.

(4) The public stadium authority is authorized to use the alternative supplemental public works contracting procedures set forth in chapter 39.10 RCW in connection with the design, construction, reconstruction, remodel, or alteration of a stadium and exhibition center.

(5) The public stadium authority may impose charges and fees for the use of the stadium and exhibition center, and may accept and expend or use gifts, grants, and donations.

(6) The public stadium authority shall comply with the prevailing wage requirements of chapter 39.12 RCW and goals established for women and minority-business participation for the county.

NEW SECTION. Sec. 106. In addition to other powers and restrictions on a public stadium authority, the following apply to a public stadium authority created to develop a stadium and exhibition center under section 105 of this act:

(1) The public stadium authority, in consultation with the team affiliate, shall have the authority to determine the stadium and exhibition center site;

(2) The public stadium authority, in consultation with the team affiliate, shall have the authority to establish the overall scope of the stadium and exhibition center project, including, but not limited to, stadium and exhibition center itself, associated exhibition facilities, associated parking facilities, associated retail and office development that are part of the stadium and exhibition center, and ancillary services and facilities;

(3) The public stadium authority, in consultation with the team affiliate, shall have the authority to make the final determination of the stadium and exhibition center overall design and specification;

(4) The public stadium authority shall have the authority to contract with a team affiliate for the provision of architectural, engineering, environmental, and other professional services related to the stadium and exhibition center site, design options, required environmental studies, and necessary permits for the stadium and exhibition center;

(5) The public stadium authority, in consultation with the team affiliate, shall have the authority to establish the project budget on the stadium and exhibition center project;

(6) The public stadium authority, in consultation with the team affiliate, shall have the authority to make recommendations to the state finance committee regarding the structure of the financing of the stadium and exhibition center project;

(7) The public stadium authority shall have the authority to enter into a development agreement with a team affiliate whereby the team affiliate may control the development of the stadium and exhibition center project, consistent with subsections (1) through (6) of this section, in consideration of which the team affiliate assumes the risk of costs of development that are in excess of the project

budget established under subsection (5) of this section. Under the development agreement, the team affiliate shall determine bidding specifications and requirements, and other aspects of development. Under the development agreement, the team affiliate shall determine procurement procedures and other aspects of development, and shall select and engage an architect or architects and a contractor or contractors for the stadium and exhibition center project, provided that the construction, alterations, repairs, or improvements of the stadium and exhibition center shall be subject to the prevailing wage requirements of chapter 39.12 RCW and all phases of the development shall be subject to the goals established for women and minority-business participation for the county where the stadium and exhibition center is located. The team affiliate shall, to the extent feasible, hire local residents and in particular residents from the areas immediately surrounding the stadium and exhibition center during the construction and ongoing operation of the stadium and exhibition center;

(8) The public stadium authority shall have the authority to enter into a long-term lease agreement with a team affiliate whereby, in consideration of the payment of fair rent and assumption of operating and maintenance responsibilities, risk, legal liability, and costs associated with the stadium and exhibition center, the team affiliate becomes the sole master tenant of the stadium and exhibition center. The master tenant lease agreement must require the team affiliate to publicly disclose, on an annual basis, an audited profit and loss financial statement. The team affiliate shall provide a guarantee, security, or a letter of credit from a person or entity with a net worth in excess of one hundred million dollars that guarantees a maximum of ten years' payments of fair rent under the lease in the event of the bankruptcy or insolvency of the team affiliate. The master tenant shall have the power to sublease and enter into use, license, and concession agreements with various users of the stadium and exhibition center including the professional football team, and the master tenant has the right to name the stadium and exhibition center, subject to section 107 of this act. The master tenant shall meet goals, established by the county where the stadium and exhibition center is located, for women and minority employment for the operation of the stadium and exhibition center. Except as provided in subsection (10) of this section, the master tenant shall have the right to retain revenues derived from the operation of the stadium and exhibition center, including revenues from the sublease and uses, license and concession agreements, revenues from suite licenses, concessions, advertising, long-term naming rights subject to section 107 of this act, and parking revenue. If federal law permits interest on bonds issued to finance the stadium and exhibition center to be treated as tax exempt for federal income tax purposes, the public stadium authority and the team affiliate shall endeavor to structure and limit the amounts, sources, and uses of any payments received by the state, the county, the public stadium authority, or any related governmental entity for the use or in respect to the stadium and exhibition center in such a manner as to permit the interest on those bonds to be tax exempt. As used in this subsection, "fair rent" is

solely intended to cover the reasonable operating expenses of the public stadium authority and shall be not less than eight hundred fifty thousand dollars per year with annual increases based on the consumer price index;

(9) Subject to section 210(2)(b)(ix) of this act, the public stadium authority may reserve the right to discuss profit sharing from the stadium and exhibition center from sources that have not been identified at the time the long-term lease agreement is executed;

(10) The master tenant may retain an amount to cover the actual cost of preparing the stadium and exhibition center for activities involving the Olympic Games and world cup soccer. Revenues derived from the operation of the stadium and exhibition center for activities identified in this subsection that exceed the master tenant's actual costs of preparing, operating, and restoring the stadium and exhibition center must be deposited into the tourism development and promotion account created in section 223 of this act;

(11) The public stadium authority, in consultation with a public facilities district that is located within the county, shall work to eliminate the use of the stadium and exhibition center for events during the same time as events are held in the baseball stadium as defined in RCW 82.14.0485;

(12) The public stadium authority, in consultation with the team affiliate, must work to secure the hosting of a Super Bowl, if the hosting requirements are changed by the national football league or similar professional football association;

(13) The public stadium authority shall work with surrounding areas to mitigate the impact of the construction and operation of the stadium and exhibition center;

(14) The public stadium authority, in consultation with the office of financial management, shall negotiate filming rights of the demolition of the existing domed stadium on the stadium and exhibition center site. All revenues derived from the filming of the demolition of the existing domed stadium shall be deposited into the film and video promotion account created in section 222 of this act; and

(15) The public stadium authority shall have the authority, upon the agreement of the team affiliate, to sell permanent seat licenses, and the team affiliate may act as the sales agent for this purpose.

NEW SECTION. Sec. 107. Revenues from the sales of naming rights of a stadium and exhibition center developed under section 105 of this act may only be used for costs associated with capital improvements associated with modernization and maintenance of the stadium and exhibition center. The sales of naming rights are subject to the reasonable approval of the public stadium authority.

NEW SECTION. Sec. 108. A public stadium authority may accept and expend moneys that may be donated for the purpose of a stadium and exhibition center.

NEW SECTION. Sec. 109. (1) The public stadium authority, the county, and the city, if any, in which the stadium and exhibition center is to be located shall

enter into one or more agreements regarding the construction of a stadium and exhibition center. The agreements shall address, but not be limited to:

(a) Expedited permit processing for the design and construction of the stadium and exhibition center project;

(b) Expedited environmental review processing;

(c) Expedited processing of requests for street, right of way, or easement vacations necessary for the construction of the stadium and exhibition center project; and

(d) Other items deemed necessary for the design and construction of the stadium and exhibition center project.

(2) The county shall assemble such real property and associated personal property as the public stadium authority and the county mutually determine to be necessary as a site for the stadium and exhibition center. Property that is necessary for this purpose that is owned by the county on or after the effective date of this section shall be contributed to the authority, and property that is necessary for this purpose that is acquired by the county on or after the effective date of this section shall be conveyed to the authority. Property that is encumbered by debt may be transferred by the county to the authority, but obligation for payment of the debt may not be transferred.

(3) A new exhibition facility of at least three hundred twenty-five thousand square feet, with adequate on-site parking, shall be constructed and operational before any domed stadium in the county is demolished or rendered unusable. Demolition of any existing structure and construction of the stadium and exhibition center shall be reasonably executed in a manner that minimizes impacts, including access and parking, upon existing facilities, users, and neighborhoods. No county or city may exercise authority under any landmarks preservation statute or ordinance in order to prevent or delay the demolition of any existing domed stadium at the site of the stadium and exhibition center.

NEW SECTION. Sec. 110. A public stadium authority may acquire and transfer real and personal property by lease, sublease, purchase, or sale.

NEW SECTION. Sec. 111. (1) The board of directors of the public stadium authority shall adopt a resolution that may be amended from time to time that shall establish the basic requirements governing methods and amounts of reimbursement payable to such authority and employees for travel and other business expenses incurred on behalf of the authority. The resolution shall, among other things, establish procedures for approving such expenses; the form of the travel and expense voucher; and requirements governing the use of credit cards issued in the name of the authority. The resolution may also establish procedures for payment of per diem to board members. The state auditor shall, as provided by general law, cooperate with the public stadium authority in establishing adequate procedures for regulating and auditing the reimbursement of all such expenses.

(2) The board of directors shall transmit a copy of the adopted annual operating budget of the public stadium authority to the governor and the majority

leader and minority leader of the house of representatives and the senate. The budget information shall include, but is not limited to a statement of income and expenses of the public stadium authority.

NEW SECTION. Sec. 112. The board of directors of the public stadium authority may authorize payment of actual and necessary expenses of officers and employees for lodging, meals, and travel-related costs incurred in attending meetings or conferences on behalf of the public stadium authority and strictly in the public interest and for public purposes. Officers and employees may be advanced sufficient sums to cover their anticipated expenses in accordance with rules adopted by the state auditor, which shall substantially conform to the procedures provided in RCW 43.03.150 through 43.03.210.

NEW SECTION. Sec. 113. Each member of the board of directors of the public stadium authority may receive compensation of fifty dollars per day for attending meetings or conferences on behalf of the authority, not to exceed three thousand dollars per year. A director may waive all or a portion of his or her compensation under this section as to a month or months during his or her term of office, by a written waiver filed with the public stadium authority. The compensation provided in this section is in addition to reimbursement for expenses paid to the directors by the public stadium authority.

NEW SECTION. Sec. 114. The board of directors of the public stadium authority may purchase liability insurance with such limits as the directors may deem reasonable for the purpose of protecting and holding personally harmless authority officers and employees against liability for personal or bodily injuries and property damage arising from their acts or omissions while performing or in good faith purporting to perform their official duties.

NEW SECTION. Sec. 115. Whenever an action, claim, or proceeding is instituted against a person who is or was an officer or employee of the public stadium authority arising out of the performance of duties for or employment with the authority, the public stadium authority may grant a request by the person that the attorney of the authority's choosing be authorized to defend the claim, suit, or proceeding, and the costs of defense, attorneys' fees, and obligation for payments arising from the action may be paid from the authority's funds. Costs of defense or judgment or settlement against the person shall not be paid in a case where the court has found that the person was not acting in good faith or within the scope of employment with or duties for the public stadium authority.

NEW SECTION. Sec. 116. The board of directors of the public stadium authority shall have authority to authorize the expenditure of funds for the public purposes of preparing and distributing information to the general public about the stadium and exhibition center.

NEW SECTION. Sec. 117. The public stadium authority shall have authority to create and fill positions, fix wages and salaries, pay costs involved in securing or arranging to secure employees, and establish benefits for employees, including

holiday pay, vacations or vacation pay, retirement benefits, medical, life, accident, or health disability insurance, as approved by the board. Public stadium authority board members, at their own expense, shall be entitled to medical, life, accident, or health disability insurance. Insurance for employees and board members shall not be considered compensation. Authority coverage for the board is not to exceed that provided public stadium authority employees.

NEW SECTION. Sec. 118. The public stadium authority may secure services by means of an agreement with a service provider. The public stadium authority shall publish notice, establish criteria, receive and evaluate proposals, and negotiate with respondents under requirements set forth by authority resolution.

NEW SECTION. Sec. 119. The public stadium authority may refuse to disclose financial information on the master tenant, concessioners, the team affiliate, or sublease under RCW 42.17.310.

Sec. 120. RCW 42.17.310 and 1996 c 305 s 2, 1996 c 253 s 302, 1996 c 191 s 88, and 1996 c 80 s 1 are each reenacted and amended to read as follows:

(1) The following are exempt from public inspection and copying:

(a) Personal information in any files maintained for students in public schools, patients or clients of public institutions or public health agencies, or welfare recipients.

(b) Personal information in files maintained for employees, appointees, or elected officials of any public agency to the extent that disclosure would violate their right to privacy.

(c) Information required of any taxpayer in connection with the assessment or collection of any tax if the disclosure of the information to other persons would (i) be prohibited to such persons by RCW 82.32.330 or (ii) violate the taxpayer's right to privacy or result in unfair competitive disadvantage to the taxpayer.

(d) Specific intelligence information and specific investigative records compiled by investigative, law enforcement, and penology agencies, and state agencies vested with the responsibility to discipline members of any profession, the nondisclosure of which is essential to effective law enforcement or for the protection of any person's right to privacy.

(e) Information revealing the identity of persons who are witnesses to or victims of crime or who file complaints with investigative, law enforcement, or penology agencies, other than the public disclosure commission, if disclosure would endanger any person's life, physical safety, or property. If at the time a complaint is filed the complainant, victim or witness indicates a desire for disclosure or nondisclosure, such desire shall govern. However, all complaints filed with the public disclosure commission about any elected official or candidate for public office must be made in writing and signed by the complainant under oath.

(f) Test questions, scoring keys, and other examination data used to administer a license, employment, or academic examination.

(g) Except as provided by chapter 8.26 RCW, the contents of real estate appraisals, made for or by any agency relative to the acquisition or sale of property, until the project or prospective sale is abandoned or until such time as all of the property has been acquired or the property to which the sale appraisal relates is sold, but in no event shall disclosure be denied for more than three years after the appraisal.

(h) Valuable formulae, designs, drawings, and research data obtained by any agency within five years of the request for disclosure when disclosure would produce private gain and public loss.

(i) Preliminary drafts, notes, recommendations, and intra-agency memorandums in which opinions are expressed or policies formulated or recommended except that a specific record shall not be exempt when publicly cited by an agency in connection with any agency action.

(j) Records which are relevant to a controversy to which an agency is a party but which records would not be available to another party under the rules of pretrial discovery for causes pending in the superior courts.

(k) Records, maps, or other information identifying the location of archaeological sites in order to avoid the looting or depredation of such sites.

(l) Any library record, the primary purpose of which is to maintain control of library materials, or to gain access to information, which discloses or could be used to disclose the identity of a library user.

(m) Financial information supplied by or on behalf of a person, firm, or corporation for the purpose of qualifying to submit a bid or proposal for (i) a ferry system construction or repair contract as required by RCW 47.60.680 through 47.60.750 or (ii) highway construction or improvement as required by RCW 47.28.070.

(n) Railroad company contracts filed prior to July 28, 1991, with the utilities and transportation commission under RCW 81.34.070, except that the summaries of the contracts are open to public inspection and copying as otherwise provided by this chapter.

(o) Financial and commercial information and records supplied by private persons pertaining to export services provided pursuant to chapter 43.163 RCW and chapter 53.31 RCW, and by persons pertaining to export projects pursuant to RCW 43.23.035.

(p) Financial disclosures filed by private vocational schools under chapters 28B.85 and 28C.10 RCW.

(q) Records filed with the utilities and transportation commission or attorney general under RCW 80.04.095 that a court has determined are confidential under RCW 80.04.095.

(r) Financial and commercial information and records supplied by businesses or individuals during application for loans or program services provided by chapters 43.163, 43.160, 43.330, and 43.168 RCW, or during application for economic development loans or program services provided by any local agency.

(s) Membership lists or lists of members or owners of interests of units in timeshare projects, subdivisions, camping resorts, condominiums, land developments, or common-interest communities affiliated with such projects, regulated by the department of licensing, in the files or possession of the department.

(t) All applications for public employment, including the names of applicants, resumes, and other related materials submitted with respect to an applicant.

(u) The residential addresses and residential telephone numbers of employees or volunteers of a public agency which are held by the agency in personnel records, employment or volunteer rosters, or mailing lists of employees or volunteers.

(v) The residential addresses and residential telephone numbers of the customers of a public utility contained in the records or lists held by the public utility of which they are customers.

(w)(i) The federal social security number of individuals governed under chapter 18.130 RCW maintained in the files of the department of health, except this exemption does not apply to requests made directly to the department from federal, state, and local agencies of government, and national and state licensing, credentialing, investigatory, disciplinary, and examination organizations; (ii) the current residential address and current residential telephone number of a health care provider governed under chapter 18.130 RCW maintained in the files of the department, if the provider requests that this information be withheld from public inspection and copying, and provides to the department an accurate alternate or business address and business telephone number. On or after January 1, 1995, the current residential address and residential telephone number of a health care provider governed under RCW 18.130.140 maintained in the files of the department shall automatically be withheld from public inspection and copying unless the provider specifically requests the information be released, and except as provided for under RCW 42.17.260(9).

(x) Information obtained by the board of pharmacy as provided in RCW 69.45.090.

(y) Information obtained by the board of pharmacy or the department of health and its representatives as provided in RCW 69.41.044, 69.41.280, and 18.64.420.

(z) Financial information, business plans, examination reports, and any information produced or obtained in evaluating or examining a business and industrial development corporation organized or seeking certification under chapter 31.24 RCW.

(aa) Financial and commercial information supplied to the state investment board by any person when the information relates to the investment of public trust or retirement funds and when disclosure would result in loss to such funds or in private loss to the providers of this information.

(bb) Financial and valuable trade information under RCW 51.36.120.

(cc) Client records maintained by an agency that is a domestic violence program as defined in RCW 70.123.020 or 70.123.075 or a rape crisis center as defined in RCW 70.125.030.

(dd) Information that identifies a person who, while an agency employee: (i) Seeks advice, under an informal process established by the employing agency, in order to ascertain his or her rights in connection with a possible unfair practice under chapter 49.60 RCW against the person; and (ii) requests his or her identity or any identifying information not be disclosed.

(ee) Investigative records compiled by an employing agency conducting a current investigation of a possible unfair practice under chapter 49.60 RCW or of a possible violation of other federal, state, or local laws prohibiting discrimination in employment.

(ff) Business related information protected from public inspection and copying under RCW 15.86.110.

(gg) Financial, commercial, operations, and technical and research information and data submitted to or obtained by the clean Washington center in applications for, or delivery of, program services under chapter 70.95H RCW.

(hh) Information and documents created specifically for, and collected and maintained by a quality improvement committee pursuant to RCW 43.70.510, regardless of which agency is in possession of the information and documents.

(ii) Personal information in files maintained in a data base created under RCW 43.07.360.

(jj) Financial and commercial information requested by the public stadium authority from any person or organization that leases or uses the stadium and exhibition center as defined in section 101 of this act.

(2) Except for information described in subsection (1)(c)(i) of this section and confidential income data exempted from public inspection pursuant to RCW 84.40.020, the exemptions of this section are inapplicable to the extent that information, the disclosure of which would violate personal privacy or vital governmental interests, can be deleted from the specific records sought. No exemption may be construed to permit the nondisclosure of statistical information not descriptive of any readily identifiable person or persons.

(3) Inspection or copying of any specific records exempt under the provisions of this section may be permitted if the superior court in the county in which the record is maintained finds, after a hearing with notice thereof to every person in interest and the agency, that the exemption of such records is clearly unnecessary to protect any individual's right of privacy or any vital governmental function.

(4) Agency responses refusing, in whole or in part, inspection of any public record shall include a statement of the specific exemption authorizing the withholding of the record (or part) and a brief explanation of how the exemption applies to the record withheld.

**PART II
FINANCING**

NEW SECTION. Sec. 201. (1) The governing board of a public stadium authority may apply for deferral of taxes on the construction of buildings, site preparation, and the acquisition of related machinery and equipment for a stadium and exhibition center. Application shall be made to the department of revenue in a form and manner prescribed by the department of revenue. The application shall contain information regarding the location of the stadium and exhibition center, estimated or actual costs, time schedules for completion and operation, and other information required by the department of revenue. The department of revenue shall approve the application within sixty days if it meets the requirements of this section.

(2) The department of revenue shall issue a sales and use tax deferral certificate for state and local sales and use taxes due under chapters 82.08, 82.12, and 82.14 RCW on the public facility.

(3) The public stadium authority shall begin paying the deferred taxes in the fifth year after the date certified by the department of revenue as the date on which the stadium and exhibition center is operationally complete. The first payment is due on December 31st of the fifth calendar year after such certified date, with subsequent annual payments due on December 31st of the following nine years. Each payment shall equal ten percent of the deferred tax.

(4) The department of revenue may authorize an accelerated repayment schedule upon request of the public stadium authority.

(5) Interest shall not be charged on any taxes deferred under this section for the period of deferral, although all other penalties and interest applicable to delinquent excise taxes may be assessed and imposed for delinquent payments under this section. The debt for deferred taxes is not extinguished by insolvency or other failure of the public stadium authority.

(6) The repayment of deferred taxes and interest, if any, shall be deposited into the stadium and exhibition center account created in section 214 of this act and used to retire bonds issued under section 210 of this act to finance the construction of the stadium and exhibition center.

(7) Applications and any other information received by the department of revenue under this section are not confidential and are subject to disclosure. Chapter 82.32 RCW applies to the administration of this section.

Sec. 202. RCW 82.29A.130 and 1995 3rd sp.s. c 1 s 307 are each amended to read as follows:

The following leasehold interests shall be exempt from taxes imposed pursuant to RCW 82.29A.030 and 82.29A.040:

(1) All leasehold interests constituting a part of the operating properties of any public utility which is assessed and taxed as a public utility pursuant to chapter 84.12 RCW.

(2) All leasehold interests in facilities owned or used by a school, college or university which leasehold provides housing for students and which is otherwise exempt from taxation under provisions of RCW 84.36.010 and 84.36.050.

(3) All leasehold interests of subsidized housing where the fee ownership of such property is vested in the government of the United States, or the state of Washington or any political subdivision thereof but only if income qualification exists for such housing.

(4) All leasehold interests used for fair purposes of a nonprofit fair association that sponsors or conducts a fair or fairs which receive support from revenues collected pursuant to RCW 67.16.100 and allocated by the director of the department of agriculture where the fee ownership of such property is vested in the government of the United States, the state of Washington or any of its political subdivisions: PROVIDED, That this exemption shall not apply to the leasehold interest of any sublessee of such nonprofit fair association if such leasehold interest would be taxable if it were the primary lease.

(5) All leasehold interests in any property of any public entity used as a residence by an employee of that public entity who is required as a condition of employment to live in the publicly owned property.

(6) All leasehold interests held by enrolled Indians of lands owned or held by any Indian or Indian tribe where the fee ownership of such property is vested in or held in trust by the United States and which are not subleased to other than to a lessee which would qualify pursuant to this chapter, RCW 84.36.451 and 84.40.175.

(7) All leasehold interests in any real property of any Indian or Indian tribe, band, or community that is held in trust by the United States or is subject to a restriction against alienation imposed by the United States: PROVIDED, That this exemption shall apply only where it is determined that contract rent paid is greater than or equal to ninety percent of fair market rental, to be determined by the department of revenue using the same criteria used to establish taxable rent in RCW 82.29A.020(2)(b).

(8) All leasehold interests for which annual taxable rent is less than two hundred fifty dollars per year. For purposes of this subsection leasehold interests held by the same lessee in contiguous properties owned by the same lessor shall be deemed a single leasehold interest.

(9) All leasehold interests which give use or possession of the leased property for a continuous period of less than thirty days: PROVIDED, That for purposes of this subsection, successive leases or lease renewals giving substantially continuous use of possession of the same property to the same lessee shall be deemed a single leasehold interest: PROVIDED FURTHER, That no leasehold interest shall be deemed to give use or possession for a period of less than thirty days solely by virtue of the reservation by the public lessor of the right to use the property or to allow third parties to use the property on an occasional, temporary basis.

(10) All leasehold interests under month-to-month leases in residential units rented for residential purposes of the lessee pending destruction or removal for the purpose of constructing a public highway or building.

(11) All leasehold interests in any publicly owned real or personal property to the extent such leasehold interests arises solely by virtue of a contract for public improvements or work executed under the public works statutes of this state or of the United States between the public owner of the property and a contractor.

(12) All leasehold interests that give use or possession of state adult correctional facilities for the purposes of operating correctional industries under RCW 72.09.100.

(13) All leasehold interests used to provide organized and supervised recreational activities for disabled persons of all ages in a camp facility and for public recreational purposes by a nonprofit organization, association, or corporation that would be exempt from property tax under RCW 84.36.030(1) if it owned the property. If the publicly owned property is used for any taxable purpose, the leasehold excise taxes set forth in RCW 82.29A.030 and 82.29A.040 shall be imposed and shall be apportioned accordingly.

(14) All leasehold interests in the public or entertainment areas of a baseball stadium with natural turf and a retractable roof or canopy that is in a county with a population of over one million, that has a seating capacity of over forty thousand, and that is constructed on or after January 1, 1995. "Public or entertainment areas" include ticket sales areas, ramps and stairs, lobbies and concourses, parking areas, concession areas, restaurants, hospitality and stadium club areas, kitchens or other work areas primarily servicing other public or entertainment areas, public rest room areas, press and media areas, control booths, broadcast and production areas, retail sales areas, museum and exhibit areas, scoreboards or other public displays, storage areas, loading, staging, and servicing areas, seating areas and suites, the playing field, and any other areas to which the public has access or which are used for the production of the entertainment event or other public usage, and any other personal property used for these purposes. "Public or entertainment areas" does not include locker rooms or private offices exclusively used by the lessee.

(15) All leasehold interests in the public or entertainment areas of a stadium and exhibition center, as defined in section 101 of this act, that is constructed on or after January 1, 1998. For the purposes of this subsection, "public or entertainment areas" has the same meaning as in subsection (14) of this section, and includes exhibition areas.

NEW SECTION. Sec. 203. A new section is added to chapter 82.08 RCW to read as follows:

The tax levied by RCW 82.08.020 does not apply to vehicle parking charges that are subject to tax under section 302 of this act.

NEW SECTION. Sec. 204. A new section is added to chapter 82.14 RCW to read as follows:

(1) The legislative authority of a county that has created a public stadium authority to develop a stadium and exhibition center under section 105 of this act may impose a sales and use tax in accordance with this chapter. The tax is in addition to other taxes authorized by law and shall be collected from those persons who are taxable by the state under chapters 82.08 and 82.12 RCW upon the occurrence of any taxable event within the county. The rate of tax shall be 0.016 percent of the selling price in the case of a sales tax or value of the article used in the case of a use tax.

(2) The tax imposed under subsection (1) of this section shall be deducted from the amount of tax otherwise required to be collected or paid over to the department of revenue under chapter 82.08 or 82.12 RCW. The department of revenue shall perform the collection of such taxes on behalf of the county at no cost to the county.

(3) Before the issuance of bonds in section 210 of this act, all revenues collected on behalf of the county under this section shall be transferred to the public stadium authority. After bonds are issued under section 210 of this act, all revenues collected on behalf of the county under this section shall be deposited in the stadium and exhibition center account under section 214 of this act.

(4) The definitions in section 101 of this act apply to this section.

(5) This section expires on the earliest of the following dates:

(a) December 31, 1999, if the conditions for issuance of bonds under section 210 of this act have not been met before that date;

(b) The date on which all bonds issued under section 210 of this act have been retired; or

(c) Twenty-three years after the date the tax under this section is first imposed.

NEW SECTION. Sec. 205. A new section is added to chapter 67.70 RCW to read as follows:

The lottery commission shall conduct new games that are in addition to any games conducted under RCW 67.70.042 and are intended to generate additional moneys sufficient to cover the distributions under RCW 67.70.240(5). No game may be conducted under this section before January 1, 1998. No game may be conducted under this section after December 31, 1999, unless the conditions for issuance of the bonds under section 210(2) of this act are met, and no game is required to be conducted after the distributions cease under RCW 67.70.240(5).

For the purposes of this section, the lottery may accept and market prize promotions provided in conjunction with private-sector marketing efforts.

Sec. 206. RCW 67.70.240 and 1995 3rd sp.s. c 1 s 105 are each amended to read as follows:

The moneys in the state lottery account shall be used only:

(1) For the payment of prizes to the holders of winning lottery tickets or shares;

(2) For purposes of making deposits into the reserve account created by RCW 67.70.250 and into the lottery administrative account created by RCW 67.70.260;

(3) For purposes of making deposits into the state's general fund;

~~(4) ((for purposes of making deposits into the housing trust fund under the provisions of section 7 of this 1987 act; (5)))~~ For distribution to a county for the purpose of paying the principal and interest payments on bonds issued by the county to construct a baseball stadium, as defined in RCW 82.14.0485, including reasonably necessary preconstruction costs~~((; (6) for the purchase and promotion of lottery games and game-related services; and (7) for the payment of agent compensation))~~. Three million dollars shall be distributed under this subsection ~~((5) of this section))~~ during calendar year 1996. During subsequent years, such distributions shall equal the prior year's distributions increased by four percent. Distributions under this subsection ~~((5) of this section))~~ shall cease when the bonds issued for the construction of the baseball stadium are retired, but not more than twenty years after the tax under RCW 82.14.0485 is first imposed;

(5) For distribution to the stadium and exhibition center account, created in section 214 of this act. Subject to the conditions of section 215 of this act, six million dollars shall be distributed under this subsection during the calendar year 1998. During subsequent years, such distribution shall equal the prior year's distributions increased by four percent. No distribution may be made under this subsection after December 31, 1999, unless the conditions for issuance of the bonds under section 210(2) of this act are met. Distributions under this subsection shall cease when the bonds are retired, but not later than December 31, 2020;

(6) For the purchase and promotion of lottery games and game-related services; and

(7) For the payment of agent compensation.

The office of financial management shall require the allotment of all expenses paid from the account and shall report to the ways and means committees of the senate and house of representatives any changes in the allotments.

Sec. 207. RCW 67.70.042 and 1995 3rd sp.s. c 1 s 104 are each amended to read as follows:

The lottery commission shall conduct at least two but not more than four scratch games with sports themes per year. These games are intended to generate additional moneys sufficient to cover the distributions under RCW 67.70.240~~((5))~~ (4).

NEW SECTION. Sec. 208. A new section is added to chapter 67.70 RCW to read as follows:

The person or entity responsible for operating a stadium and exhibition center as defined in section 101 of this act shall promote the lottery with any combination of in-kind advertising, sponsorship, or prize promotions, valued at one million dollars annually beginning January 1998 and increased by four percent each year thereafter for the purpose of increasing lottery sales of games authorized under section 205 of this act. The content and value of the advertising sponsorship or prize promotions are subject to reasonable approval in advance by the lottery

commission. The obligation of this section shall cease when the distributions under RCW 67.70.240(5) end, but not later than December 31, 2020.

NEW SECTION. Sec. 209. The definitions in section 101 of this act apply to this chapter.

NEW SECTION. Sec. 210. (1) For the purpose of providing funds to pay for operation of the public stadium authority created under section 102 of this act, to pay for the preconstruction, site acquisition, design, site preparation, construction, owning, leasing, and equipping of the stadium and exhibition center, and to reimburse the county or the public stadium authority for its direct or indirect expenditures or to repay other indebtedness incurred for these purposes, the state finance committee is authorized to issue general obligation bonds of the state of Washington in the sum of three hundred million dollars, or so much thereof as may be required, for these purposes and all costs incidental thereto. Bonds authorized in this section may be sold at such price as the state finance committee shall determine.

(2) Bonds shall not be issued under this section unless the public stadium authority has certified to the director of financial management that:

(a) A professional football team has made a binding and legally enforceable contractual commitment to play all of its regular season and playoff home games in the stadium and exhibition center, other than games scheduled elsewhere by the league, for a period of time not shorter than the term of the bonds issued or to be issued to finance the initial construction of the stadium and exhibition center;

(b) A team affiliate has entered into one or more binding and legally enforceable contractual commitments with a public stadium authority under section 105 of this act that provide that:

(i) The team affiliate assumes the risks of cost overruns;

(ii) The team affiliate shall raise at least one hundred million dollars, less the amount, if any, raised by the public stadium authority under section 106(15) of this act. The total one hundred million dollars raised, which may include cash payments and in-kind contributions, but does not include any interest earned on the escrow account described in section 211 of this act, shall be applied toward the reasonably necessary preconstruction, site acquisition, design, site preparation, construction, and equipping of the stadium and exhibition center, or to any associated public purpose separate from bond-financed expenses. No part of the payment may be made without the consent of the public stadium authority. In any event, all amounts to be raised by the team affiliate under (b)(ii) of this subsection shall be paid or expended before the completion of the construction of the stadium and exhibition center. To the extent possible, contributions shall be structured in a manner that would allow for the issuance of bonds to construct the stadium and exhibition center that are exempt from federal income taxes;

(iii) The team affiliate shall deposit at least ten million dollars into the youth athletic facility grant account created in section 214 of this act upon execution of the lease and development agreements in section 106 (7) and (8) of this act;

(iv) At least ten percent of the seats in the stadium for home games of the professional football team shall be for sale at an affordable price. For the purposes of this subsection, "affordable price" means that the price is the average of the lowest ticket prices charged by all other national football league teams;

(v) One executive suite with a minimum of twenty seats must be made available, on a lottery basis, as a free upgrade, at home games of the professional football team, to purchasers of tickets that are not located in executive suites or club seat areas;

(vi) A nonparticipatory interest in the professional football team has been granted to the state beginning on the date on which bonds are issued under this section which only entitles the state to receive ten percent of the gross selling price of the interest in the team that is sold if a majority interest or more of the professional football team is sold within twenty-five years of the date on which bonds are issued under the section. The ten percent shall apply to all preceding sales of interests in the team which comprise the majority interest sold. This provision shall apply only to the first sale of such a majority interest. The ten percent must be deposited in the permanent common school fund. If the debt is retired at the time of the sale, then the ten percent may only be used for costs associated with capital maintenance, capital improvements, renovations, reequipping, replacement, and operations of the stadium and exhibition center;

(vii) The team affiliate must provide reasonable office space to the public stadium authority without charge;

(viii) The team affiliate, in consultation with the public stadium authority, shall work with surrounding areas to mitigate the impact of the construction and operation of the stadium and exhibition center with a budget of at least ten million dollars dedicated to area mitigation. For purposes of this subsection, "mitigation" includes, but is not limited to, parking facilities and amenities, neighborhood beautification projects and landscaping, financial grants for neighborhood programs intended to mitigate adverse impacts caused by the construction and operation of the stadium and exhibition center, and mitigation measures identified in the environmental impact statement required for the stadium and exhibition center under chapter 43.21C RCW; and

(ix) Twenty percent of the net profit from the operation of the exhibition facility of the stadium and exhibition center shall be deposited into the permanent common school fund. Profits shall be verified by the public stadium authority.

NEW SECTION. Sec. 211. On or before August 1, 1997: (1) The state treasurer and a team affiliate or an entity that has an option to become a team affiliate shall enter into an escrow agreement creating an escrow account; and (2) the team affiliate or the entity that has an option to become a team affiliate shall deposit the sum of fifty million dollars into the escrow account as a credit against the obligation of the team affiliate in section 210(2)(b)(i) of this act.

The escrow agreement shall provide that the fifty million dollar deposit shall be invested by the state treasurer and shall earn interest. If the stadium and

exhibition center project proceeds, then the interest on amounts in the escrow account shall be for the benefit of the state, and all amounts in the escrow account, including all principal and interest, shall be distributed to the stadium and exhibition center account. The escrow agreement shall provide for appropriate adjustments based on amounts previously and subsequently raised by the team affiliate under section 210(2)(b)(ii) of this act and amounts previously and subsequently raised by the public stadium authority under section 106(15) of this act. If the stadium and exhibition center project does not proceed, all principal and the interest in the escrow account shall be distributed to the team affiliate or the entity that has an option to become a team affiliate.

NEW SECTION. Sec. 212. The proceeds from the sale of the bonds authorized in section 210 of this act shall be deposited in the stadium and exhibition center construction account, hereby created in the custody of the state treasurer, and shall be used exclusively for the purposes specified in section 210 of this act and for the payment of expenses incurred in the issuance and sale of the bonds. These proceeds shall be administered by the office of financial management. Only the director of the office of financial management or the director's designee may authorize expenditures from the account. The account is subject to the allotment procedures under chapter 43.88 RCW, but an appropriation is not required for expenditures. At the direction of the office of financial management the state treasurer shall transfer moneys from the stadium and exhibition center construction account to the public stadium authority created in section 102 of this act as required by the public stadium authority.

NEW SECTION. Sec. 213. The nondebt-limit reimbursable bond retirement account shall be used for the payment of the principal of and interest on the bonds authorized in section 210 of this act.

The state finance committee shall, on or before June 30th of each year, certify to the state treasurer the amount needed in the ensuing twelve months to meet the bond retirement and interest requirements. On each date on which any interest or principal and interest payment is due, the state treasurer shall transfer from the stadium and exhibition center account to the nondebt-limit reimbursable bond retirement account an amount equal to the amount certified by the state finance committee to be due on the payment date.

Bonds issued under section 210 of this act shall state that they are a general obligation of the state of Washington, shall pledge the full faith and credit of the state to the payment of the principal thereof and the interest thereon, and shall contain an unconditional promise to pay the principal and interest as the same shall become due. If in any year the amount accumulated in the stadium and exhibition center account is insufficient for payment of the principal and interest on the bonds issued under section 210 of this act, the amount of the insufficiency shall be a continuing obligation against the stadium and exhibition center account until paid.

The owner and holder of each of the bonds or the trustee for the owner and holder of any of the bonds may by mandamus or other appropriate proceeding require the transfer and payment of funds as directed in this section.

NEW SECTION. Sec. 214. (1) The stadium and exhibition center account is created in the custody of the state treasurer. All receipts from the taxes imposed under section 204 of this act and distributions under RCW 67.70.240(5) shall be deposited into the account. Only the director of the office of financial management or the director's designee may authorize expenditures from the account. The account is subject to allotment procedures under chapter 43.88 RCW. An appropriation is not required for expenditures from this account.

(2) Until bonds are issued under section 210 of this act, up to five million dollars per year beginning January 1, 1999, shall be used for the purposes of subsection (3)(b) of this section, all remaining moneys in the account shall be transferred to the public stadium authority, created under section 102 of this act, to be used for public stadium authority operations and development of the stadium and exhibition center.

(3) After bonds are issued under section 210 of this act, all moneys in the stadium and exhibition center account shall be used exclusively for the following purposes in the following priority:

(a) On or before June 30th of each year, the office of financial management shall accumulate in the stadium and exhibition center account an amount at least equal to the amount required in the next succeeding twelve months for the payment of principal of and interest on the bonds issued under section 210 of this act;

(b) An additional reserve amount not in excess of the expected average annual principal and interest requirements of bonds issued under section 210 of this act shall be accumulated and maintained in the account, subject to withdrawal by the state treasurer at any time if necessary to meet the requirements of (a) of this subsection, and, following any withdrawal, reaccumulated from the first tax revenues and other amounts deposited in the account after meeting the requirements of (a) of this subsection; and

(c) The balance, if any, shall be transferred to the youth athletic facility grant account under subsection (4) of this section.

Any revenues derived from the taxes authorized by RCW 36.38.010(5) and section 302 of this act or other amounts that if used as provided under (a) and (b) of this subsection would cause the loss of any tax exemption under federal law for interest on bonds issued under section 210 of this act shall be deposited in and used exclusively for the purposes of the youth athletic facility grant account and shall not be used, directly or indirectly, as a source of payment of principal of or interest on bonds issued under section 210 of this act, or to replace or reimburse other funds used for that purpose.

(4) Any moneys in the stadium and exhibition center account not required or permitted to be used for the purposes described in subsection (3)(a) and (b) of this section shall be deposited in the youth athletic facility grant account hereby created

in the state treasury. Expenditures from the account may be used only for purposes of grants to cities, counties, and qualified nonprofit organizations for youth athletic facilities. Only the director of the interagency committee for outdoor recreation or the director's designee may authorize expenditures from the account. The account is subject to allotment procedures under chapter 43.88 RCW, but an appropriation is not required for expenditures. The athletic facility grants may be used for acquiring, developing, equipping, maintaining, and improving youth or community athletic facilities. Funds shall be divided equally between the development of new athletic facilities, the improvement of existing athletic facilities, and the maintenance of existing athletic facilities. Cities, counties, and qualified nonprofit organizations must submit proposals for grants from the account. To the extent that funds are available, cities, counties, and qualified nonprofit organizations must meet eligibility criteria as established by the director of the interagency committee for outdoor recreation. The grants shall be awarded on a competitive application process and the amount of the grant shall be in proportion to the population of the city or county for where the youth athletic facility is located. Grants awarded in any one year need not be distributed in that year. The director of the interagency committee for outdoor recreation may expend up to one and one-half percent of the moneys deposited in the account created in this subsection for administrative purposes.

NEW SECTION. Sec. 215. Unless the office of financial management certifies by December 31, 1997, that the following conditions have been met, sections 201 through 208 of this act are null and void:

(1) The professional football team that will use the stadium and exhibition center is at least majority-owned and controlled by, directly or indirectly, one or more persons who are each residents of the state of Washington and who have been residents of the state of Washington continuously since at least January 1, 1993;

(2) The county in which the stadium and exhibition center is to be constructed has created a public stadium authority under this chapter to acquire property, construct, own, remodel, maintain, equip, reequip, repair, and operate a stadium and exhibition center;

(3) The county in which the stadium and exhibition center is to be constructed has enacted the taxes authorized in RCW 36.38.010(5) and section 302 of this act; and

(4) The county in which the stadium and exhibition center is to be constructed pledges to maintain and continue the taxes authorized in RCW 36.38.010(5), 67.28.180, and section 302 of this act until the bonds authorized in section 210 of this act are fully redeemed, both principal and interest.

NEW SECTION. Sec. 216. The legislature may provide additional means for raising moneys for the payment of the principal of and interest on the bonds authorized in section 210 of this act, and section 213 of this act shall not be deemed to provide an exclusive method for the payment.

NEW SECTION. Sec. 217. The bonds authorized in section 210 of this act shall be a legal investment for all state funds or funds under state control and for all funds of any other public body.

NEW SECTION. Sec. 218. (1) The total public share of a stadium and exhibition center shall not exceed three hundred million dollars. For the purposes of this section, "total public share" means all state and local funds expended for preconstruction and construction costs of the stadium and exhibition center, including proceeds of any bonds issued for the purposes of the stadium and exhibition center, tax revenues, and interest earned on the escrow account described in section 211 of this act and not including expenditures for deferred sales taxes.

(2) Sections 201 through 207, chapter . . . , Laws of 1997 (sections 201 through 207 of this act) and this chapter constitute the entire state contribution for a stadium and exhibition center. The state will not make any additional contributions based on revised cost or revenue estimates, cost overruns, unforeseen circumstances, or any other reason.

NEW SECTION. Sec. 219. The bonds authorized for the purposes identified in section 210 of this act are exempt from the statutory limitations of indebtedness under RCW 39.42.060.

Sec. 220. RCW 39.42.060 and 1993 c 52 s 1 are each amended to read as follows:

No bonds, notes, or other evidences of indebtedness for borrowed money shall be issued by the state which will cause the aggregate debt contracted by the state to exceed that amount for which payments of principal and interest in any fiscal year would require the state to expend more than seven percent of the arithmetic mean of its general state revenues, as defined in section 1(c) of Article VIII of the Washington state Constitution for the three immediately preceding fiscal years as certified by the treasurer in accordance with RCW 39.42.070. It shall be the duty of the state finance committee to compute annually the amount required to pay principal of and interest on outstanding debt. In making such computation, the state finance committee shall include all borrowed money represented by bonds, notes, or other evidences of indebtedness which are secured by the full faith and credit of the state or are required to be paid, directly or indirectly, from general state revenues and which are incurred by the state, any department, authority, public corporation or quasi public corporation of the state, any state university or college, or any other public agency created by the state but not by counties, cities, towns, school districts, or other municipal corporations, and shall include debt incurred pursuant to section 3 of Article VIII of the Washington state Constitution, but shall exclude the following:

- (1) Obligations for the payment of current expenses of state government;
- (2) Indebtedness incurred pursuant to RCW 39.42.080 or 39.42.090;
- (3) Principal of and interest on bond anticipation notes;
- (4) Any indebtedness which has been refunded;

(5) Financing contracts entered into under chapter 39.94 RCW;

(6) Indebtedness authorized or incurred before July 1, 1993, pursuant to statute which requires that the state treasury be reimbursed, in the amount of the principal of and the interest on such indebtedness, from money other than general state revenues or from the special excise tax imposed pursuant to chapter 67.40 RCW;

(7) Indebtedness authorized and incurred after July 1, 1993, pursuant to statute that requires that the state treasury be reimbursed, in the amount of the principal of and the interest on such indebtedness, from (a) moneys outside the state treasury, except higher education operating fees, (b) higher education building fees, (c) indirect costs recovered from federal grants and contracts, and (d) fees and charges associated with hospitals operated or managed by institutions of higher education; (~~and~~)

(8) Any agreement, promissory note, or other instrument entered into by the state finance committee under RCW 39.42.030 in connection with its acquisition of bond insurance, letters of credit, or other credit support instruments for the purpose of guaranteeing the payment or enhancing the marketability, or both, of any state bonds, notes, or other evidence of indebtedness; and

(9) Indebtedness incurred for the purposes identified in section 210 of this act.

To the extent necessary because of the constitutional or statutory debt limitation, priorities with respect to the issuance or guaranteeing of bonds, notes, or other evidences of indebtedness by the state shall be determined by the state finance committee.

Sec. 221. RCW 43.79A.040 and 1996 c 253 s 409 are each amended to read as follows:

(1) Money in the treasurer's trust fund may be deposited, invested and reinvested by the state treasurer in accordance with RCW 43.84.080 in the same manner and to the same extent as if the money were in the state treasury.

(2) All income received from investment of the treasurer's trust fund shall be set aside in an account in the treasury trust fund to be known as the investment income account.

(3) The investment income account may be utilized for the payment of purchased banking services on behalf of treasurer's trust funds including, but not limited to, depository, safekeeping, and disbursement functions for the state treasurer or affected state agencies. The investment income account is subject in all respects to chapter 43.88 RCW, but no appropriation is required for payments to financial institutions. Payments shall occur prior to distribution of earnings set forth in subsection (4) of this section.

(4)(a) Monthly, the state treasurer shall distribute the earnings credited to the investment income account to the state general fund except under (b) and (c) of this subsection.

(b) The following accounts and funds shall receive their proportionate share of earnings based upon each account's or fund's average daily balance for the period: The agricultural local fund, the American Indian scholarship endowment

fund, the Washington international exchange scholarship endowment fund, the energy account, the fair fund, the game farm alternative account, the grain inspection revolving fund, the rural rehabilitation account, the stadium and exhibition center account, the youth athletic facility grant account, and the self-insurance revolving fund. However, the earnings to be distributed shall first be reduced by the allocation to the state treasurer's service fund pursuant to RCW 43.08.190.

(c) The following accounts and funds shall receive eighty percent of their proportionate share of earnings based upon each account's or fund's average daily balance for the period: The advanced right of way revolving fund, the federal narcotics asset forfeitures account, the high occupancy vehicle account, and the local rail service assistance account.

(5) In conformance with Article II, section 37 of the state Constitution, no trust accounts or funds shall be allocated earnings without the specific affirmative directive of this section.

NEW SECTION. Sec. 222. A new section is added to chapter 43.330 RCW to read as follows:

The film and video promotion account is created in the state treasury. All receipts from section 106(14) of this act must be deposited into the account. Moneys in the account may be spent only after appropriation. Expenditures from the account may be used by the department of community, trade, and economic development only for the purposes of promotion of the film and video production industry in the state of Washington.

NEW SECTION. Sec. 223. A new section is added to chapter 43.330 RCW to read as follows:

The tourism development and promotion account is created in the state treasury. All receipts from section 106(10) of this act must be deposited into the account. Moneys in the account may be spent only after appropriation. Expenditures from the account may be used by the department of community, trade, and economic development only for the purposes of promotion of the tourism industry in the state of Washington.

PART III LOCAL CONTRIBUTION

Sec. 301. RCW 36.38.010 and 1995 3rd sp.s. c 1 s 203 are each amended to read as follows:

(1) Any county may by ordinance enacted by its county legislative authority, levy and fix a tax of not more than one cent on twenty cents or fraction thereof to be paid for county purposes by persons who pay an admission charge to any place, including a tax on persons who are admitted free of charge or at reduced rates to any place for which other persons pay a charge or a regular higher charge for the same or similar privileges or accommodations; and require that one who receives any admission charge to any place shall collect and remit the tax to the county

treasurer of the county: PROVIDED, No county shall impose such tax on persons paying an admission to any activity of any elementary or secondary school.

(2) As used in this chapter, the term "admission charge" includes a charge made for season tickets or subscriptions, a cover charge, or a charge made for use of seats and tables, reserved or otherwise, and other similar accommodations; a charge made for food and refreshments in any place where any free entertainment, recreation, or amusement is provided; a charge made for rental or use of equipment or facilities for purpose of recreation or amusement, and where the rental of the equipment or facilities is necessary to the enjoyment of a privilege for which a general admission is charged, the combined charges shall be considered as the admission charge. It shall also include any automobile parking charge where the amount of such charge is determined according to the number of passengers in any automobile.

(3) Subject to subsections (4) and (5) of this section, the tax herein authorized shall not be exclusive and shall not prevent any city or town within the taxing county, when authorized by law, from imposing within its corporate limits a tax of the same or similar kind: PROVIDED, That whenever the same or similar kind of tax is imposed by any such city or town, no such tax shall be levied within the corporate limits of such city or town by the county(~~(except that)~~).

(4) Notwithstanding subsection (3) of this section, the legislative authority of a county with a population of one million or more may exclusively levy taxes on events in baseball stadiums constructed on or after January 1, 1995, that are owned by a public facilities district under chapter 36.100 RCW and that have seating capacities over forty thousand at the rates of:

(a) Not more than one cent on twenty cents or fraction thereof, to be used for the purpose of paying the principal and interest payments on bonds issued by a county to construct a baseball stadium as defined in RCW 82.14.0485. If the revenue from the tax exceeds the amount needed for that purpose, the excess shall be placed in a contingency fund which may only be used to pay unanticipated capital costs on the baseball stadium, excluding any cost overruns on initial construction; and

(b) Not more than one cent on twenty cents or fraction thereof, to be used for the purpose of paying the principal and interest payments on bonds issued by a county to construct a baseball stadium as defined in RCW 82.14.0485. The tax imposed under this subsection (~~((3))~~) (4)(b) shall expire when the bonds issued for the construction of the baseball stadium are retired, but not later than twenty years after the tax is first collected.

(5) Notwithstanding subsection (3) of this section, the legislative authority of a county that has created a public stadium authority to develop a stadium and exhibition center under section 105 of this act may levy and fix a tax on charges for admission to events in a stadium and exhibition center, as defined in section 101 of this act, constructed in the county on or after January 1, 1998, that is owned by a public stadium authority under chapter 36.— RCW (sections 101 through 119

and 201 of this act). The tax shall be exclusive and shall preclude the city or town within which the stadium and exhibition center is located from imposing a tax of the same or similar kind on charges for admission to events in the stadium and exhibition center, and shall preclude the imposition of a general county admissions tax on charges for admission to events in the stadium and exhibition center. For the purposes of this subsection, "charges for admission to events" means only the actual admission charge, exclusive of taxes and service charges and the value of any other benefit conferred by the admission. The tax authorized under this subsection shall be at the rate of not more than one cent on ten cents or fraction thereof. Revenues collected under this subsection shall be deposited in the stadium and exhibition center account under section 214 of this act until the bonds issued under section 210 of this act for the construction of the stadium and exhibition center are retired. After the bonds issued for the construction of the stadium and exhibition center are retired, the tax authorized under this section shall be used exclusively to fund repair, reequipping, and capital improvement of the stadium and exhibition center. The tax under this subsection may be levied upon the first use of any part of the stadium and exhibition center but shall not be collected at any facility already in operation as of the effective date of this section.

NEW SECTION. Sec. 302. A new section is added to chapter 36.38 RCW to read as follows:

The legislative authority of a county that has created a public stadium authority to develop a stadium and exhibition center under section 105 of this act may levy and fix a tax on any vehicle parking charges imposed at any parking facility that is part of a stadium and exhibition center, as defined in section 101 of this act. The tax shall be exclusive and shall preclude the city or town within which the stadium and exhibition center is located from imposing within its corporate limits a tax of the same or similar kind on any vehicle parking charges imposed at any parking facility that is part of a stadium and exhibition center. For the purposes of this section, "vehicle parking charges" means only the actual parking charges exclusive of taxes and service charges and the value of any other benefit conferred. The tax authorized under this section shall be at the rate of not more than ten percent. Revenues collected under this section shall be deposited in the stadium and exhibition center account under section 214 of this act until the bonds issued under section 210 of this act for the construction of the stadium and exhibition center are retired. After the bonds issued for the construction of the stadium and exhibition center are retired, the tax authorized under this section shall be used exclusively to fund repair, reequipping, and capital improvement of the stadium and exhibition center. The tax under this section may be levied upon the first use of any part of the stadium and exhibition center but shall not be collected at any facility already in operation as of the effective date of this section.

**PART IV
PUBLIC WORKS PROVISIONS**

Sec. 401. RCW 36.32.235 and 1996 c 219 s 2 are each amended to read as follows:

(1) In each county with a population of one million or more which by resolution establishes a county purchasing department, the purchasing department shall enter into leases of personal property on a competitive basis and purchase all supplies, materials, and equipment on a competitive basis, for all departments of the county, as provided in this chapter and chapter 39.04 RCW, except that the county purchasing department is not required to make purchases that are paid from the county road fund or equipment rental and revolving fund.

(2) As used in this section, "public works" has the same definition as in RCW 39.04.010.

(3) Except as otherwise specified in this chapter or in chapter 36.77 RCW, all counties subject to these provisions shall contract on a competitive basis for all public works after bids have been submitted to the county upon specifications therefor. Such specifications shall be in writing and shall be filed with the clerk of the county legislative authority for public inspection.

(4) An advertisement shall be published in the county official newspaper stating the time and place where bids will be opened, the time after which bids will not be received, the character of the work to be done, the materials and equipment to be furnished, and that specifications therefor may be seen at the office of the clerk of the county legislative authority. An advertisement shall also be published in a legal newspaper of general circulation in or as near as possible to that part of the county in which such work is to be done. If the county official newspaper is a newspaper of general circulation covering at least forty percent of the residences in that part of the county in which such public works are to be done, then the publication of an advertisement of the applicable specifications in the county official newspaper is sufficient. Such advertisements shall be published at least once at least thirteen days prior to the last date upon which bids will be received.

(5) The bids shall be in writing, shall be filed with the clerk, shall be opened and read in public at the time and place named therefor in the advertisements, and after being opened, shall be filed for public inspection. No bid may be considered for public work unless it is accompanied by a bid deposit in the form of a surety bond, postal money order, cash, cashier's check, or certified check in an amount equal to five percent of the amount of the bid proposed.

(6) The contract for the public work shall be awarded to the lowest responsible bidder. Any or all bids may be rejected for good cause. The county legislative authority shall require from the successful bidder for such public work a contractor's bond in the amount and with the conditions imposed by law.

(7) If the bidder to whom the contract is awarded fails to enter into the contract and furnish the contractor's bond as required within ten days after notice of the award, exclusive of the day of notice, the amount of the bid deposit shall be

forfeited to the county and the contract awarded to the next lowest and best bidder. The bid deposit of all unsuccessful bidders shall be returned after the contract is awarded and the required contractor's bond given by the successful bidder is accepted by the county legislative authority. Immediately after the award is made, the bid quotations obtained shall be recorded and open to public inspection and shall be available by telephone inquiry.

(8) As limited by subsection (10) of this section, a county subject to these provisions may have public works performed by county employees in any annual or biennial budget period equal to a dollar value not exceeding ten percent of the public works construction budget, including any amount in a supplemental public works construction budget, over the budget period.

Whenever a county subject to these provisions has had public works performed in any budget period up to the maximum permitted amount for that budget period, all remaining public works except emergency work under subsection (12) of this section within that budget period shall be done by contract pursuant to public notice and call for competitive bids as specified in subsection (3) of this section. The state auditor shall report to the state treasurer any county subject to these provisions that exceeds this amount and the extent to which the county has or has not reduced the amount of public works it has performed by public employees in subsequent years.

(9) If a county subject to these provisions has public works performed by public employees in any budget period that are in excess of this ten percent limitation, the amount in excess of the permitted amount shall be reduced from the otherwise permitted amount of public works that may be performed by public employees for that county in its next budget period. Ten percent of the motor vehicle fuel tax distributions to that county shall be withheld if two years after the year in which the excess amount of work occurred, the county has failed to so reduce the amount of public works that it has performed by public employees. The amount withheld shall be distributed to the county when it has demonstrated in its reports to the state auditor that the amount of public works it has performed by public employees has been reduced as required.

(10) In addition to the percentage limitation provided in subsection (8) of this section, counties subject to these provisions containing a population of one million or more shall not have public employees perform a public works project in excess of seventy thousand dollars if more than a single craft or trade is involved with the public works project, or a public works project in excess of twenty-five thousand dollars if only a single craft or trade is involved with the public works project. A public works project means a complete project. The restrictions in this subsection do not permit the division of the project into units of work or classes of work to avoid the restriction on work that may be performed by public employees on a single project.

The cost of a separate public works project shall be the costs of materials, supplies, equipment, and labor on the construction of that project. The value of the

public works budget shall be the value of all the separate public works projects within the budget.

(11) In addition to the accounting and recordkeeping requirements contained in chapter 39.04 RCW, any county which uses public employees to perform public works projects under RCW 36.32.240(1) shall prepare a year-end report to be submitted to the state auditor indicating the total dollar amount of the county's public works construction budget and the total dollar amount for public works projects performed by public employees for that year.

The year-end report submitted pursuant to this subsection to the state auditor shall be in accordance with the standard form required by RCW 43.09.205.

(12) Notwithstanding any other provision in this section, counties may use public employees without any limitation for emergency work performed under an emergency declared pursuant to RCW 36.32.270, and any such emergency work shall not be subject to the limitations of this section. Publication of the description and estimate of costs relating to correcting the emergency may be made within seven days after the commencement of the work. Within two weeks of the finding that such an emergency existed, the county legislative authority shall adopt a resolution certifying the damage to public facilities and costs incurred or anticipated relating to correcting the emergency. Additionally this section shall not apply to architectural and engineering or other technical or professional services performed by public employees in connection with a public works project.

(13) In lieu of the procedures of subsections (3) through (11) of this section, a county may use a small works roster process and award contracts for public works projects with an estimated value of ten thousand dollars up to one hundred thousand dollars as provided in RCW 39.04.155.

Whenever possible, the county shall invite at least one proposal from a minority or woman contractor who shall otherwise qualify under this section.

(14) The allocation of public works projects to be performed by county employees shall not be subject to a collective bargaining agreement.

(15) This section does not apply to performance-based contracts, as defined in RCW 39.35A.020(3), that are negotiated under chapter 39.35A RCW.

(16) Nothing in this section prohibits any county from allowing for preferential purchase of products made from recycled materials or products that may be recycled or reused.

(17) This section does not apply to contracts between the public stadium authority and a team affiliate under section 106(4) of this act, or development agreements between the public stadium authority and a team affiliate under section 106(7) of this act or leases entered into under section 106(8) of this act.

Sec. 402. RCW 39.04.010 and 1993 c 174 s 1 are each amended to read as follows:

The term state shall include the state of Washington and all departments, supervisors, commissioners and agencies thereof.

The term municipality shall include every city, county, town, district or other public agency thereof which is authorized by law to require the execution of public work, except drainage districts, diking districts, diking and drainage improvement districts, drainage improvement districts, diking improvement districts, consolidated diking and drainage improvement districts, consolidated drainage improvement districts, consolidated diking improvement districts, irrigation districts or any such other districts as shall from time to time be authorized by law for the reclamation or development of waste or undeveloped lands.

The term public work shall include all work, construction, alteration, repair, or improvement other than ordinary maintenance, executed at the cost of the state or of any municipality, or which is by law a lien or charge on any property therein. All public works, including maintenance when performed by contract shall comply with the provisions of RCW 39.12.020. The term does not include work, construction, alteration, repair, or improvement performed under contracts entered into under section 106(4) of this act or under development agreements entered into under section 106(7) of this act or leases entered into under section 106(8) of this act.

The term contract shall mean a contract in writing for the execution of public work for a fixed or determinable amount duly awarded after advertisement and competitive bid. However, a contract which is awarded from a small works roster under the authority of RCW 39.04.150, 35.22.620, 28B.10.355, 35.82.075, and 57.08.050 need not be advertised.

NEW SECTION. Sec. 403. A new section is added to chapter 39.30 RCW to read as follows:

This chapter does not apply to contracts entered into under section 106(4) of this act or development agreements entered into under section 106(7) of this act.

Sec. 404. RCW 39.10.120 and 1995 3rd sp.s. c 1 s 305 are each amended to read as follows:

(1) Except as provided in subsections (2) and (3) of this section, the alternative public works contracting procedures authorized under this chapter are limited to public works contracts signed before July 1, ((1997)) 2001. Methods of public works contracting authorized by RCW 39.10.050 and 39.10.060 shall remain in full force and effect until completion of contracts signed before July 1, ((1997)) 2001.

(2) For the purposes of a baseball stadium as defined in RCW 82.14.0485, the design-build contracting procedures under RCW 39.10.050 shall remain in full force and effect until completion of contracts signed before December 31, 1997.

(3) For the purposes of a stadium and exhibition center, as defined in section 101 of this act, the design-build contracting procedures under RCW 39.10.050 shall remain in full force and effect until completion of contracts signed before December 31, 2002.

**PART V
KINGDOME DEBT**

Sec. 501. RCW 67.28.180 and 1995 1st sp.s. c 14 s 10 are each amended to read as follows:

(1) Subject to the conditions set forth in subsections (2) and (3) of this section, the legislative body of any county or any city, is authorized to levy and collect a special excise tax of not to exceed two percent on the sale of or charge made for the furnishing of lodging by a hotel, rooming house, tourist court, motel, trailer camp, and the granting of any similar license to use real property, as distinguished from the renting or leasing of real property: **PROVIDED**, That it shall be presumed that the occupancy of real property for a continuous period of one month or more constitutes a rental or lease of real property and not a mere license to use or to enjoy the same.

(2) Any levy authorized by this section shall be subject to the following:

(a) Any county ordinance or resolution adopted pursuant to this section shall contain, in addition to all other provisions required to conform to this chapter, a provision allowing a credit against the county tax for the full amount of any city tax imposed pursuant to this section upon the same taxable event.

(b) In the event that any county has levied the tax authorized by this section and has, prior to June 26, 1975, either pledged the tax revenues for payment of principal and interest on city revenue or general obligation bonds authorized and issued pursuant to RCW 67.28.150 through 67.28.160 or has authorized and issued revenue or general obligation bonds pursuant to the provisions of RCW 67.28.150 through 67.28.160, such county shall be exempt from the provisions of (a) of this subsection, to the extent that the tax revenues are pledged for payment of principal and interest on bonds issued at any time pursuant to the provisions of RCW 67.28.150 through 67.28.160: **PROVIDED**, That so much of such pledged tax revenues, together with any investment earnings thereon, not immediately necessary for actual payment of principal and interest on such bonds may be used:

(i) In any county with a population of one million or more, for repayment either of limited tax levy general obligation bonds or of any county fund or account from which a loan was made, the proceeds from the bonds or loan being used to pay for constructing, installing, improving, and equipping stadium capital improvement projects, and to pay for any engineering, planning, financial, legal and professional services incident to the development of such stadium capital improvement projects, regardless of the date the debt for such capital improvement projects was or may be incurred; ~~((or))~~ (ii) in any county with a population of one million or more, for repayment or refinancing of bonded indebtedness incurred prior to January 1, 1997, for any purpose authorized by this section or relating to stadium repairs or rehabilitation, including but not limited to the cost of settling legal claims, reimbursing operating funds, interest payments on short-term loans, and any other purpose for which such debt has been incurred if the county has created a public stadium authority to develop a stadium and exhibition center under section 103 of

this act; or (iii) in other counties, for county-owned facilities for agricultural promotion. A county is exempt under this subsection in respect to city revenue or general obligation bonds issued after April 1, 1991, only if such bonds mature before January 1, 2013.

As used in this subsection (2)(b), "capital improvement projects" may include, but not be limited to a stadium restaurant facility, restroom facilities, artificial turf system, seating facilities, parking facilities and scoreboard and information system adjacent to or within a county owned stadium, together with equipment, utilities, accessories and appurtenances necessary thereto. The stadium restaurant authorized by this subsection (2)(b) shall be operated by a private concessionaire under a contract with the county.

(c)(i) No city within a county exempt under subsection (2)(b) of this section may levy the tax authorized by this section so long as said county is so exempt(~~PROVIDED, That~~),

(ii) If bonds have been issued under section 210 of this act and any necessary property transfers have been made under section 109 of this act, no city within a county with a population of one million or more may levy the tax authorized by this section before January 1, 2021.

(iii) However, in the event that any city in (~~such~~) a county described in (i) or (ii) of this subsection (2)(c) has levied the tax authorized by this section and has, prior to June 26, 1975, authorized and issued revenue or general obligation bonds pursuant to the provisions of RCW 67.28.150 through 67.28.160, such city may levy the tax so long as the tax revenues are pledged for payment of principal and interest on bonds issued at any time pursuant to the provisions of RCW 67.28.150 through 67.28.160.

(3) Any levy authorized by this section by a county that has levied the tax authorized by this section and has, prior to June 26, 1975, either pledged the tax revenues for payment of principal and interest on city revenue or general obligation bonds authorized and issued pursuant to RCW 67.28.150 through 67.28.160 or has authorized and issued revenue or general obligation bonds pursuant to the provisions of RCW 67.28.150 through 67.28.160 shall be subject to the following:

(a) Taxes collected under this section in any calendar year before 2013 in excess of five million three hundred thousand dollars shall only be used as follows:

(i) Seventy-five percent from January 1, 1992, through December 31, 2000, and seventy percent from January 1, 2001, through December 31, 2012, for art museums, cultural museums, heritage museums, the arts, and the performing arts. Moneys spent under this subsection (3)(a)(i) shall be used for the purposes of this subsection (3)(a)(i) in all parts of the county.

(ii) Twenty-five percent from January 1, 1992, through December 31, 2000, and thirty percent from January 1, 2001, through December 31, 2012, for the following purposes and in a manner reflecting the following order of priority: Stadium (~~capital improvements, as defined in~~) purposes as authorized under subsection (2)(b) of this section; acquisition of open space lands; youth sports

activities; and tourism promotion. If all or part of the debt on the stadium is refinanced, all revenues under this subsection (3)(a)(i) shall be used to retire the debt.

(b) From January 1, 2013, through December 31, 2015, in a county with a population of one million or more, all revenues under this section shall be used to retire the debt on the stadium, or deposited in the stadium and exhibition center account under section 214 of this act after the debt on the stadium is retired.

(c) From January 1, 2016, through December 31, 2020, in a county with a population of one million or more, all revenues under this section shall be deposited in the stadium and exhibition center account under section 214 of this act.

(d) At least seventy percent of moneys spent under (a)(i) of this subsection for the period January 1, 1992, through December 31, 2000, shall be used only for the purchase, design, construction, and remodeling of performing arts, visual arts, heritage, and cultural facilities, and for the purchase of fixed assets that will benefit art, heritage, and cultural organizations. For purposes of this subsection, fixed assets are tangible objects such as machinery and other equipment intended to be held or used for ten years or more. Moneys received under this subsection (3)((b)) (d) may be used for payment of principal and interest on bonds issued for capital projects. Qualifying organizations receiving moneys under this subsection (3)((b)) (d) must be financially stable and have at least the following:

- (i) A legally constituted and working board of directors;
- (ii) A record of artistic, heritage, or cultural accomplishments;
- (iii) Been in existence and operating for at least two years;
- (iv) Demonstrated ability to maintain net current liabilities at less than thirty percent of general operating expenses;
- (v) Demonstrated ability to sustain operational capacity subsequent to completion of projects or purchase of machinery and equipment; and
- (vi) Evidence that there has been independent financial review of the organization.

((e)) (e) At least forty percent of the revenues distributed pursuant to (a)(i) of this subsection for the period January 1, 2001, through December 31, 2012, shall be deposited in an account and shall be used to establish an endowment. Principal in the account shall remain permanent and irreducible. The earnings from investments of balances in the account may only be used for the purposes of (a)(i) of this subsection.

((d)) (f) School districts and schools shall not receive revenues distributed pursuant to (a)(i) of this subsection.

((e)) (g) Moneys distributed to art museums, cultural museums, heritage museums, the arts, and the performing arts, and moneys distributed for tourism promotion shall be in addition to and may not be used to replace or supplant any other funding by the legislative body of the county.

~~((f))~~ (h) As used in this section, "tourism promotion" includes activities intended to attract visitors for overnight stays, arts, heritage, and cultural events, and recreational, professional, and amateur sports events. Moneys allocated to tourism promotion in a class AA county shall be allocated to nonprofit organizations formed for the express purpose of tourism promotion in the county. Such organizations shall use moneys from the taxes to promote events in all parts of the class AA county.

~~((g))~~ (i) No taxes collected under this section may be used for the operation or maintenance of a public stadium that is financed directly or indirectly by bonds to which the tax is pledged. Expenditures for operation or maintenance include all expenditures other than expenditures that directly result in new fixed assets or that directly increase the capacity, life span, or operating economy of existing fixed assets.

~~((h))~~ (j) No ad valorem property taxes may be used for debt service on bonds issued for a public stadium that is financed by bonds to which the tax is pledged, unless the taxes collected under this section are or are projected to be insufficient to meet debt service requirements on such bonds.

~~((i))~~ (k) If a substantial part of the operation and management of a public stadium that is financed directly or indirectly by bonds to which the tax is pledged is performed by a nonpublic entity or if a public stadium is sold that is financed directly or indirectly by bonds to which the tax is pledged, any bonds to which the tax is pledged shall be retired. This subsection (3)~~((i))~~ (k) does not apply in respect to a public stadium under chapter 36.—RCW (sections 101 through 119 and 201 of this act) transferred to, owned by, or constructed by a public facilities district under chapter 36.100 RCW or a stadium and exhibition center.

~~((j))~~ (l) The county shall not lease a public stadium that is financed directly or indirectly by bonds to which the tax is pledged to, or authorize the use of the public stadium by, a professional major league sports franchise unless the sports franchise gives the right of first refusal to purchase the sports franchise, upon its sale, to local government. This subsection (3)~~((j))~~ (l) does not apply to contracts in existence on April 1, 1986.

If a court of competent jurisdiction declares any provision of this subsection (3) invalid, then that invalid provision shall be null and void and the remainder of this section is not affected.

Sec. 502. RCW 82.14.049 and 1992 c 194 s 3 are each amended to read as follows:

The legislative authority of any county may impose a sales and use tax, in addition to the tax authorized by RCW 82.14.030, upon retail car rentals within the county that are taxable by the state under chapters 82.08 and 82.12 RCW. The rate of tax shall be one percent of the selling price in the case of a sales tax or rental value of the vehicle in the case of a use tax. Proceeds of the tax shall not be used to subsidize any professional sports team and shall be used solely for the following purposes:

(1) Acquiring, constructing, maintaining, or operating public sports stadium facilities;

(2) Engineering, planning, financial, legal, or professional services incidental to public sports stadium facilities; ~~((or))~~

(3) Youth or amateur sport activities or facilities; or

(4) Debt or refinancing debt issued for the purposes of subsection (1) of this section.

At least seventy-five percent of the tax imposed under this section shall be used for the purposes of subsections (1), (2), and (4) of this section.

PART VI MISCELLANEOUS

NEW SECTION. Sec. 601. Part headings used in this act are not any part of the law.

NEW SECTION. Sec. 602. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

NEW SECTION. Sec. 603. (1) Sections 101 through 119 and 201 of this act constitute a new chapter in Title 36 RCW.

(2) Sections 209 through 219 of this act constitute a new chapter in Title 43 RCW.

NEW SECTION. Sec. 604. The referendum on this act is the only measure authorizing, levying, or imposing taxes for a stadium and exhibition center that may be put to a public vote. Should the act fail to be approved at the special election on or before June 20, 1997, the legislature shall not pass other legislation to build or finance a stadium and exhibition center, as defined in section 101 of this act, for the team affiliate.

NEW SECTION. Sec. 605. The legislature neither affirms nor refutes the value of this proposal, and by this legislation simply expresses its intent to provide the voter of the state of Washington an opportunity to express the voter's decision. It is also expressed that many legislators might personally vote against this proposal at the polls, or they might not.

NEW SECTION. Sec. 606. Notwithstanding any other provision of this act, this act shall be null and void in its entirety unless the team affiliate as defined in section 101 of this act enters into an agreement with the secretary of state to reimburse the state and the counties for the full cost of the special election to be held on or before June 20, 1997.

NEW SECTION. Sec. 607. (1) The secretary of state shall submit sections 101 through 604 of this act to the people for their adoption and ratification, or rejection, at a special election to be held in this state on or before June 20, 1997, in accordance with Article II, section 1 of the state Constitution and the laws

adopted to facilitate its operation. The special election shall be limited to submission of this act to the people.

(2) The attorney general shall prepare the explanatory statement required by RCW 29.81.020 and transmit that statement regarding the referendum to the secretary of state no later than the last Monday of April before the special election.

(3) The secretary of state shall prepare and distribute a voters' pamphlet addressing this referendum measure following the procedures and requirements of chapter 29.81 RCW, except that the secretary of state may establish different deadlines for the appointment of committees to draft arguments for and against the referendum, for submitting arguments for and against the referendum, and for submitting rebuttal statements of arguments for and against the referendum. The voters' pamphlet description of the referendum measure shall include information to inform the public that ownership of the KingDome may be transferred to the public stadium authority and that the KingDome will be demolished in order to accommodate the new football stadium.

(4) A county auditor may conduct the voting at this special election in all precincts of the county by mail using the procedures set forth in RCW 29.36.121 through 29.36.139.

(5) Notwithstanding the provisions of RCW 29.62.020, the county canvassing board in each county shall canvass and certify the votes cast at this special election in that county to the secretary of state no later than the seventh day following the election. Notwithstanding the provisions of RCW 29.62.120, the secretary of state shall canvass and certify the returns from the counties no later than the ninth day following the special election.

(6) The secretary of state shall reimburse each county for the cost of conducting the special election in that county in the same manner as state primary and general election costs are reimbursed under RCW 29.13.047 (1) and (3).

(7) No other state, county, or local election shall be required or held on any proposition related to or affecting the stadium and exhibition center defined in section 101 of this act.

NEW SECTION. Sec. 608. Sections 606 and 607 of this act are necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and take effect immediately.

Passed the House April 25, 1997.

Passed the Senate April 26, 1997.

Approved by the Governor April 26, 1997.

Filed in Office of Secretary of State April 26, 1997.

CHAPTER 221

[House Bill 1102]

PUBLIC EMPLOYEE RETIREMENT BENEFITS—EXCESS COMPENSATION CLARIFIED

AN ACT Relating to retirement benefits based on the definition of excess compensation; and amending RCW 41.50.150.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 41.50.150 and 1995 c 244 s 1 are each amended to read as follows:

(1) The employer of any employee whose retirement benefits are based in part on excess compensation, as defined in this section, shall, upon receipt of a billing from the department, pay into the appropriate retirement system the present value at the time of the employee's retirement of the total estimated cost of all present and future benefits from the retirement system attributable to the excess compensation. The state actuary shall determine the estimated cost using the same method and procedure as is used in preparing fiscal note costs for the legislature. However, the director may in the director's discretion decline to bill the employer if the amount due is less than fifty dollars. Accounts unsettled within thirty days of the receipt of the billing shall be assessed an interest penalty of one percent of the amount due for each month or fraction thereof beyond the original thirty-day period.

(2) "Excess compensation," as used in this section, includes ~~((any payment that was))~~ the following payments, if used in the calculation of the employee's retirement allowance((; except regular salary and overtime compensated at up to twice the regular rate of pay. Excess compensation includes but is not limited to)):

(a) A cash out of unused annual leave in excess of two hundred forty hours of such leave. "Cash out" for purposes of this subsection means;

(i) Any payment in lieu of an accrual of annual leave; or

(ii) Any payment added to salary or wages, concurrent with a reduction of annual leave;

(b) A cash out of any other form of leave;

(c) A payment for, or in lieu of, any personal expense or transportation allowance to the extent that payment qualifies as reportable compensation in the member's retirement system;

(d) The portion of any payment, including overtime payments, that exceeds twice the regular daily or hourly rate of pay; and

(e) Any ~~((other))~~ termination or severance payment.

(3) This section applies to the retirement systems listed in RCW 41.50.030 and to retirements occurring on or after March 15, 1984. Nothing in this section is intended to amend or determine the meaning of any definition in chapter 2.10, 2.12, 41.26, 41.32, 41.40, or 43.43 RCW or to determine in any manner what payments are includable in the calculation of a retirement allowance under such chapters.

(4) An employer is not relieved of liability under this section because of the death of any person either before or after the billing from the department.

Passed the House February 28, 1997.

Passed the Senate April 17, 1997.

Approved by the Governor April 26, 1997.

Filed in Office of Secretary of State April 26, 1997.

CHAPTER 222

[House Bill 1202]

HIGH SCHOOL CREDIT EQUIVALENCIES

AN ACT Relating to high school credit equivalencies; amending RCW 28A.230.090 and 28A.305.285; and creating a new section.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. Sec. 1. In 1994, the legislature directed the higher education board and the state board of education to convene a task force to examine and provide recommendations on establishing credit equivalencies. In November 1994, the task force recommended unanimously that the state board of education maintain the definition of five quarter or three semester college credits as equivalent to one high school credit. Therefore, the legislature intends to adopt the recommendations of the task force.

Sec. 2. RCW 28A.230.090 and 1993 c 371 s 3 are each amended to read as follows:

(1) The state board of education shall establish high school graduation requirements or equivalencies for students. Any course in Washington state history and government used to fulfill high school graduation requirements is encouraged to include information on the culture, history, and government of the American Indian peoples who were the first inhabitants of the state.

(2) In recognition of the statutory authority of the state board of education to establish and enforce minimum high school graduation requirements, the state board shall periodically reevaluate the graduation requirements and shall report such findings to the legislature in a timely manner as determined by the state board.

(3) Pursuant to any requirement for instruction in languages other than English established by the state board of education or a local school district, or both, for purposes of high school graduation, students who receive instruction in American sign language or one or more American Indian languages shall be considered to have satisfied the state or local school district graduation requirement for instruction in one or more languages other than English.

(4) If requested by the student and his or her family, a student who has completed high school courses before attending high school shall be given high school credit which shall be applied to fulfilling high school graduation requirements if:

(a) The course was taken with high school students, if the academic level of the course exceeds the requirements for seventh and eighth grade classes, and the

student has successfully passed by completing the same course requirements and examinations as the high school students enrolled in the class; or

(b) The academic level of the course exceeds the requirements for seventh and eighth grade classes and the course would qualify for high school credit, because the course is similar or equivalent to a course offered at a high school in the district as determined by the school district board of directors.

(5) Students who have taken and successfully completed high school courses under the circumstances in subsection (4) of this section shall not be required to take an additional competency examination or perform any other additional assignment to receive credit. Subsection (4) of this section shall also apply to students enrolled in high school on April 11, 1990, who took the courses before attending high school.

(6) At the college or university level, five quarter or three semester hours equals one high school credit.

Sec. 3. RCW 28A.305.285 and 1994 c 222 s 2 are each amended to read as follows:

~~((+))~~ By May 1, 1994, or as soon as possible thereafter, the higher education coordinating board and the state board of education shall convene a task force creating a forum for ongoing discussion of curriculum issues that transect higher education and the common schools. In selecting members of the task force, the boards shall consult the office of the superintendent of public instruction, the commission on student learning, the state board for community and technical colleges, the work force training and education coordinating board, the Washington council on high school-college relations, representatives of the four-year institutions, representatives of the school directors, the school and district administrators, teachers, higher education faculty, students, counselors, vocational directors, parents, and other interested organizations. The process shall be designed to provide advice and counsel to the appropriate boards on topics that may include but are not limited to: ~~((+))~~ (1) The changing nature of educational instruction and crediting, and awarding appropriate credit for knowledge and competencies learned in a variety of ways in both institutions of higher education and high schools; ~~((b))~~ (2) options for students to enroll in programs and institutions that will best meet the students' needs and educational goals; and ~~((e))~~ (3) articulation agreements between institutions of higher education and high schools.

~~((2) By December 30, 1994, after considering the advice of the task force created in this section, the higher education coordinating board and the state board of education shall report the recommendations on establishing credit equivalencies to the house of representatives and senate education and higher education committees.)~~

Passed the House February 28, 1997.
Passed the Senate April 17, 1997.
Approved by the Governor April 26, 1997.
Filed in Office of Secretary of State April 26, 1997.

CHAPTER 223

[House Bill 1269]

DEATH INVESTIGATIONS FUNDING

AN ACT Relating to death investigations; and amending RCW 70.58.107.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 70.58.107 and 1991 c 3 s 343 are each amended to read as follows:

The department of health shall charge a fee of ~~((eleven))~~ thirteen dollars for certified copies of records and for copies or information provided for research, statistical, or administrative purposes, and eight dollars for a search of the files or records when no copy is made. The department shall prescribe by regulation fees to be paid for preparing sealed files and for opening sealed files.

No fee may be demanded or required for furnishing certified copies of a birth, death, fetal death, marriage, divorce, annulment, or legal separation record for use in connection with a claim for compensation or pension pending before the veterans administration.

The department shall keep a true and correct account of all fees received and turn the fees over to the state treasurer on a weekly basis.

Local registrars shall charge the same fees as the state as hereinabove provided and as prescribed by department regulation, except that local registrars shall charge ~~((eleven))~~ thirteen dollars for the first copy of a death certificate and ~~((six))~~ eight dollars for each additional copy of the same death certificate when the additional copies are ordered at the same time as the first copy. All such fees collected, except for ~~((three))~~ five dollars of each fee for the issuance of a certified copy, shall be paid to the jurisdictional health department.

All local registrars in cities and counties shall keep a true and correct account of all fees received under this section for the issuance of certified copies and shall turn ~~((three))~~ five dollars of the fee over to the state treasurer on or before the first day of January, April, July, and October.

~~((Three))~~ Five dollars of each fee imposed for the issuance of certified copies, except for copies suitable for display issued under RCW 70.58.085, at both the state and local levels shall be held by the state treasurer in the death investigations' account established by RCW 43.79.445.

Passed the House March 18, 1997.
Passed the Senate April 16, 1997.
Approved by the Governor April 26, 1997.
Filed in Office of Secretary of State April 26, 1997.

CHAPTER 224

[House Bill 1588]

HEARING INSTRUMENTS—SALES AND USE TAX EXEMPTIONS

AN ACT Relating to tax exemptions for hearing instruments; amending RCW 82.08.0283 and 82.12.0277; and providing an effective date.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 82.08.0283 and 1996 c 162 s 1 are each amended to read as follows:

The tax levied by RCW 82.08.020 shall not apply to sales of insulin; prosthetic ~~((and))~~ devices; orthotic devices prescribed for an individual by a person licensed under chapters 18.25, 18.57, or 18.71 RCW ~~((or))~~; hearing instruments dispensed or fitted by a person licensed or certified under chapter 18.35 RCW; medicines of mineral, animal, and botanical origin prescribed, administered, dispensed, or used in the treatment of an individual by a person licensed under chapter 18.36A RCW; ostomic items; and medically prescribed oxygen~~((—For the purposes of this section, "medically prescribed oxygen" includes, but is not limited to, sale or rental of))~~, including, but not limited to, oxygen concentrator systems, oxygen enricher systems, liquid oxygen systems, and gaseous, bottled oxygen systems ~~((to))~~ prescribed for an individual ~~((under a prescription issued))~~ by a person licensed under chapter 18.57 or 18.71 RCW for use in the medical treatment of that individual. In addition, the tax levied by RCW 82.08.020 shall not apply to charges made for labor and services rendered in respect to the repairing, cleaning, altering, or improving of hearing instruments exempted under this section.

Sec. 2. RCW 82.12.0277 and 1996 c 162 s 2 are each amended to read as follows:

The provisions of this chapter shall not apply in respect to the use of insulin; prosthetic ~~((and))~~ devices; orthotic devices prescribed for an individual by a person licensed under chapters 18.25, 18.57, or 18.71 RCW ~~((or))~~; hearing instruments dispensed or fitted by a person licensed or certified under chapter 18.35 RCW; medicines of mineral, animal, and botanical origin prescribed, administered, dispensed, or used in the treatment of an individual by a person licensed under chapter 18.36A RCW; ostomic items; and medically prescribed oxygen~~((—For the purposes of this section, "medically prescribed oxygen" includes, but is not limited to, sale or rental of))~~, including, but not limited to, oxygen concentrator systems, oxygen enricher systems, liquid oxygen systems, and gaseous, bottled oxygen systems ~~((to))~~ prescribed for an individual ~~((under a prescription issued))~~ by a person licensed under chapter 18.57 or 18.71 RCW for use in the medical treatment of that individual.

NEW SECTION. **Sec. 3.** This act takes effect October 1, 1998.

Passed the House March 13, 1997.
Passed the Senate April 17, 1997.
Approved by the Governor April 26, 1997.
Filed in Office of Secretary of State April 26, 1997.

CHAPTER 225

[Substitute House Bill 1726]

BURNING OF STORM OR FLOOD-RELATED DEBRIS

AN ACT Relating to outdoor burning of storm or flood-related debris; and amending RCW 70.94.743 and 70.94.755.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 70.94.743 and 1991 c 199 s 402 are each amended to read as follows:

(1) Consistent with the policy of the state to reduce outdoor burning to the greatest extent practical:

(a) Outdoor burning shall not be allowed in any area of the state where federal or state ambient air quality standards are exceeded for pollutants emitted by outdoor burning.

(b) Outdoor burning shall not be allowed in any urban growth area as defined by RCW 36.70A.030, or any city of the state having a population greater than ten thousand people if such cities are threatened to exceed state or federal air quality standards, and alternative disposal practices consistent with good solid waste management are reasonably available or practices eliminating production of organic refuse are reasonably available. In no event shall such burning be allowed after December 31, 2000.

(c) Notwithstanding any other provision of this section, outdoor burning may be allowed for the exclusive purpose of managing storm or flood-related debris. The decision to allow burning shall be made by the entity with permitting jurisdiction as determined under RCW 70.94.660 or 70.94.755. If outdoor burning is allowed in areas subject to (a) or (b) of this subsection, a permit shall be required, and a fee may be collected to cover the expenses of administering and enforcing the permit. All conditions and restrictions pursuant to RCW 70.94.750(1) and 70.94.775 apply to outdoor burning allowed under this section.

(2) "Outdoor burning" means the combustion of material of any type in an open fire or in an outdoor container without providing for the control of combustion or the control of emissions from the combustion.

(3) This section shall not apply to silvicultural burning used to improve or maintain fire dependent ecosystems for rare plants or animals within state, federal, and private natural area preserves, natural resource conservation areas, parks, and other wildlife areas.

Sec. 2. RCW 70.94.755 and 1972 ex.s. c 136 s 4 are each amended to read as follows:

Each activated air pollution control authority, and the department of ecology in those areas outside the jurisdictional boundaries of an activated air pollution control authority, shall establish, through regulations, ordinances, or policy, a program implementing the limited burning policy authorized by RCW ((70.94.740)) 70.94.743 through 70.94.765.

Passed the House March 11, 1997.
Passed the Senate April 16, 1997.
Approved by the Governor April 26, 1997.
Filed in Office of Secretary of State April 26, 1997.

CHAPTER 226

[Substitute House Bill 1806]

ILLEGAL KILLING AND POSSESSION OF WILDLIFE--RESTITUTION

AN ACT Relating to the illegal killing and possession of wildlife; amending RCW 77.21.070; and creating a new section.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. Sec. 1. The legislature finds that wildlife is of great ecological, recreational, aesthetic, and economic value to the people of the state. The legislature further finds that the illegal taking and possession of certain valuable wildlife species is increasing at an alarming rate and the state should be paid restitution for the loss of individual members of these wildlife species.

Sec. 2. RCW 77.21.070 and 1989 c 11 s 28 are each amended to read as follows:

(1) Whenever a person is convicted of illegal killing or possession of wildlife listed in this subsection, the convicting court shall order the person to ~~((reimburse))~~ pay restitution to the state in the following amounts for each animal killed or possessed:

- (a) Moose, ~~((antelope,))~~ mountain sheep, mountain goat, and all wildlife species classified as endangered by rule of the commission, except for mountain caribou and grizzly bear as listed under (d) of this subsection ~~(((\$2,000))~~ \$4,000.00
- (b) Elk, deer, black bear, and cougar ~~(((\$1,000))~~ \$2,000.00
- (c) ~~((Mountain caribou and grizzly bear~~ ~~\$5,000))~~
Trophy animal elk and deer \$6,000.00
- (d) Mountain caribou, grizzly bear, trophy animal mountain sheep . \$12,000.00

(2) For the purpose of this section, the term "convicted" includes a plea of guilty, a finding of guilt regardless of whether the imposition of the sentence is deferred or any part of the penalty is suspended, and the payment of a fine. No court may establish bail for illegal possession of wildlife listed in subsection (1) of this section in an amount less than the bail established for hunting during the closed season plus the ~~((reimbursement))~~ restitution value of wildlife set forth in subsection (1) of this section.

(3) For the purpose of this section a "trophy animal" is:

(a) A buck deer with four or more antler points on either side;

(b) A bull elk with five or more antler points on either side; or

(c) A mountain sheep with a horn curl of three-quarter curl or greater.

(4) If two or more persons are convicted of illegally possessing wildlife listed in this section, the ((reimbursement)) restitution amount shall be imposed upon them jointly and ((separately)) severally.

~~((4))~~ (5) The ((reimbursement)) restitution amount provided in this section shall be imposed in addition to and regardless of any penalty, including fines, or costs, that is provided for violating any provision of Title 77 RCW. The ((reimbursement)) restitution required by this section shall be included by the court in any pronouncement of sentence and may not be suspended, waived, modified, or deferred in any respect. Nothing in this section may be construed to abridge or alter alternative rights of action or remedies in equity or under common law or statutory law, criminal or civil.

~~((5))~~ (6) A defaulted ((reimbursement)) restitution or any installment payment thereof may be collected by any means authorized by law for the enforcement of orders of the court or collection of a fine or costs, including vacation of a deferral of sentencing or of a suspension of sentence.

(7) A person assessed a restitution under this section shall have his or her hunting license revoked and all hunting privileges suspended until the restitution is paid through the registry of the court in which the restitution was assessed.

Passed the House March 12, 1997.

Passed the Senate April 14, 1997.

Approved by the Governor April 26, 1997.

Filed in Office of Secretary of State April 26, 1997.

CHAPTER 227

[Engrossed House Bill 1832]

PLANT PEST CONTROL FUNDING

AN ACT Relating to the transfer of funds to provide for plant pest control activities; amending RCW 17.24.131; adding a new section to chapter 15.17 RCW; and declaring an emergency.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. **Sec. 1.** A new section is added to chapter 15.17 RCW to read as follows:

The inspector-at-large for district two as defined in WAC 16-458-075 is authorized to transfer two hundred thousand dollars from the horticultural district fund to the plant pest account within the agricultural local fund. The amount transferred is to be derived from fees collected for state inspections of tree fruits and is to be used solely for activities related to the control of *Rhagoletis pomonella* in district two. The transfer of funds shall occur by June 1, 1997. On June 30,

1999, any unexpended portion of the two hundred thousand dollars shall be returned to the horticultural district fund.

Sec. 2. RCW 17.24.131 and 1991 c 257 s 17 are each amended to read as follows:

To facilitate the movement or sale of forest, agricultural, floricultural, horticultural and related products, or bees and related products, the director may provide, if requested by farmers, growers, or other interested persons, special inspections, pest identifications, plant identifications, plant diagnostic services, pest control activities, other special certifications and activities not otherwise authorized by statute and ~~((to))~~ prescribe a fee for that service. The fee shall, as closely as practical, cover the cost of the service rendered, including the salaries and expenses of the personnel involved. Moneys collected shall be deposited in the plant pest account, which is hereby created within the agricultural local fund. No appropriation is required for disbursement from the plant pest account to provide the services authorized by this section. In lieu of a fee, assessments and other funds deposited in the plant pest account may be disbursed to provide the services authorized by this section.

NEW SECTION. Sec. 3. This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately.

Passed the House March 11, 1997.

Passed the Senate April 17, 1997.

Approved by the Governor April 26, 1997.

Filed in Office of Secretary of State April 26, 1997.

CHAPTER 228

[House Bill 1847]

ON-PREMISES SALES OF LIQUOR OTHER THAN WINE BY A MANUFACTURER

AN ACT Relating to on-premises sales of liquor other than wine by the manufacturer; and amending RCW 66.08.050.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 66.08.050 and 1993 c 25 s 1 are each amended to read as follows:

The board, subject to the provisions of this title and the ~~((regulations))~~ rules, shall:

(1) Determine the localities within which state liquor stores shall be established throughout the state, and the number and situation of the stores within each locality;

(2) Appoint in cities and towns and other communities, in which no state liquor store is located, liquor vendors. In addition, the board may appoint, in its discretion, a manufacturer that also manufactures liquor products other than wine under a license under this title, as a vendor for the purpose of sale of liquor

products of its own manufacture on the licensed premises only. Such liquor vendors shall be agents of the board and be authorized to sell liquor to such persons, firms or corporations as provided for the sale of liquor from a state liquor store, and such vendors shall be subject to such additional rules and regulations consistent with this title as the board may require;

(3) Establish all necessary warehouses for the storing and bottling, diluting and rectifying of stocks of liquors for the purposes of this title;

(4) Provide for the leasing for periods not to exceed ten years of all premises required for the conduct of the business; and for remodeling the same, and the procuring of their furnishings, fixtures, and supplies; and for obtaining options of renewal of such leases by the lessee. The terms of such leases in all other respects shall be subject to the direction of the board;

(5) Determine the nature, form and capacity of all packages to be used for containing liquor kept for sale under this title;

(6) Execute or cause to be executed, all contracts, papers, and documents in the name of the board, under such regulations as the board may fix;

(7) Pay all customs, duties, excises, charges and obligations whatsoever relating to the business of the board;

(8) Require bonds from all employees in the discretion of the board, and to determine the amount of fidelity bond of each such employee;

(9) Perform services for the state lottery commission to such extent, and for such compensation, as may be mutually agreed upon between the board and the commission;

(10) Accept and deposit into the general fund-local account and disburse, subject to appropriation, federal grants or other funds or donations from any source for the purpose of improving public awareness of the health risks associated with alcohol consumption by youth and the abuse of alcohol by adults in Washington state. The board's alcohol awareness program shall cooperate with federal and state agencies, interested organizations, and individuals to effect an active public beverage alcohol awareness program;

(11) Perform all other matters and things, whether similar to the foregoing or not, to carry out the provisions of this title, and shall have full power to do each and every act necessary to the conduct of its business, including all buying, selling, preparation and approval of forms, and every other function of the business whatsoever, subject only to audit by the state auditor: **PROVIDED**, That the board shall have no authority to regulate the content of spoken language on licensed premises where wine and other liquors are served and where there is not a clear and present danger of disorderly conduct being provoked by such language.

Passed the House March 13, 1997.

Passed the Senate April 11, 1997.

Approved by the Governor April 26, 1997.

Filed in Office of Secretary of State April 26, 1997.

CHAPTER 229

[Engrossed House Bill 1940]

DRIVING WHILE UNDER THE INFLUENCE OF LIQUOR OR DRUGS—IGNITION
INTERLOCKS

AN ACT Relating to driving while under the influence of liquor or drugs; amending RCW 10.05.090, 10.05.140, 46.20.3101, 46.20.380, 46.20.391, 46.20.394, 46.20.400, 46.20.720, 46.20.730, 46.20.740, 46.61.5055, and 46.61.5056; reenacting and amending RCW 46.63.020; adding a new section to chapter 46.04 RCW; recodifying RCW 46.20.730; prescribing penalties; and providing an effective date.

Be it enacted by the Legislature of the State of Wasbington:

Sec. 1. RCW 10.05.090 and 1994 c 275 s 18 are each amended to read as follows:

If a petitioner, who has been accepted for a deferred prosecution, fails or neglects to carry out and fulfill any term or condition of the petitioner's treatment plan or any term or condition imposed in connection with the installation of an interlock or other device under RCW 46.20.720, the facility, center, institution, or agency administering the treatment or the entity administering the use of the device, shall immediately report such breach to the court, the prosecutor, and the petitioner or petitioner's attorney of record, together with its recommendation. The court upon receiving such a report shall hold a hearing to determine whether the petitioner should be removed from the deferred prosecution program. At the hearing, evidence shall be taken of the petitioner's alleged failure to comply with the treatment plan or device installation and the petitioner shall have the right to present evidence on his or her own behalf. The court shall either order that the petitioner continue on the treatment plan or be removed from deferred prosecution. If removed from deferred prosecution, the court shall enter judgment pursuant to RCW 10.05.020 and, if the charge for which the deferred prosecution was granted was a misdemeanor or gross misdemeanor under Title 46 RCW, shall notify the department of licensing of the removal and entry of judgment.

Sec. 2. RCW 10.05.140 and 1991 c 247 s 1 are each amended to read as follows:

As a condition of granting a deferred prosecution petition, the court shall order that the petitioner shall not operate a motor vehicle upon the public highways without a valid operator's license and proof of liability insurance. The amount of liability insurance shall be established by the court at not less than that established by RCW 46.29.490. As a condition of granting a deferred prosecution petition, the court may also order the installation of an interlock or other device under RCW 46.20.720. As a condition of granting a deferred prosecution petition, the court may order the petitioner to make restitution and to pay costs as defined in RCW 10.01.160. The court may terminate the deferred prosecution program upon violation of this section.

***Sec. 3.** *RCW 46.20.3101 and 1995 c 332 s 3 are each amended to read as follows:*

Pursuant to RCW 46.20.308, the department shall suspend, revoke, or deny the arrested person's license, permit, or privilege to drive as follows:

(1) In the case of a person who has refused a test or tests:

(a) For a first refusal within five years, where there has not been a previous incident within five years that resulted in administrative action under this section, revocation or denial for (~~one-year~~) five hundred forty days;

(b) For a second (~~or subsequent~~) refusal within five years, or for a first refusal where there has been one or more previous incidents within five years that have resulted in administrative action under this section, revocation or denial for (~~two~~) three years or until the person reaches age twenty-one, whichever is longer. A revocation imposed under this subsection (1)(b) shall run consecutively to the period of any suspension, revocation, or denial imposed pursuant to a criminal conviction arising out of the same incident;

(c) For a third or subsequent refusal within five years, or for a second refusal where there has been two or more previous incidents within five years that have resulted in administrative action under this section, revocation or denial for four years or until the person reaches age twenty-one, whichever is longer. A revocation imposed under this subsection (1)(c) runs consecutively to the period of any suspension, revocation, or denial imposed under a criminal conviction arising out of the same incident.

(2) In the case of an incident where a person has submitted to or been administered a test or tests indicating that the alcohol concentration of the person's breath or blood was 0.10 or more:

(a) For a first incident within five years, where there has not been a previous incident within five years that resulted in administrative action under this section, placement in probationary status as provided in RCW 46.20.355;

(b) For a second or subsequent incident within five years, revocation or denial for two years.

(3) In the case of an incident where a person under age twenty-one has submitted to or been administered a test or tests indicating that the alcohol concentration of the person's breath or blood was 0.02 or more:

(a) For a first incident within five years, suspension or denial for ninety days;

(b) For a second or subsequent incident within five years, revocation or denial for one year or until the person reaches age twenty-one, whichever is longer.

(4) Ninety days after revocation or denial under subsection (1)(a) or (2)(b) of this section, or one year after revocation or denial under subsection (1)(b) or (c) of this section, the person whose license or privilege has been revoked or denied may apply to the department for issuance of a temporary restricted license under RCW 46.20.391 with the requirement that the person have an ignition interlock or other biological or technical device installed on his or her vehicle and operate no other motor vehicle for the remainder of the term of revocation

or denial. A temporary restricted license granted as the result of an application under this section extends through the period of any suspension, revocation, or denial imposed under a criminal conviction arising out of the same incident.

*Sec. 3 was vetoed. See message at end of chapter.

*Sec. 4. RCW 46.20.380 and 1985 ex.s. c 1 s 6 are each amended to read as follows:

No person may file an application for ~~((an occupational))~~ a temporary restricted driver's license as provided in RCW 46.20.391 unless he or she first pays to the director or other person authorized to accept applications and fees for driver's licenses a fee of twenty-five dollars. The applicant shall receive upon payment an official receipt for the payment of such fee. All such fees shall be forwarded to the director who shall transmit such fees to the state treasurer in the same manner as other driver's license fees.

*Sec. 4 was vetoed. See message at end of chapter.

*Sec. 5. RCW 46.20.391 and 1995 c 332 s 12 are each amended to read as follows:

(1) Any person licensed under this chapter who is convicted of an offense relating to motor vehicles for which suspension or revocation of the driver's license is mandatory, other than vehicular homicide or vehicular assault, or any person authorized to apply under RCW 46.20.3101, may submit to the department an application for ~~((an occupational))~~ a temporary restricted driver's license. The department, upon receipt of the prescribed fee and upon determining that the petitioner is ~~((engaged in an occupation or trade that makes it essential that the petitioner operate a motor vehicle))~~ eligible to receive the license under subsection (3) of this section, may issue ~~((an occupational))~~ a temporary restricted driver's license and may set definite restrictions as provided in RCW 46.20.394. No person may petition for, and the department shall not issue, ~~((an occupational))~~ a temporary restricted driver's license that is effective during the first:

(a) Thirty days of any suspension ~~((or revocation))~~ imposed ~~((for a violation of RCW 46.61.502 or 46.61.504))~~ under RCW 46.61.5055(1)(a);

(b) Thirty days of a revocation imposed under RCW 46.61.5055(1)(b);

(c) Ninety days of a revocation imposed under RCW 46.20.3101(1)(a) or (2)(b);

(d) One year of a revocation imposed under RCW 46.61.5055 (2) or (3) or 46.20.3101(1) (b) or (c).

A petitioner under (b), (c), or (d) of this subsection must also agree to have an ignition interlock or other biological or technical device installed on his or her vehicle and operate no other motor vehicle during the term of revocation. A temporary restricted license issued after a suspension or revocation under RCW 46.61.5055 or 46.20.3101 extends through the entire period of any concurrent or consecutive suspensions or revocations that may be imposed as the

result of both administrative action and criminal conviction arising out of the same incident.

(2) A person aggrieved by the decision of the department on the application for ~~((an-occupational))~~ a temporary restricted driver's license may request a hearing as provided by rule of the department.

~~((2))~~ (3) An applicant for ~~((an-occupational))~~ a temporary restricted driver's license is eligible to receive such license only if:

(a) Within one year immediately preceding the date of the offense that gave rise to the present conviction, the applicant has not committed any offense relating to motor vehicles for which suspension or revocation of a driver's license is mandatory; and

(b) Within five years immediately preceding the date of the offense that gave rise to the present conviction, the applicant has not committed ~~((any of the following offenses: (i) Driving or being in actual physical control of a motor vehicle while under the influence of intoxicating liquor; (ii)))~~ vehicular homicide under RCW 46.61.520(~~;~~) or ~~((iii))~~ vehicular assault under RCW 46.61.522; and

(c) The applicant meets at least one of the following qualifying circumstances: (i) Is engaged in an occupation or trade that makes it essential that he or she operate a motor vehicle; (ii) is undergoing continuing health care or providing continuing health care to another who is dependent upon the applicant; (iii) is enrolled in an educational institution and pursuing a course of study leading to a diploma, degree, or other certification of successful educational completion; (iv) is undergoing substance abuse treatment; or (v) is fulfilling court-ordered community service responsibilities; and

(d) The applicant files satisfactory proof of financial responsibility pursuant to chapter 46.29 RCW.

~~((3))~~ (4) The director shall cancel ~~((an-occupational))~~ a temporary restricted driver's license upon receipt of notice that the holder thereof has been convicted of operating a motor vehicle in violation of its restrictions, or of an offense that pursuant to chapter 46.20 RCW would warrant suspension or revocation of a regular driver's license. The cancellation is effective as of the date of the conviction, and continues with the same force and effect as any suspension or revocation under this title.

*Sec. 5 was vetoed. See message at end of chapter.

*Sec. 6. RCW 46.20.394 and 1983 c 165 s 26 are each amended to read as follows:

In issuing ~~((an-occupational))~~ a temporary restricted driver's license under RCW 46.20.391, the department shall describe the ~~((type-of-occupation permitted))~~ qualifying circumstances and shall set forth in detail the specific hours of the day during which the person may drive to and from his ~~((place of work))~~ or her home, which may not exceed twelve hours in any one day; the days of the week during which the license may be used; and the general routes over

which the person may travel. These restrictions shall be prepared in written form by the department, which document shall be carried in the vehicle at all times and presented to a law enforcement officer under the same terms as the ((occupational)) temporary restricted driver's license. Any violation of the restrictions constitutes a violation of RCW 46.20.342 and subjects the person to all procedures and penalties therefor.

*Sec. 6 was vetoed. See message at end of chapter.

**Sec. 7. RCW 46.20.400 and 1967 c 32 s 33 are each amended to read as follows:*

If ((an-occupational)) a temporary restricted driver's license is issued and is not revoked during the period for which issued the licensee may obtain a new driver's license at the end of such period, but no new driver's ((permit-shall)) license may be issued to such person until he or she surrenders his ((occupational)) or her temporary restricted driver's license and his or her copy of the order and the director is satisfied that he or she complies with all other provisions of law relative to the issuance of a driver's license.

*Sec. 7 was vetoed. See message at end of chapter.

Sec. 8. RCW 46.20.720 and 1994 c 275 s 22 are each amended to read as follows:

The court may order that after a period of suspension, revocation, or denial of driving privileges, and for up to as long as the court has jurisdiction, any person convicted of any offense involving the use, consumption, or possession of alcohol while operating a motor vehicle ((to)) may drive only a motor vehicle equipped with a functioning ignition interlock or other biological or technical device((, and the restriction shall be for a period of not less than six months)).

The court shall establish a specific calibration setting at which the ignition interlock or other biological or technical device will prevent the motor vehicle from being started and the period of time that the person shall be subject to the restriction.

For purposes of this section, "convicted" means being found guilty of an offense or being placed on a deferred prosecution program under chapter 10.05 RCW.

Sec. 9. RCW 46.20.730 and 1994 c 275 s 23 are each amended to read as follows:

((For the purposes of RCW 46.20.720, 46.20.740, and 46.20.750,)) "Ignition interlock device" means breath alcohol ((analyzed)) analyzing ignition equipment, certified by the state ((commission on equipment)) patrol, designed to prevent a motor vehicle from being operated by a person who has consumed an alcoholic beverage, and "other biological or technical device" means any device meeting the standards of the National Highway Traffic Safety Administration or the state ((commission on equipment)) patrol, designed to prevent the operation of a motor vehicle by a person who is impaired by alcohol or drugs. The ((commission)) state

patrol shall by rule provide standards for the certification, installation, repair, and removal of the devices.

Sec. 10. RCW 46.20.740 and 1994 c 275 s 24 are each amended to read as follows:

(1) The department shall attach or imprint a notation on the driver's license of any person restricted under RCW 46.20.720 stating that the person may operate only a motor vehicle equipped with an ignition interlock or other biological or technical device.

(2) It is a misdemeanor for a person with such a notation on his or her driver's license to operate a motor vehicle that is not so equipped.

Sec. 11. RCW 46.61.5055 and 1996 c 307 s 3 are each amended to read as follows:

(1) A person who is convicted of a violation of RCW 46.61.502 or 46.61.504 and who has no prior offense within five years shall be punished as follows:

(a) In the case of a person whose alcohol concentration was less than 0.15, or for whom for reasons other than the person's refusal to take a test offered pursuant to RCW 46.20.308 there is no test result indicating the person's alcohol concentration:

(i) By imprisonment for not less than one day nor more than one year. Twenty-four consecutive hours of the imprisonment may not be suspended or deferred unless the court finds that the imposition of this mandatory minimum sentence would impose a substantial risk to the offender's physical or mental well-being. Whenever the mandatory minimum sentence is suspended or deferred, the court shall state in writing the reason for granting the suspension or deferral and the facts upon which the suspension or deferral is based; and

(ii) By a fine of not less than three hundred fifty dollars nor more than five thousand dollars. Three hundred fifty dollars of the fine may not be suspended or deferred unless the court finds the offender to be indigent; and

(iii) By suspension of the offender's license or permit to drive, or suspension of any nonresident privilege to drive, for a period of ninety days. The period of license, permit, or privilege suspension may not be suspended. The court shall notify the department of licensing of the conviction, and upon receiving notification of the conviction the department shall suspend the offender's license, permit, or privilege; or

(b) In the case of a person whose alcohol concentration was at least 0.15, or for whom by reason of the person's refusal to take a test offered pursuant to RCW 46.20.308 there is no test result indicating the person's alcohol concentration:

(i) By imprisonment for not less than two days nor more than one year. Two consecutive days of the imprisonment may not be suspended or deferred unless the court finds that the imposition of this mandatory minimum sentence would impose a substantial risk to the offender's physical or mental well-being. Whenever the mandatory minimum sentence is suspended or deferred, the court shall state in

writing the reason for granting the suspension or deferral and the facts upon which the suspension or deferral is based; and

(ii) By a fine of not less than five hundred dollars nor more than five thousand dollars. Five hundred dollars of the fine may not be suspended or deferred unless the court finds the offender to be indigent; and

(iii) By ~~((suspension))~~ revocation of the offender's license or permit to drive, or suspension of any nonresident privilege to drive, for a period of one ~~((hundred twenty days))~~ year. The period of license, permit, or privilege suspension may not be suspended. The court shall notify the department of licensing of the conviction, and upon receiving notification of the conviction the department shall suspend the offender's license, permit, or privilege.

(2) A person who is convicted of a violation of RCW 46.61.502 or 46.61.504 and who has one prior offense within five years shall be punished as follows:

(a) In the case of a person whose alcohol concentration was less than 0.15, or for whom for reasons other than the person's refusal to take a test offered pursuant to RCW 46.20.308 there is no test result indicating the person's alcohol concentration:

(i) By imprisonment for not less than thirty days nor more than one year. Thirty days of the imprisonment may not be suspended or deferred unless the court finds that the imposition of this mandatory minimum sentence would impose a substantial risk to the offender's physical or mental well-being. Whenever the mandatory minimum sentence is suspended or deferred, the court shall state in writing the reason for granting the suspension or deferral and the facts upon which the suspension or deferral is based; and

(ii) By a fine of not less than five hundred dollars nor more than five thousand dollars. Five hundred dollars of the fine may not be suspended or deferred unless the court finds the offender to be indigent; and

(iii) By revocation of the offender's license or permit to drive, or suspension of any nonresident privilege to drive, for a period of ~~((one))~~ two years. The period of license, permit, or privilege revocation may not be suspended. The court shall notify the department of licensing of the conviction, and upon receiving notification of the conviction the department shall revoke the offender's license, permit, or privilege; or

(b) In the case of a person whose alcohol concentration was at least 0.15, or for whom by reason of the person's refusal to take a test offered pursuant to RCW 46.20.308 there is no test result indicating the person's alcohol concentration:

(i) By imprisonment for not less than forty-five days nor more than one year. Forty-five days of the imprisonment may not be suspended or deferred unless the court finds that the imposition of this mandatory minimum sentence would impose a substantial risk to the offender's physical or mental well-being. Whenever the mandatory minimum sentence is suspended or deferred, the court shall state in writing the reason for granting the suspension or deferral and the facts upon which the suspension or deferral is based; and

(ii) By a fine of not less than seven hundred fifty dollars nor more than five thousand dollars. Seven hundred fifty dollars of the fine may not be suspended or deferred unless the court finds the offender to be indigent; and

(iii) By revocation of the offender's license or permit to drive, or suspension of any nonresident privilege to drive, for a period of ~~((four hundred fifty))~~ nine hundred days. The period of license, permit, or privilege revocation may not be suspended. The court shall notify the department of licensing of the conviction, and upon receiving notification of the conviction the department shall revoke the offender's license, permit, or privilege.

(3) A person who is convicted of a violation of RCW 46.61.502 or 46.61.504 and who has two or more prior offenses within five years shall be punished as follows:

(a) In the case of a person whose alcohol concentration was less than 0.15, or for whom for reasons other than the person's refusal to take a test offered pursuant to RCW 46.20.308 there is no test result indicating the person's alcohol concentration:

(i) By imprisonment for not less than ninety days nor more than one year. Ninety days of the imprisonment may not be suspended or deferred unless the court finds that the imposition of this mandatory minimum sentence would impose a substantial risk to the offender's physical or mental well-being. Whenever the mandatory minimum sentence is suspended or deferred, the court shall state in writing the reason for granting the suspension or deferral and the facts upon which the suspension or deferral is based; and

(ii) By a fine of not less than one thousand dollars nor more than five thousand dollars. One thousand dollars of the fine may not be suspended or deferred unless the court finds the offender to be indigent; and

(iii) By revocation of the offender's license or permit to drive, or suspension of any nonresident privilege to drive, for a period of ~~((two))~~ three years. The period of license, permit, or privilege revocation may not be suspended. The court shall notify the department of licensing of the conviction, and upon receiving notification of the conviction the department shall revoke the offender's license, permit, or privilege; or

(b) In the case of a person whose alcohol concentration was at least 0.15, or for whom by reason of the person's refusal to take a test offered pursuant to RCW 46.20.308 there is no test result indicating the person's alcohol concentration:

(i) By imprisonment for not less than one hundred twenty days nor more than one year. One hundred twenty days of the imprisonment may not be suspended or deferred unless the court finds that the imposition of this mandatory minimum sentence would impose a substantial risk to the offender's physical or mental well-being. Whenever the mandatory minimum sentence is suspended or deferred, the court shall state in writing the reason for granting the suspension or deferral and the facts upon which the suspension or deferral is based; and

(ii) By a fine of not less than one thousand five hundred dollars nor more than five thousand dollars. One thousand five hundred dollars of the fine may not be suspended or deferred unless the court finds the offender to be indigent; and

(iii) By revocation of the offender's license or permit to drive, or suspension of any nonresident privilege to drive, for a period of ~~((three))~~ four years. The period of license, permit, or privilege revocation may not be suspended. The court shall notify the department of licensing of the conviction, and upon receiving notification of the conviction the department shall revoke the offender's license, permit, or privilege.

(4) In exercising its discretion in setting penalties within the limits allowed by this section, the court shall particularly consider whether the person's driving at the time of the offense was responsible for injury or damage to another or another's property.

(5) An offender punishable under this section is subject to the alcohol assessment and treatment provisions of RCW 46.61.5056.

(6) After expiration of any period of suspension or revocation of the offender's license, permit, or privilege to drive required by this section, the department shall place the offender's driving privilege in probationary status pursuant to RCW 46.20.355.

(7)(a) In addition to any nonsuspendable and nondeferrable jail sentence required by this section, whenever the court imposes less than one year in jail, the court shall also suspend but shall not defer a period of confinement for a period not exceeding two years. The court shall impose conditions of probation that include: (i) Not driving a motor vehicle within this state without a valid license to drive and proof of financial responsibility for the future; (ii) not driving a motor vehicle within this state while having an alcohol concentration of 0.08 or more within two hours after driving; and (iii) not refusing to submit to a test of his or her breath or blood to determine alcohol concentration upon request of a law enforcement officer who has reasonable grounds to believe the person was driving or was in actual physical control of a motor vehicle within this state while under the influence of intoxicating liquor. The court may impose conditions of probation that include nonrepetition, installation of an ignition interlock or other biological or technical device on the probationer's motor vehicle, alcohol or drug treatment, supervised probation, or other conditions that may be appropriate. The sentence may be imposed in whole or in part upon violation of a condition of probation during the suspension period.

(b) For each violation of mandatory conditions of probation under (a)(i) and (ii) or (a)(i) and (iii) of this subsection, the court shall order the convicted person to be confined for thirty days, which shall not be suspended or deferred.

(c) For each incident involving a violation of a mandatory condition of probation imposed under this subsection, the license, permit, or privilege to drive of the person shall be suspended by the court for thirty days or, if such license, permit, or privilege to drive already is suspended, revoked, or denied at the time

the finding of probation violation is made, the suspension, revocation, or denial then in effect shall be extended by thirty days. The court shall notify the department of any suspension, revocation, or denial or any extension of a suspension, revocation, or denial imposed under this subsection.

(8)(a) A "prior offense" means any of the following:

(i) A conviction for a violation of RCW 46.61.502 or an equivalent local ordinance;

(ii) A conviction for a violation of RCW 46.61.504 or an equivalent local ordinance;

(iii) A conviction for a violation of RCW 46.61.520 committed while under the influence of intoxicating liquor or any drug;

(iv) A conviction for a violation of RCW 46.61.522 committed while under the influence of intoxicating liquor or any drug;

(v) A conviction for a violation of RCW 46.61.525(1) or an equivalent local ordinance, if the conviction is the result of a charge that was originally filed as a violation of RCW 46.61.502 or 46.61.504, or an equivalent local ordinance, or of RCW 46.61.520 or 46.61.522;

(vi) An out-of-state conviction for a violation that would have been a violation of (a)(i), (ii), (iii), (iv), or (v) of this subsection if committed in this state;

(vii) A deferred prosecution under chapter 10.05 RCW granted in a prosecution for a violation of RCW 46.61.502, 46.61.504, or an equivalent local ordinance; or

(viii) A deferred prosecution under chapter 10.05 RCW granted in a prosecution for a violation of RCW 46.61.525(1), or an equivalent local ordinance, if the charge under which the deferred prosecution was granted was originally filed as a violation of RCW 46.61.502 or (~~46.61.502~~) 46.61.504, or an equivalent local ordinance, or of RCW 46.61.520 or 46.61.522.

(b) "Within five years" means that the arrest for a prior offense occurred within five years of the arrest for the current offense.

****Sec. 12. RCW 46.61.5056 and 1995 c 332 s 14 are each amended to read as follows:***

(1) A person subject to alcohol assessment and treatment under RCW 46.61.5055 shall be required by the court to complete a course in an alcohol information school approved by the department of social and health services or to complete more intensive treatment in a program approved by the department of social and health services, as determined by the court. The court shall notify the department of licensing whenever it orders a person to complete a course or treatment program under this section.

(2) A diagnostic evaluation and treatment recommendation shall be prepared under the direction of the court by an alcoholism agency approved by the department of social and health services or a qualified probation department approved by the department of social and health services. The agency shall consider and make a recommendation concerning installation of an ignition

interlock or other biological or technical device on the offender's motor vehicle. A copy of the report shall be forwarded to the department of licensing. Based on the diagnostic evaluation, the court shall determine (a) whether the person shall be required to complete a course in an alcohol information school approved by the department of social and health services or more intensive treatment in a program approved by the department of social and health services and (b) whether the person must have an ignition interlock or other biological or technical device installed on his or her vehicle.

(3) Standards for approval for alcohol treatment programs shall be prescribed by the department of social and health services. The department of social and health services shall periodically review the costs of alcohol information schools and treatment programs.

(4) Any agency that provides treatment ordered under RCW 46.61.5055, shall immediately report to the appropriate probation department where applicable, otherwise to the court, and to the department of licensing any noncompliance by a person with the conditions of his or her ordered treatment. The court shall notify the department of licensing and the department of social and health services of any failure by an agency to so report noncompliance. Any agency with knowledge of noncompliance that fails to so report shall be fined two hundred fifty dollars by the department of social and health services. Upon three such failures by an agency within one year, the department of social and health services shall revoke the agency's approval under this section.

(5) The department of licensing and the department of social and health services may adopt such rules as are necessary to carry out this section.

*Sec. 12 was vetoed. See message at end of chapter.

Sec. 13. RCW 46.63.020 and 1996 c 307 s 6, 1996 c 287 s 7, 1996 c 93 s 3, 1996 c 87 s 21, and 1996 c 31 s 3 are each reenacted and amended to read as follows:

Failure to perform any act required or the performance of any act prohibited by this title or an equivalent administrative regulation or local law, ordinance, regulation, or resolution relating to traffic including parking, standing, stopping, and pedestrian offenses, is designated as a traffic infraction and may not be classified as a criminal offense, except for an offense contained in the following provisions of this title or a violation of an equivalent administrative regulation or local law, ordinance, regulation, or resolution:

- (1) RCW 46.09.120(2) relating to the operation of a nonhighway vehicle while under the influence of intoxicating liquor or a controlled substance;
- (2) RCW 46.09.130 relating to operation of nonhighway vehicles;
- (3) RCW 46.10.090(2) relating to the operation of a snowmobile while under the influence of intoxicating liquor or narcotics or habit-forming drugs or in a manner endangering the person of another;
- (4) RCW 46.10.130 relating to the operation of snowmobiles;

- (5) Chapter 46.12 RCW relating to certificates of ownership and registration and markings indicating that a vehicle has been destroyed or declared a total loss;
- (6) RCW 46.16.010 relating to initial registration of motor vehicles;
- (7) RCW 46.16.011 relating to permitting unauthorized persons to drive;
- (8) RCW 46.16.160 relating to vehicle trip permits;
- (9) RCW 46.16.381 (6) or (9) relating to unauthorized use or acquisition of a special placard or license plate for disabled persons' parking;
- (10) RCW 46.20.021 relating to driving without a valid driver's license, unless the person cited for the violation provided the citing officer with an expired driver's license or other valid identifying documentation under RCW 46.20.035 at the time of the stop and was not in violation of RCW 46.20.342(1) or 46.20.420, in which case the violation is an infraction;
- (11) RCW 46.20.091 relating to false statements regarding a driver's license or instruction permit;
- (12) RCW 46.20.336 relating to the unlawful possession and use of a driver's license;
- (13) RCW 46.20.342 relating to driving with a suspended or revoked license or status;
- (14) RCW 46.20.410 relating to the violation of restrictions of an occupational driver's license;
- (15) RCW 46.20.420 relating to the operation of a motor vehicle with a suspended or revoked license;
- (16) RCW 46.20.740 relating to operation of a motor vehicle without an ignition interlock device in violation of a license notation that the device is required;
- (17) RCW 46.20.750 relating to assisting another person to start a vehicle equipped with an ignition interlock device;
- ~~((17))~~ (18) RCW 46.25.170 relating to commercial driver's licenses;
- ~~((18))~~ (19) Chapter 46.29 RCW relating to financial responsibility;
- ~~((19))~~ (20) RCW 46.30.040 relating to providing false evidence of financial responsibility;
- ~~((20))~~ (21) RCW 46.37.435 relating to wrongful installation of sunscreening material;
- ~~((21))~~ (22) RCW 46.44.180 relating to operation of mobile home pilot vehicles;
- ~~((22))~~ (23) RCW 46.48.175 relating to the transportation of dangerous articles;
- ~~((23))~~ (24) RCW 46.52.010 relating to duty on striking an unattended car or other property;
- ~~((24))~~ (25) RCW 46.52.020 relating to duty in case of injury to or death of a person or damage to an attended vehicle;
- ~~((25))~~ (26) RCW 46.52.090 relating to reports by repairmen, storagemen, and appraisers;

~~((26))~~ (27) RCW 46.52.100 relating to driving under the influence of liquor or drugs;

~~((27))~~ (28) RCW 46.52.130 relating to confidentiality of the driving record to be furnished to an insurance company, an employer, and an alcohol/drug assessment or treatment agency;

~~((28))~~ (29) RCW 46.55.020 relating to engaging in the activities of a registered tow truck operator without a registration certificate;

~~((29))~~ (30) RCW 46.55.035 relating to prohibited practices by tow truck operators;

~~((30))~~ (31) RCW 46.61.015 relating to obedience to police officers, flagmen, or fire fighters;

~~((31))~~ (32) RCW 46.61.020 relating to refusal to give information to or cooperate with an officer;

~~((32))~~ (33) RCW 46.61.022 relating to failure to stop and give identification to an officer;

~~((33))~~ (34) RCW 46.61.024 relating to attempting to elude pursuing police vehicles;

~~((34))~~ (35) RCW 46.61.500 relating to reckless driving;

~~((35))~~ (36) RCW 46.61.502 and 46.61.504 relating to persons under the influence of intoxicating liquor or drugs;

~~((36))~~ (37) RCW 46.61.503 relating to a person under age twenty-one driving a motor vehicle after consuming alcohol;

~~((37))~~ (38) RCW 46.61.520 relating to vehicular homicide by motor vehicle;

~~((38))~~ (39) RCW 46.61.522 relating to vehicular assault;

~~((29))~~ (40) RCW 46.61.525(1) relating to first degree negligent driving;

~~((40))~~ (41) RCW 46.61.527(4) relating to reckless endangerment of roadway workers;

~~((41))~~ (42) RCW 46.61.530 relating to racing of vehicles on highways;

~~((42))~~ (43) RCW 46.61.685 relating to leaving children in an unattended vehicle with the motor running;

~~((43))~~ (44) RCW 46.64.010 relating to unlawful cancellation of or attempt to cancel a traffic citation;

~~((44))~~ (45) RCW 46.64.048 relating to attempting, aiding, abetting, coercing, and committing crimes;

~~((43))~~ (46) Chapter 46.65 RCW relating to habitual traffic offenders;

~~((46))~~ (47) RCW 46.68.010 relating to false statements made to obtain a refund;

~~((47))~~ (48) Chapter 46.70 RCW relating to unfair motor vehicle business practices, except where that chapter provides for the assessment of monetary penalties of a civil nature;

~~((40))~~ (49) Chapter 46.72 RCW relating to the transportation of passengers in for hire vehicles;

~~((49))~~ (50) RCW 46.72A.060 relating to limousine carrier insurance;

~~((50))~~ (51) RCW 46.72A.070 relating to operation of a limousine without a vehicle certificate;

~~((51))~~ (52) RCW 46.72A.080 relating to false advertising by a limousine carrier;

~~((52))~~ (53) Chapter 46.80 RCW relating to motor vehicle wreckers;

~~((53))~~ (54) Chapter 46.82 RCW relating to driver's training schools;

~~((54))~~ (53) RCW 46.87.260 relating to alteration or forgery of a cab card, letter of authority, or other temporary authority issued under chapter 46.87 RCW;

~~((55))~~ (56) RCW 46.87.290 relating to operation of an unregistered or unlicensed vehicle under chapter 46.87 RCW.

NEW SECTION. Sec. 14. RCW 46.20.730, as amended by this act, is recodified as a section in chapter 46.04 RCW.

NEW SECTION. Sec. 15. This act takes effect January 1, 1998.

Passed the House March 13, 1997.

Passed the Senate April 11, 1997.

Approved by the Governor April 26, 1997, with the exception of certain items that were vetoed.

Filed in Office of Secretary of State April 26, 1997.

Note: Governor's explanation of partial veto is as follows:

"I am returning herewith, without my approval as to sections 3, 4, 5, 6, 7, and 12, Engrossed House Bill No. 1940 entitled:

"AN ACT Relating to driving while under the influence of liquor or drugs;"

Engrossed House Bill No. 1940 expands the use of ignition interlock devices and increases the periods of license suspension or revocation and other penalties for people convicted of driving under the influence of alcohol or drugs (DUI). A number of jurisdictions, including Kitsap County, have found that ignition interlock devices allow DUI offenders to be closely monitored while granted limited driving privileges so that they may keep their jobs.

I strongly support stiff sentences for drunk drivers and increasing the utilization of technology in this way. However, due to an oversight in the drafting of the bill, drivers who refuse to take a blood alcohol concentration test and lose their licenses could apply to get a "temporary restricted" license after only 90 days of suspension. This may encourage drunk drivers to refuse the tests as a way to avoid a DUI conviction, and to also get their driving privileges restored quickly. In order to avoid this problem, I have vetoed sections 3 through 7 of the bill.

I agree with broadening the statutory definition of an "occupational" license to include driving necessary to obtain health care, counseling, education and community service. Unfortunately, this change in definition could not be retained while vetoing the sections noted above. I would support this expanded definition in subsequent legislation.

Section 12 of the bill provides that chemical dependency diagnostic reports must include a recommendation on whether installation of an ignition interlock would be appropriate for a particular person. This could create liability for the agencies writing the reports, and is a matter more appropriately addressed by the courts.

For these reasons, I have vetoed sections 3 through 7 and section 12 of Engrossed House Bill No. 1940.

With the exception of sections 3, 4, 5, 6, 7, and 12, Engrossed House Bill No. 1940 is approved."

CHAPTER 230

[Substitute House Bill 1975]

COAL-FIRED THERMAL ELECTRICAL FACILITIES—PUBLIC USE AND OWNERSHIP

AN ACT Relating to the ownership of coal-fired thermal electric generating facilities placed in operation before July 1, 1975; amending RCW 35.92.052 and 54.44.020; and declaring an emergency.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 35.92.052 and 1992 c 11 s 1 are each amended to read as follows:

(1) Except as provided in subsection (3) of this section, cities of the first class which operate electric generating facilities and distribution systems shall have power and authority to participate and enter into agreements for the use or undivided ownership of high voltage transmission facilities and capacity rights in those facilities and for the undivided ownership of any type of electric generating plants and facilities, including, but not limited to, nuclear and other thermal power generating plants and facilities and transmission facilities including, but not limited to, related transmission facilities, to be called "common facilities"; and for the planning, financing, acquisition, construction, operation, and maintenance with: (a) Each other; (b) electrical companies which are subject to the jurisdiction of the Washington utilities and transportation commission or the regulatory commission of any other state, to be called "regulated utilities"; (c) rural electric cooperatives, including generation and transmission cooperatives in any state; (d) municipal corporations, utility districts, or other political subdivisions in any state; and (e) any agency of the United States authorized to generate or transmit electrical energy. It shall be provided in such agreements that each city shall use or own a percentage of any common facility equal to the percentage of the money furnished or the value of property supplied by it for the acquisition and construction of or additions or improvements to the facility and shall own and control or provide for the use of a like percentage of the electrical transmission or output.

(2) A city using or owning common facilities under this section may issue revenue bonds or other obligations to finance the city's share of the use or ownership of the common facilities.

~~((2))~~ (3) Cities of the first class shall have the power and authority to participate and enter into agreements for the use or undivided ownership of a coal-fired thermal electric generating plant and facility placed in operation before July 1, 1975, including related common facilities, and for the planning, financing, acquisition, construction, operation, and maintenance of the plant and facility. It shall be provided in such agreements that each city shall use or own a percentage of any common facility equal to the percentage of the money furnished or the value of property supplied by the city for the acquisition and construction of or additions or improvements to the facility and shall own and control or provide for the use of a like percentage of the electrical transmission or output of the facility. Cities may enter into agreements under this subsection with each other, with regulated utilities, with rural electric cooperatives, with utility districts, with electric companies

subject to the jurisdiction of the regulatory commission of any other state, and with any power marketer subject to the jurisdiction of the federal energy regulatory commission.

(4) The agreement must provide that each participant shall defray its own interest and other payments required to be made or deposited in connection with any financing undertaken by it to pay its percentage of the money furnished or value of property supplied by it for the planning, acquisition, and construction of any common facility, or any additions or betterments. The agreement shall provide a uniform method of determining and allocating operation and maintenance expenses of a common facility.

~~((3))~~ (5) Each city participating in the ownership, use, or operation of a common facility shall pay all taxes chargeable to its share of the common facility and the electric energy generated under any applicable statutes and may make payments during preliminary work and construction for any increased financial burden suffered by any county or other existing taxing district in the county in which the common facility is located, under agreement with such county or taxing district.

~~((4))~~ (6) In carrying out the powers granted in this section, each such city shall be severally liable only for its own acts and not jointly or severally liable for the acts, omissions, or obligations of others. No money or property supplied by any such city for the planning, financing, acquisition, construction, operation, or maintenance of, or addition or improvement to any common facility shall be credited or otherwise applied to the account of any other participant therein, nor shall the undivided share of any city in any common facility be charged, directly or indirectly, with any debt or obligation of any other participant or be subject to any lien as a result thereof. No action in connection with a common facility shall be binding upon any city unless authorized or approved by resolution or ordinance of its governing body.

~~((5))~~ (7) Any city acting jointly outside the state of Washington, by mutual agreement with any participant under authority of this section, shall not acquire properties owned or operated by any public utility district, by any regulated utility, or by any public utility owned by a municipality without the consent of the utility owning or operating the property, and shall not participate in any condemnation proceeding to acquire such properties.

Sec. 2. RCW 54.44.020 and 1975-'76 2nd ex.s. c 72 s 2 are each amended to read as follows:

~~((In addition to the powers heretofore conferred upon))~~ (1) Except as provided in subsection (2) of this section, cities of the first class, public utility districts organized under chapter 54.08 RCW, and joint operating agencies organized under chapter 43.52 RCW, any such cities and public utility districts which operate electric generating facilities or distribution systems and any joint operating agency shall have power and authority to participate and enter into agreements with each other and with electrical companies which are subject to the jurisdiction of the

Washington utilities and transportation commission or the public utility commissioner of Oregon, hereinafter called "regulated utilities", and with rural electric cooperatives, including generation and transmission cooperatives for the undivided ownership of any type of electric generating plants and facilities, including, but not limited to nuclear and other thermal power generating plants and facilities and transmission facilities including, but not limited to, related transmission facilities, hereinafter called "common facilities", and for the planning, financing, acquisition, construction, operation and maintenance thereof. It shall be provided in such agreements that each city, public utility district, or joint operating agency shall own a percentage of any common facility equal to the percentage of the money furnished or the value of property supplied by it for the acquisition and construction thereof and shall own and control a like percentage of the electrical output thereof.

(2) Cities of the first class, public utility districts organized under chapter 54.08 RCW, and joint operating agencies organized under chapter 43.52 RCW, shall have the power and authority to participate and enter into agreements for the undivided ownership of a coal-fired thermal electric generating plant and facility placed in operation before July 1, 1975, including related common facilities, and for the planning, financing, acquisition, construction, operation, and maintenance of the plant and facility. It shall be provided in such agreements that each city, public utility district, or joint operating agency shall own a percentage of any common facility equal to the percentage of the money furnished or the value of property supplied by the city, district, or agency, for the acquisition and construction of the facility and shall own and control a like percentage of the electrical output thereof. Cities of the first class, public utility districts, and joint operating agencies may enter into agreements under this subsection with each other, with regulated utilities, with rural electric cooperatives, with electric companies subject to the jurisdiction of the regulatory commission of any other state, and with any power marketer subject to the jurisdiction of the federal energy regulatory commission.

(3) Each participant shall defray its own interest and other payments required to be made or deposited in connection with any financing undertaken by it to pay its percentage of the money furnished or value of property supplied by it for the planning, acquisition and construction of any common facility, or any additions or betterments thereto. The agreement shall provide a uniform method of determining and allocating operation and maintenance expenses of the common facility.

(4) Each city, public utility district, joint operating agency, regulated utility, and cooperatives participating in the ownership or operation of a common facility shall pay all taxes chargeable to its share of the common facility and the electric energy generated thereby under applicable statutes as now or hereafter in effect, and may make payments during preliminary work and construction for any increased financial burden suffered by any county or other existing taxing district

in the county in which the common facility is located, pursuant to agreement with such county or taxing district.

****NEW SECTION. Sec. 3. This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately.***

***Sec. 3 was vetoed. See message at end of chapter.**

Passed the House March 11, 1997.

Passed the Senate April 11, 1997.

Approved by the Governor April 26, 1997, with the exception of certain items that were vetoed.

Filed in Office of Secretary of State April 26, 1997.

Note: Governor's explanation of partial veto is as follows:

"I am returning herewith, without my approval as to section 3, Substitute House Bill No. 1975 entitled:

"AN ACT Relating to the ownership of coal-fired thermal electric generating facilities placed in operation before July 1, 1975;"

This legislation provides the Centralia Steam Plant the ability to include a broader array of electric generating or transmitting entities within its partnership. This increased flexibility will help ensure that the plant will continue to operate into the future.

This legislation includes an emergency clause in section 3. Although this bill is important, it is not a matter for the immediate preservation of the public peace, health or safety, or support of the state government and its existing public institutions.

For this reason, I have vetoed section 3 of Substitute House Bill No. 1975.

With the exception of section 3, Substitute House Bill No. 1975 is approved."

CHAPTER 231

[Engrossed Substitute House Bill 2018]

CONSUMER ASSISTANCE AND INSURANCE MARKET STABILIZATION ACT

AN ACT Relating to health insurance reform; amending RCW 48.43.055, 48.43.005, 48.43.025, 48.43.035, 48.43.045, 48.20.028, 48.44.022, 48.46.064, 48.41.030, 48.41.060, 48.41.080, 48.41.110, 48.41.200, and 48.41.130; reenacting and amending RCW 70.47.060; adding new sections to chapter 48.43 RCW; adding a new section to chapter 74.09 RCW; adding a new section to chapter 48.44 RCW; adding a new section to chapter 48.46 RCW; adding a new section to chapter 48.21 RCW; adding new sections to chapter 48.20 RCW; creating new sections; repealing RCW 48.46.100; providing effective dates; and declaring an emergency.

Be it enacted by the Legislature of the State of Washington:

HEALTH INSURANCE REFORM

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PART I—CONSUMER PROTECTIONS

****NEW SECTION. Sec. 101. UTILIZATION REVIEW—INTENT. The legislature intends that the delivery of quality health care services to individuals in the state of Washington be consistent with a wise use of resources. It is therefore the purpose of this act to define standards for utilization review of health care services and to promote the delivery of health care in a cost-effective manner. The legislature reaffirms its commitment to improving health care services through encouraging the availability of effective and consistent utilization review throughout this state. The legislature believes that standards for utilization review will help assure quality oversight of individual case evaluations in this state.***

**Sec. 101 was vetoed. See message at end of chapter.*

****NEW SECTION. Sec. 102. A new section is added to chapter 48.43 RCW to read as follows:***

UTILIZATION REVIEW—REVIEW ORGANIZATION. (1) Beginning on January 1, 1998, every review organization that performs utilization review of inpatient and outpatient benefits for residents of this state shall meet the standards set forth in this section and section 103 of this act.

(a) Review organizations shall comply with all applicable state and federal laws to protect confidentiality of enrollee medical records.

(b) Any certification by a review organization as to the medical necessity or appropriateness of an admission, length of stay, extension of stay, or service or procedure must be made in accordance with medical standards or guidelines approved by a licensed physician.

(c) Any determination by a review organization to deny an admission, length of stay, extension of stay, or service or procedure on the basis of medical necessity or appropriateness must be made by a licensed physician who has reasonable access to board certified specialty providers in making such determinations.

(d) Review organizations shall make staff available to perform utilization review activities by toll-free or collect telephone, at least forty hours per week during normal business hours.

(e) Review organizations shall have a phone system capable of accepting or recording, or both, incoming phone calls relating to utilization review during other than normal business hours and shall respond to these calls within two business days.

(f) Review organizations shall maintain a documented utilization review program description and written utilization review criteria based on reasonable medical evidence. The program must include a method for reviewing and updating criteria. Review organizations shall make utilization review criteria available upon request to the participating provider involved in a specific case under review.

(g) Review organizations shall designate a licensed physician to participate in utilization review program implementation.

(2) The legislature finds that current utilization review accreditation commission and national committee for quality assurance utilization review standards meet or exceed the requirements of this section. Health carriers who continuously maintain such accreditation are hereby deemed in compliance with this section for their accredited health plans. The office of the insurance commissioner shall periodically examine the review organization accreditation standards of the utilization review accreditation commission and the national committee for quality assurance and report to the legislature to ensure that such standards continue to be substantially equivalent to or exceed the requirements of section 103 of this act.

*Sec. 102 was vetoed. See message at end of chapter.

***NEW SECTION. Sec. 103. A new section is added to chapter 48.43 RCW to read as follows:**

UTILIZATION REVIEW—STANDARDS. (1) Notification of an initial determination by the review organization to certify an admission, length of stay, extension of stay, or service or procedure must be mailed or otherwise communicated to the provider of record or the enrollee, or the enrollee's authorized representative, or both, within two business days of the determination and following the receipt of all information necessary to complete the review.

(2) Notification of an initial determination by the review organization to deny an admission, length of stay, extension of stay, or service or procedure must be mailed or otherwise communicated to the provider of record or the enrollee, or the enrollee's authorized representative, or both, within one business day of the determination and following the receipt of all information necessary to complete the review.

(3) Any notification of a determination to deny an admission, length of stay, extension of stay, or service or procedure must include:

(a) The review organization's decision in clear terms and the rationale in sufficient detail for the enrollee to respond further to the review organization's decision; and

(b) The procedures to initiate an appeal of an adverse determination.

(4) Health care facilities and providers shall cooperate with the reasonable efforts of review organizations to ensure that all necessary enrollee information is available in a timely fashion by phone during normal business hours. Health care facilities and providers shall allow on-site review of medical records by

review organizations. These provisions are subject to the requirements regarding health care information disclosure in chapter 70.02 RCW.

*Sec. 103 was vetoed. See message at end of chapter.

***NEW SECTION. Sec. 104.** A new section is added to chapter 48.43 RCW to read as follows:

UTILIZATION REVIEW—LIMITED RECORD ACCESS. In performing a utilization review, a review organization is limited to access to specific health care service information necessary to complete the review being performed relating to the covered person.

*Sec. 104 was vetoed. See message at end of chapter.

***NEW SECTION. Sec. 105. GRIEVANCE PROCEDURES—INTENT.** The legislature is committed to the efficient use of state resources in promoting public health and protecting the rights of individuals in the state of Washington. The purpose of this act is to provide standards for the establishment and maintenance of procedures by health carriers to assure that covered persons have the opportunity for the appropriate resolution of their grievances, as defined in this act.

*Sec. 105 was vetoed. See message at end of chapter.

***NEW SECTION. Sec. 106.** A new section is added to chapter 48.43 RCW to read as follows:

GRIEVANCE PROCEDURES—STANDARDS. (1) Every health carrier shall use written procedures for receiving and resolving grievances from covered persons. At each level of review of a grievance, the health carrier shall include a person or persons with sufficient background and authority to deliberate the merits of the grievance and establish appropriate terms of resolution. The health carrier's medical director or designee shall be available to participate in the review of any grievance involving a clinical issue or issues. A grievance that includes an issue of clinical quality of care as determined by the health carrier's medical director or designee may be directed to the health carrier's quality assurance committee for review and comment. Nothing in this section alters any protections afforded under statutes relating to confidentiality and nondiscoverability of quality assurance activities and information.

(2)(a) A complaint that is not submitted in writing may be resolved directly by the health carrier with the covered person, and is not considered a grievance subject to the review, recording, and reporting requirements of this section.

(b) The health carrier is required to provide telephone access to covered persons for purposes of presenting a complaint for review. Each telephone number provided shall be toll free or collect within the health carrier's service area and provide reasonable access to the health carrier without undue delays during normal business hours.

(3)(a) A grievance may be submitted by a covered person or a representative acting on behalf of the covered person through written authority to assure protection of the covered person's private information. Within three working

days of receiving a grievance, the health carrier shall acknowledge in writing the receipt of the grievance and the department name and address where additional information may be submitted by the covered person or authorized representative of the covered person. The health carrier shall process the grievance in a reasonable length of time not to exceed thirty days from receipt of the written grievance. If the grievance involves the collection of information from sources external to the health carrier and its participating providers, the health carrier has an additional thirty days to process the covered person's grievance.

(b) The health carrier shall provide the covered person, or authorized representative of the covered person, with a written determination of its review within the time frame specified in (a) of this subsection. The written determination shall contain at a minimum:

(i) The health carrier's decision in clear terms and the rationale in sufficient detail for the covered person or authorized representative of the covered person to respond further to the health carrier's decision; and

(ii) When the health carrier's decision is not wholly favorable to the covered person, a description of the process to obtain a second level grievance review of the decision, including the time frames required for submission of a request by the covered person or authorized representative of the covered person.

(4)(a) A health carrier shall provide a second level grievance review for those covered persons who are dissatisfied with the first level grievance review decision and who submit a written request for review. The second level review process shall include an opportunity for the covered person or authorized representative of the covered person to appear in person before the representative or representatives of the health carrier. The covered person or authorized representative of the covered person must ask for a personal appearance in the written request for a second level review.

(b) The health carrier shall process the grievance in a reasonable length of time, not to exceed thirty days from receipt of the request for a second level review. The time required to resolve the second level review may be extended for a specified period if mutually agreed upon by the covered person or authorized representative of the covered person and the health carrier.

(c) A health carrier's procedures for conducting a second level review must include the following:

(i) The second level review panel shall be comprised of representatives of the health carrier not otherwise participating in the first level review. If the grievance involves a clinical issue or issues, the health carrier shall appoint a health care professional with appropriate qualifications to assess the clinical considerations of the case who was not previously involved with the grievance under review and who has no financial interest in the outcome of the review;

(ii) The review panel shall schedule the review meeting to reasonably accommodate the covered person or authorized representative of the covered person and not unreasonably deny a request for postponement of the review

requested by the covered person or authorized representative of the covered person; and

(iii) The health carrier shall notify the covered person or authorized representative of the covered person in writing at least fifteen days in advance of the scheduled review date unless a shorter time frame is agreed to by the health carrier and the covered person. The review meeting shall be held at a location within the health carrier's service area that is reasonably accessible to the covered person or authorized representative of the covered person. In cases where a face-to-face meeting is not practical for geographic reasons, a health carrier shall offer the covered person or authorized representative of the covered person the opportunity to communicate with the review panel, at the health carrier's expense, by conference call, video conferencing, or other appropriate technology as determined by the health carrier.

(d) The health carrier shall issue a written decision to the covered person or authorized representative of the covered person within five working days of completing the review meeting. The decision shall include:

(i) A statement of the health carrier's understanding of the nature of the grievance and all pertinent facts;

(ii) The health carrier's decision in clear terms and the rationale for the review panel's decision; and

(iii) Notice of the covered person's right to any further review by the health carrier.

(e) Determination of a grievance at the final level review that is unfavorable to the covered person may be submitted by the covered person or authorized representative of the covered person to nonbinding mediation. Mediation shall be conducted under mediation rules similar to those of the American arbitration association, the center for public resources, the judicial arbitration and mediation service, RCW 7.70.100, or any other rules of mediation agreed to by the parties.

(5) Each health carrier as defined in this chapter shall file with the commissioner its procedures for review and adjudication of grievances initiated by covered persons.

(6) The health carrier shall maintain accurate records of each grievance to include the following:

(a) A description of the grievance, the date received by the health carrier, and the name and identification number of the covered person; and

(b) A statement as to which level of the grievance procedure the grievance has been brought, the date at which it was brought to each level, the decision reached at each level, and a summary description of the rationale for the decision.

(7) Each health carrier shall make an annual report available to the commissioner. The report shall include for each type of health benefit plan offered by the health carrier: The number of covered lives; the total number of

grievances received divided into the following categories: (a) Access, health carrier customer service, health care provider or facility service, and claim payment; (b) dispute resolution; (c) the number of grievances resolved at each level; and (d) the total number of decisions favorable and unfavorable to the covered person.

(8) A notice of the availability and the requirements of the grievance procedure, including the address where a written grievance may be filed, shall be included in or attached to the policy, certificate, membership booklet, outline of coverage, or other evidence of coverage provided by the health carrier to its enrollees.

(9) The notice shall include a toll-free or collect telephone number for a covered person to obtain verbal explanation of the grievance procedure.

(10) A health carrier shall establish written procedures for the expedited review of a grievance involving a situation where the time to resolve a grievance according to the procedures set forth in this section would seriously jeopardize the life or health of a covered person. A request for an expedited review may be submitted orally or in writing by a covered person or authorized representative of the covered person. A health carrier's procedures for establishing an expedited review process shall include the following:

(a) The health carrier shall appoint an appropriate health care professional to participate in expedited reviews and shall provide reasonable access to board-certified specialty providers as typically manage the issue under review.

(b) A health carrier shall provide expedited review to all requests concerning an admission, availability of care, continued stay, or review of a health care service for a covered person who has received emergency services but has not been discharged from a facility.

(c) All necessary information, including the health carrier's decision, shall be transmitted between the health carrier and the covered person or authorized representative of the covered person by telephone, facsimile, or the most expeditious method available as determined by the health carrier.

(d) A health carrier shall make a decision and notify the covered person or authorized representative of the covered person as expeditiously as the medical condition of the covered person requires, but no more than two business days after the request for expedited review is received by the health carrier. If the expedited review is a concurrent review determination, the service shall be continued without liability to the covered person until the covered person or authorized representative of the covered person has been notified of the decision by the health carrier.

(e) A health carrier shall provide written confirmation of its decision concerning an expedited review within two working days of providing notification of that decision to the enrollee, if the initial notification was not in writing. The written notification shall contain the provisions required in subsection (3) of this section pertaining to a first level grievance review.

(f) In any case where the expedited review process does not resolve a difference of opinion between a health carrier and the covered person, the covered person or authorized representative of the covered person may request a second level grievance review. In conducting the second level grievance review, the health carrier shall adhere to time frames that are reasonable under the circumstances, but in no event to exceed the time frames specified in subsection (4) of this section pertaining to second level grievance review.

(11) The legislature finds that current national committee for quality assurance grievance procedure standards meet or exceed the requirements of this section. Health carriers who continuously maintain such accreditation are hereby deemed in compliance with this section for their accredited health plans. The office of the insurance commissioner shall periodically examine the accreditation standards of the national committee for quality assurance and report to the legislature to ensure that such standards continue to be substantially equivalent to or exceed the requirements of this section.

*Sec. 106 was vetoed. See message at end of chapter.

*Sec. 107. RCW 48.43.055 and 1995 c 265 s 20 are each amended to read as follows:

GRIEVANCE PROCEDURE FOR HEALTH CARE PROVIDERS. *Each health carrier as defined under RCW 48.43.005 shall file with the commissioner its procedures for review and adjudication of complaints initiated by ((covered persons or)) a health care provider(s). Procedures filed under this section shall provide a fair review for consideration of complaints. Every health carrier shall provide reasonable means whereby ((any person)) a health care provider aggrieved by actions of the health carrier may be heard in person or by their authorized representative on their written request for review. If the health carrier fails to grant or reject such request within thirty days after it is made, the complaining ((person)) provider may proceed as if the complaint had been rejected. A complaint that has been rejected by the health carrier may be submitted to nonbinding mediation. Mediation shall be conducted pursuant to mediation rules similar to those of the American arbitration association, the center for public resources, the judicial arbitration and mediation service, RCW 7.70.100, or any other rules of mediation agreed to by the parties.*

*Sec. 107 was vetoed. See message at end of chapter.

NEW SECTION. *Sec. 108. GRIEVANCE PROCEDURES—REPEALER. RCW 48.46.100 and 1975 1st ex.s. c 290 s 11 are each repealed.*

*Sec. 108 was vetoed. See message at end of chapter.

NEW SECTION. *Sec. 109. NETWORK ADEQUACY—INTENT. The legislature declares that it is in the public interest that health carriers utilizing provider networks use reasonable means of assessing that their provider networks are adequate to provide covered services to their enrollees. The legislature finds that empirical assessment of provider network adequacy is in developmental stages, and that rigid, formulaic approaches are unworkable and*

inhibit innovation and approaches tailored to meet the needs of varying communities and populations. The legislature therefore finds that, given these limitations, an assessment is needed to determine whether network adequacy requirements are needed and, if necessary, whether the type of measures used by current accreditation programs, such as the national committee on quality assurance, meets these needs.

**Sec. 109 was vetoed. See message at end of chapter.*

****NEW SECTION. Sec. 110. NETWORK ADEQUACY—STUDY AND RESTRICTION. (1) The health care authority, in consultation with the office of the insurance commissioner, the department of social and health services, the department of health, consumers, providers, and health carriers, shall review the need for network adequacy requirements. The review must include an evaluation of the approaches used by the national committee on quality assurance and any similar, nationally recognized accreditation programs. The department shall submit its report and recommendations to the health care committees of the legislature by January 1, 1998, and include recommendations on:***

(a) Whether legislatively determined network adequacy requirements are necessary and advisable and the evidence to support this;

(b) If standards are needed, to what extent such standards can be made consistent with the national committee on quality assurance standards, and whether national committee on quality assurance accredited carriers, or carriers accredited by other, nationally recognized accreditation programs, should be exempted from state review and requirements;

(c) Whether and how the state could promote uniformity of approach across commercial purchaser requirements and state and federal agency requirements so as to assure adequate consumer access while promoting the most efficient use of public and private health care financial resources;

(d) Means to assure that health carriers and health systems maintain the flexibility necessary to responsibly determine the best ways to meet the needs of the populations they serve while controlling the costs of the health care services provided;

(e) Which types of health systems and health carriers should be subject to network adequacy requirements, if any; and

(f) An objective estimate of the potential costs of such requirements and any recommended oversight functions.

(2) No agency may engage in rule making relating to network adequacy until the legislature has reviewed the findings and recommendations of the study and has passed legislation authorizing the department of health or other appropriate agency to engage in rule making in this area in accordance with the policy direction set by the legislature.

**Sec. 110 was vetoed. See message at end of chapter.*

***NEW SECTION. Sec. 111.** A new section is added to chapter 48.43 RCW to read as follows:

ACCESS PLAN REQUIREMENTS. (1) Beginning July 1, 1997, every health carrier, as defined in RCW 48.43.005, shall develop and update annually an access plan that meets the requirements of this section for each of the health care networks that the carrier offers in this state. The health carrier shall make the access plans available on its business premises and shall provide nonproprietary information to any interested party upon request. The carrier shall prepare an access plan prior to offering a health plan utilizing a substantially different health care network. The plan shall include, at least, the following:

- (a) The health carrier's network of providers and facilities by license, certification and registration type, and by geographic location;
- (b) The health carrier's process for monitoring and assuring on an ongoing basis the sufficiency of the provider network to meet the covered health care needs of its enrolled populations; and
- (c) The health carrier's methods for assessing the health care needs of covered persons and their satisfaction with services.

(2) On or before August 1, 1997, each health carrier shall submit its access plan or plans to the Washington state health care authority for purposes of assisting the authority with its report and recommendations on network adequacy standards required under section 110 of this act.

(3) The legislature finds that current national committee for quality assurance network adequacy standards meet or exceed the requirements of this section. Health carriers who continuously maintain such accreditation are hereby deemed in compliance with this section for their accredited health plans. The office of the insurance commissioner shall periodically examine the accreditation standards of the national committee for quality assurance and report to the legislature to ensure that such standards continue to be substantially equivalent to or exceed the requirements of this section.

*Sec. 111 was vetoed. See message at end of chapter.

NEW SECTION. Sec. 112. A new section is added to chapter 74.09 RCW to read as follows:

MEDICAL ASSISTANCE WAIVERS. To the extent that federal statutes or regulations, or provisions of waivers granted to the department of social and health services by the federal department of health and human services, include standards that differ from the minimums stated in sections 101 through 106, 109, and 111 of this act, those sections do not apply to contracts with health carriers awarded pursuant to RCW 74.09.522.

PART II—MARKETPLACE STABILITY

***NEW SECTION. Sec. 201. LEGISLATIVE INTENT.** *The legislature intends that individuals in the state of Washington have access to affordable individual health plan coverage. The legislature reaffirms its commitment to guaranteed issue and renewability, portability, and limitations on use of preexisting condition exclusions. The legislature also finds that the lack of incentives for individuals to purchase and maintain coverage independent of anticipated need for health care has contributed to soaring health care claims experience in many individual health plans. The legislature therefore intends that refinements be made to the state's individual market reform laws to provide needed incentives and to help assure that more affordable coverage is accessible to Washington residents.*

*Sec. 201 was vetoed. See message at end of chapter.

Sec. 202. RCW 48.43.005 and 1995 c 265 s 4 are each amended to read as follows:

DEFINITIONS. Unless otherwise specifically provided, the definitions in this section apply throughout this chapter.

(1) "Adjusted community rate" means the rating method used to establish the premium for health plans adjusted to reflect actuarially demonstrated differences in utilization or cost attributable to geographic region, age, family size, and use of wellness activities.

(2) "Basic health plan" means the plan described under chapter 70.47 RCW, as revised from time to time.

(3) "Basic health plan model plan" means a health plan as required in RCW 70.47.060(2)(d).

(4) "Basic health plan services" means that schedule of covered health services, including the description of how those benefits are to be administered, that are required to be delivered to an enrollee under the basic health plan, as revised from time to time.

(5) "Certification" means a determination by a review organization that an admission, extension of stay, or other health care service or procedure has been reviewed and, based on the information provided, meets the clinical requirements for medical necessity, appropriateness, level of care, or effectiveness under the auspices of the applicable health benefit plan.

(6) "Concurrent review" means utilization review conducted during a patient's hospital stay or course of treatment.

(7) "Covered person" or "enrollee" means a person covered by a health plan including an enrollee, subscriber, policyholder, beneficiary of a group plan, or individual covered by any other health plan.

~~((3))~~ (8) "Dependent" means, at a minimum, the enrollee's legal spouse and unmarried dependent children who qualify for coverage under the enrollee's health benefit plan.

(9) "Eligible employee" means an employee who works on a full-time basis with a normal work week of thirty or more hours. The term includes a self-employed individual, including a sole proprietor, a partner of a partnership, and may include an independent contractor, if the self-employed individual, sole proprietor, partner, or independent contractor is included as an employee under a health benefit plan of a small employer, but does not work less than thirty hours per week and derives at least seventy-five percent of his or her income from a trade or business through which he or she has attempted to earn taxable income and for which he or she has filed the appropriate internal revenue service form. Persons covered under a health benefit plan pursuant to the consolidated omnibus budget reconciliation act of 1986 shall not be considered eligible employees for purposes of minimum participation requirements of chapter 265, Laws of 1995.

~~((4))~~ (10) "Emergency medical condition" means the emergent and acute onset of a symptom or symptoms, including severe pain, that would lead a prudent layperson acting reasonably to believe that a health condition exists that requires immediate medical attention, if failure to provide medical attention would result in serious impairment to bodily functions or serious dysfunction of a bodily organ or part, or would place the person's health in serious jeopardy.

(11) "Emergency services" means otherwise covered health care services medically necessary to evaluate and treat an emergency medical condition, provided in a hospital emergency department.

(12) "Enrollee point-of-service cost-sharing" means amounts paid to health carriers directly providing services, health care providers, or health care facilities by enrollees and may include copayments, coinsurance, or deductibles.

~~((5))~~ (13) "Grievance" means a written complaint submitted by or on behalf of a covered person regarding: (a) Denial of payment for medical services or nonprovision of medical services included in the covered person's health benefit plan, or (b) service delivery issues other than denial of payment for medical services or nonprovision of medical services, including dissatisfaction with medical care, waiting time for medical services, provider or staff attitude or demeanor, or dissatisfaction with service provided by the health carrier.

(14) "Health care facility" or "facility" means hospices licensed under chapter 70.127 RCW, hospitals licensed under chapter 70.41 RCW, rural health care facilities as defined in RCW 70.175.020, psychiatric hospitals licensed under chapter 71.12 RCW, nursing homes licensed under chapter 18.51 RCW, community mental health centers licensed under chapter 71.05 or 71.24 RCW, kidney disease treatment centers licensed under chapter 70.41 RCW, ambulatory diagnostic, treatment, or surgical facilities licensed under chapter 70.41 RCW, drug and alcohol treatment facilities licensed under chapter 70.96A RCW, and home health agencies licensed under chapter 70.127 RCW, and includes such facilities if owned and operated by a political subdivision or instrumentality of the state and such other facilities as required by federal law and implementing regulations.

~~((6))~~ (15) "Health care provider" or "provider" means:

(a) A person regulated under Title 18 or chapter 70.127 RCW, to practice health or health-related services or otherwise practicing health care services in this state consistent with state law; or

(b) An employee or agent of a person described in (a) of this subsection, acting in the course and scope of his or her employment.

~~((7))~~ (16) "Health care service" means that service offered or provided by health care facilities and health care providers relating to the prevention, cure, or treatment of illness, injury, or disease.

~~((8))~~ (17) "Health carrier" or "carrier" means a disability insurer regulated under chapter 48.20 or 48.21 RCW, a health care service contractor as defined in RCW 48.44.010, or a health maintenance organization as defined in RCW 48.46.020.

~~((9))~~ (18) "Health plan" or "health benefit plan" means any policy, contract, or agreement offered by a health carrier to provide, arrange, reimburse, or pay for health care services except the following:

- (a) Long-term care insurance governed by chapter 48.84 RCW;
- (b) Medicare supplemental health insurance governed by chapter 48.66 RCW;
- (c) Limited health care services offered by limited health care service contractors in accordance with RCW 48.44.035;
- (d) Disability income;
- (e) Coverage incidental to a property/casualty liability insurance policy such as automobile personal injury protection coverage and homeowner guest medical;
- (f) Workers' compensation coverage;
- (g) Accident only coverage;
- (h) Specified disease and hospital confinement indemnity when marketed solely as a supplement to a health plan;
- (i) Employer-sponsored self-funded health plans; and
- (j) Dental only and vision only coverage.

~~((10)) "Basic health plan services" means that schedule of covered health services, including the description of how those benefits are to be administered, that are required to be delivered to an enrollee under the basic health plan, as revised from time to time.))~~

(19) "Material modification" means a change in the actuarial value of the health plan as modified of more than five percent but less than fifteen percent.

(20) "Open enrollment" means the annual sixty-two day period during the months of July and August during which every health carrier offering individual health plan coverage must accept onto individual coverage any state resident within the carrier's service area regardless of health condition who submits an application in accordance with RCW 48.43.035(1).

~~((11))~~ (21) "Preexisting condition" means any medical condition, illness, or injury that existed any time prior to the effective date of coverage.

~~((12))~~ (22) "Premium" means all sums charged, received, or deposited by a health carrier as consideration for a health plan or the continuance of a health plan.

Any assessment or any "membership," "policy," "contract," "service," or similar fee or charge made by a health carrier in consideration for a health plan is deemed part of the premium. "Premium" shall not include amounts paid as enrollee point-of-service cost-sharing.

(23) "Review organization" means a disability insurer regulated under chapter 48.20 or 48.21 RCW, health care service contractor as defined in RCW 48.44.010, or health maintenance organization as defined in RCW 48.46.020, and entities affiliated with, under contract with, or acting on behalf of a health carrier to perform a utilization review.

~~((13))~~ (24) "Small employer" means any person, firm, corporation, partnership, association, political subdivision except school districts, or self-employed individual that is actively engaged in business that, on at least fifty percent of its working days during the preceding calendar quarter, employed no more than fifty eligible employees, with a normal work week of thirty or more hours, the majority of whom were employed within this state, and is not formed primarily for purposes of buying health insurance and in which a bona fide employer-employee relationship exists. In determining the number of eligible employees, companies that are affiliated companies, or that are eligible to file a combined tax return for purposes of taxation by this state, shall be considered an employer. Subsequent to the issuance of a health plan to a small employer and for the purpose of determining eligibility, the size of a small employer shall be determined annually. Except as otherwise specifically provided, a small employer shall continue to be considered a small employer until the plan anniversary following the date the small employer no longer meets the requirements of this definition. The term "small employer" includes a self-employed individual or sole proprietor. The term "small employer" also includes a self-employed individual or sole proprietor who derives at least seventy-five percent of his or her income from a trade or business through which the individual or sole proprietor has attempted to earn taxable income and for which he or she has filed the appropriate internal revenue service form 1040, schedule C or F, for the previous taxable year.

(25) "Utilization review" means the prospective, concurrent, or retrospective assessment of the necessity and appropriateness of the allocation of health care resources and services of a provider or facility, given or proposed to be given to an enrollee or group of enrollees.

~~((14))~~ (26) "Wellness activity" means an explicit program of an activity consistent with department of health guidelines, such as, smoking cessation, injury and accident prevention, reduction of alcohol misuse, appropriate weight reduction, exercise, automobile and motorcycle safety, blood cholesterol reduction, and nutrition education for the purpose of improving enrollee health status and reducing health service costs.

~~((15)) "Basic health plan" means the plan described under chapter 70.47 RCW, as revised from time to time.))~~

**Sec. 203. RCW 48.43.025 and 1995 c 265 s 6 are each amended to read as follows:*

PREEXISTING CONDITION LIMITATIONS MODIFIED. (1) Except as otherwise specified in this section and in RCW 48.43.035:

(a) No carrier may reject an individual for health plan coverage based upon preexisting conditions of the individual ((and)).

(b) No carrier may deny, exclude, or otherwise limit coverage for an individual's preexisting health conditions; except that a carrier may impose a three-month benefit waiting period for preexisting conditions for which medical advice was given, or for which a health care provider recommended or provided treatment within three months before the effective date of coverage.

(c) Every health carrier offering any individual health plan to any individual must allow open enrollment to eligible applicants into all individual health plans offered by the carrier during the full month of July of each year. The individual health plans exempt from guaranteed continuity under RCW 48.43.035(4) are exempt from this requirement. All applications for open enrollment coverage must be complete and postmarked to or received by the carrier in the months of July or August in any year following the effective date of this section. Coverage for these applicants must begin the first day of the next month subject to receipt of timely payment consistent with the terms of the policies.

(d) At any time other than the open enrollment period specified in (c) of this subsection, a carrier may either decline to accept an applicant for enrollment or apply to such applicant's coverage a preexisting condition benefit waiting period not to exceed the amount of time remaining until the next open enrollment period, or three months, whichever is greater, provided that in either case all of the following conditions are met:

(i) The applicant has not maintained coverage as required in (f) of this subsection;

(ii) The applicant is not applying as a newly eligible dependent meeting the requirements of (g) of this subsection; and

(iii) The carrier uses uniform health evaluation criteria and practices among all individual health plans it offers.

(e) If a carrier exercises the options specified in (d) of this subsection it must advise the applicant in writing within ten business days of such decision. Notice of the availability of Washington state health insurance pool coverage and a brochure outlining the benefits and exclusions of the Washington state health insurance pool policy or policies must be provided in accordance with RCW 48.41.180 to any person rejected for individual health plan coverage, who has had any health condition limited or excluded through health underwriting or who otherwise meets requirements for notice in chapter 48.41 RCW. Provided timely and complete application is received by the pool, eligible individuals shall

be enrolled in the Washington state health insurance pool in an expeditious manner as determined by the board of directors of the pool.

(f) A carrier may not refuse enrollment at any time based upon health evaluation criteria to otherwise eligible applicants who have been covered for any part of the three-month period immediately preceding the date of application for the new individual health plan under a comparable group or individual health benefit plan with substantially similar benefits. For purposes of this subsection, in addition to provisions in RCW 48.43.015, the following publicly administered coverage shall be considered comparable health benefit plans: The basic health plan established by chapter 70.47 RCW; the medical assistance program established by chapter 74.09 RCW; and the Washington state health insurance pool, established by chapter 48.41 RCW, as long as the person is continuously enrolled in the pool until the next open enrollment period. If the person is enrolled in the pool for less than three months, she or he will be credited for that period up to three months.

(g) A carrier must accept for enrollment all newly eligible dependents of an enrollee for enrollment onto the enrollee's individual health plan at any time of the year, provided application is made within sixty-three days of eligibility, or such longer time as provided by law or contract.

(h) At no time are carriers required to accept for enrollment any individual residing outside the state of Washington, except for qualifying dependents who reside outside the carrier service area.

(2) No carrier may avoid the requirements of this section through the creation of a new rate classification or the modification of an existing rate classification. A new or changed rate classification will be deemed an attempt to avoid the provisions of this section if the new or changed classification would substantially discourage applications for coverage from individuals or groups who are higher than average health risks. ((These)) The provisions of this section apply only to individuals who are Washington residents.

*Sec. 203 was vetoed. See message at end of chapter.

*Sec. 204. RCW 48.43.035 and 1995 c 265 s 7 are each amended to read as follows:

GUARANTEED ISSUE AND CONTINUITY OF COVERAGE MODIFIED. (1) ~~((A#))~~ Except as otherwise specified in this section and in RCW 48.43.025, every health carrier((s)) shall accept for enrollment any state resident within the carrier's service area and provide or assure the provision of all covered services regardless of age, sex, family structure, ethnicity, race, health condition, geographic location, employment status, socioeconomic status, other condition or situation, or the provisions of RCW 49.60.174(2). The insurance commissioner may grant a temporary exemption from this subsection, if, upon application by a health carrier the commissioner finds that the clinical, financial, or administrative capacity to serve existing enrollees will be impaired

if a health carrier is required to continue enrollment of additional eligible individuals.

(2) Except as provided in subsection ~~((5))~~ (6) of this section, all health plans shall contain or incorporate by endorsement a guarantee of the continuity of coverage of the plan. For the purposes of this section, a plan is "renewed" when it is continued beyond the earliest date upon which, at the carrier's sole option, the plan could have been terminated for other than nonpayment of premium. In the case of group plans, the carrier may consider the group's anniversary date as the renewal date for purposes of complying with the provisions of this section.

(3) The guarantee of continuity of coverage required in health plans shall not prevent a carrier from canceling or nonrenewing a health plan for:

- (a) Nonpayment of premium;
- (b) Violation of published policies of the carrier approved by the insurance commissioner;
- (c) Covered persons entitled to become eligible for medicare benefits by reason of age who fail to apply for a medicare supplement plan or medicare cost, risk, or other plan offered by the carrier pursuant to federal laws and regulations;
- (d) Covered persons who fail to pay any deductible or copayment amount owed to the carrier and not the provider of health care services;
- (e) Covered persons committing fraudulent acts as to the carrier;
- (f) Covered persons who materially breach the health plan; ~~((or))~~
- (g) Change or implementation of federal or state laws that no longer permit the continued offering of such coverage; or
- (h) Cessation of a plan in accordance with subsection (5) or (7) of this section.

(4) The provisions of this section do not apply in the following cases:

- (a) A carrier has zero enrollment on a product; ~~((or))~~
- (b) A carrier replaces a product and the replacement product is provided to all covered persons within that class or line of business, includes all of the services covered under the replaced product, and does not significantly limit access to the kind of services covered under the replaced product. The health plan may also allow unrestricted conversion to a fully comparable product; or
- (c) A carrier is withdrawing from a service area or from a segment of its service area because the carrier has demonstrated to the insurance commissioner that the carrier's clinical, financial, or administrative capacity to serve enrollees would be exceeded.

(5) A health carrier may discontinue or materially modify a particular health plan, only if:

- (a) The health carrier provides notice to each covered person or group provided coverage of this type of such discontinuation or modification at least ninety days prior to the date of the discontinuation or modification of coverage;

(b) The health carrier offers to each covered person provided coverage of this type the option to purchase any other health plan currently being offered by the health carrier to similar covered persons in the market category and geographic area; and

(c) In exercising the option to discontinue or modify a particular health plan and in offering the option of coverage under (b) of this subsection, the health carrier acts uniformly without regard to any health-status related factor of covered persons or persons who may become eligible for coverage.

(6) The provisions of this section do not apply to health plans deemed by the insurance commissioner to be unique or limited or have a short-term purpose, after a written request for such classification by the carrier and subsequent written approval by the insurance commissioner.

(7) A health carrier may discontinue all health plan coverage in one or more of the following lines of business:

(a)(i) Individual; or

(ii)(A) Small group (1-50 eligible employees); and

(B) Large group (51+ eligible employees);

(b) Only if:

(i) The health carrier provides notice to the office of the insurance commissioner and to each person covered by a plan within the line of business of such discontinuation at least one hundred eighty days prior to the expiration of coverage; and

(ii) All plans issued or delivered in the state by the health carrier in such line of business are discontinued, and coverage under such plans in such line of business is not renewed; and

(iii) The health carrier may not issue any health plan coverage in the line of business and state involved during the five-year period beginning on the date of the discontinuation of the last health plan not so renewed.

(8) The portability provisions of RCW 48.43.015 continue to apply to all enrollees whose health insurance coverage is modified or discontinued pursuant to this section.

(9) Nothing in this section modifies a health carrier's responsibility to offer the basic health plan model plan as required by RCW 70.47.060(2)(d).

*Sec. 204 was vetoed. See message at end of chapter.

Sec. 205. RCW 48.43.045 and 1995 c 265 s 8 are each amended to read as follows:

MODIFYING CARRIER REPORTING REQUIREMENTS. Every health plan delivered, issued for delivery, or renewed by a health carrier on and after January 1, 1996, shall:

(1) Permit every category of health care provider to provide health services or care for conditions included in the basic health plan services to the extent that:

(a) The provision of such health services or care is within the health care providers' permitted scope of practice; and

(b) The providers agree to abide by standards related to:

- (i) Provision, utilization review, and cost containment of health services;
- (ii) Management and administrative procedures; and
- (iii) Provision of cost-effective and clinically efficacious health services.

(2) Annually report the names and addresses of all officers, directors, or trustees of the health carrier during the preceding year, and the amount of wages, expense reimbursements, or other payments to such individuals. This requirement does not apply to a foreign or alien insurer regulated under chapter 48.20 or 48.21 RCW that files a supplemental compensation exhibit in its annual statement as required by law.

Sec. 206. RCW 70.47.060 and 1995 c 266 s 1 and 1995 c 2 s 4 are each reenacted and amended to read as follows:

MODEL PLAN DEFINED. The administrator has the following powers and duties:

(1) To design and from time to time revise a schedule of covered basic health care services, including physician services, inpatient and outpatient hospital services, prescription drugs and medications, and other services that may be necessary for basic health care. In addition, the administrator may offer as basic health plan services chemical dependency services, mental health services and organ transplant services; however, no one service or any combination of these three services shall increase the actuarial value of the basic health plan benefits by more than five percent excluding inflation, as determined by the office of financial management. All subsidized and nonsubsidized enrollees in any participating managed health care system under the Washington basic health plan shall be entitled to receive (~~covered basic health care services~~) covered basic health care services in return for premium payments to the plan. The schedule of services shall emphasize proven preventive and primary health care and shall include all services necessary for prenatal, postnatal, and well-child care. However, with respect to coverage for groups of subsidized enrollees who are eligible to receive prenatal and postnatal services through the medical assistance program under chapter 74.09 RCW, the administrator shall not contract for such services except to the extent that such services are necessary over not more than a one-month period in order to maintain continuity of care after diagnosis of pregnancy by the managed care provider. The schedule of services shall also include a separate schedule of basic health care services for children, eighteen years of age and younger, for those subsidized or nonsubsidized enrollees who choose to secure basic coverage through the plan only for their dependent children. In designing and revising the schedule of services, the administrator shall consider the guidelines for assessing health services under the mandated benefits act of 1984, RCW 48.42.080, and such other factors as the administrator deems appropriate.

However, with respect to coverage for subsidized enrollees who are eligible to receive prenatal and postnatal services through the medical assistance program under chapter 74.09 RCW, the administrator shall not contract for such services

except to the extent that the services are necessary over not more than a one-month period in order to maintain continuity of care after diagnosis of pregnancy by the managed care provider.

(2)(a) To design and implement a structure of periodic premiums due the administrator from subsidized enrollees that is based upon gross family income, giving appropriate consideration to family size and the ages of all family members. The enrollment of children shall not require the enrollment of their parent or parents who are eligible for the plan. The structure of periodic premiums shall be applied to subsidized enrollees entering the plan as individuals pursuant to subsection (9) of this section and to the share of the cost of the plan due from subsidized enrollees entering the plan as employees pursuant to subsection (10) of this section.

(b) To determine the periodic premiums due the administrator from nonsubsidized enrollees. Premiums due from nonsubsidized enrollees shall be in an amount equal to the cost charged by the managed health care system provider to the state for the plan plus the administrative cost of providing the plan to those enrollees and the premium tax under RCW 48.14.0201.

(c) An employer or other financial sponsor may, with the prior approval of the administrator, pay the premium, rate, or any other amount on behalf of a subsidized or nonsubsidized enrollee, by arrangement with the enrollee and through a mechanism acceptable to the administrator, but in no case shall the payment made on behalf of the enrollee exceed the total premiums due from the enrollee.

(d) To develop, as an offering by ~~((an))~~ every health carrier(s) providing coverage identical to the basic health plan, as configured on January 1, 1996, a basic health plan model plan ~~((benefits package))~~ with uniformity in enrollee cost-sharing requirements.

(3) To design and implement a structure of enrollee cost sharing due a managed health care system from subsidized and nonsubsidized enrollees. The structure shall discourage inappropriate enrollee utilization of health care services, and may utilize copayments, deductibles, and other cost-sharing mechanisms, but shall not be so costly to enrollees as to constitute a barrier to appropriate utilization of necessary health care services.

(4) To limit enrollment of persons who qualify for subsidies so as to prevent an overexpenditure of appropriations for such purposes. Whenever the administrator finds that there is danger of such an overexpenditure, the administrator shall close enrollment until the administrator finds the danger no longer exists.

(5) To limit the payment of subsidies to subsidized enrollees, as defined in RCW 70.47.020. The level of subsidy provided to persons who qualify may be based on the lowest cost plans, as defined by the administrator.

(6) To adopt a schedule for the orderly development of the delivery of services and availability of the plan to residents of the state, subject to the limitations contained in RCW 70.47.080 or any act appropriating funds for the plan.

(7) To solicit and accept applications from managed health care systems, as defined in this chapter, for inclusion as eligible basic health care providers under the plan. The administrator shall endeavor to assure that covered basic health care services are available to any enrollee of the plan from among a selection of two or more participating managed health care systems. In adopting any rules or procedures applicable to managed health care systems and in its dealings with such systems, the administrator shall consider and make suitable allowance for the need for health care services and the differences in local availability of health care resources, along with other resources, within and among the several areas of the state. Contracts with participating managed health care systems shall ensure that basic health plan enrollees who become eligible for medical assistance may, at their option, continue to receive services from their existing providers within the managed health care system if such providers have entered into provider agreements with the department of social and health services.

(8) To receive periodic premiums from or on behalf of subsidized and nonsubsidized enrollees, deposit them in the basic health plan operating account, keep records of enrollee status, and authorize periodic payments to managed health care systems on the basis of the number of enrollees participating in the respective managed health care systems.

(9) To accept applications from individuals residing in areas served by the plan, on behalf of themselves and their spouses and dependent children, for enrollment in the Washington basic health plan as subsidized or nonsubsidized enrollees, to establish appropriate minimum-enrollment periods for enrollees as may be necessary, and to determine, upon application and on a reasonable schedule defined by the authority, or at the request of any enrollee, eligibility due to current gross family income for sliding scale premiums. No subsidy may be paid with respect to any enrollee whose current gross family income exceeds twice the federal poverty level or, subject to RCW 70.47.110, who is a recipient of medical assistance or medical care services under chapter 74.09 RCW. If, as a result of an eligibility review, the administrator determines that a subsidized enrollee's income exceeds twice the federal poverty level and that the enrollee knowingly failed to inform the plan of such increase in income, the administrator may bill the enrollee for the subsidy paid on the enrollee's behalf during the period of time that the enrollee's income exceeded twice the federal poverty level. If a number of enrollees drop their enrollment for no apparent good cause, the administrator may establish appropriate rules or requirements that are applicable to such individuals before they will be allowed to reenroll in the plan.

(10) To accept applications from business owners on behalf of themselves and their employees, spouses, and dependent children, as subsidized or nonsubsidized enrollees, who reside in an area served by the plan. The administrator may require all or the substantial majority of the eligible employees of such businesses to enroll in the plan and establish those procedures necessary to facilitate the orderly enrollment of groups in the plan and into a managed health care system. The

administrator may require that a business owner pay at least an amount equal to what the employee pays after the state pays its portion of the subsidized premium cost of the plan on behalf of each employee enrolled in the plan. Enrollment is limited to those not eligible for medicare who wish to enroll in the plan and choose to obtain the basic health care coverage and services from a managed care system participating in the plan. The administrator shall adjust the amount determined to be due on behalf of or from all such enrollees whenever the amount negotiated by the administrator with the participating managed health care system or systems is modified or the administrative cost of providing the plan to such enrollees changes.

(11) To determine the rate to be paid to each participating managed health care system in return for the provision of covered basic health care services to enrollees in the system. Although the schedule of covered basic health care services will be the same for similar enrollees, the rates negotiated with participating managed health care systems may vary among the systems. In negotiating rates with participating systems, the administrator shall consider the characteristics of the populations served by the respective systems, economic circumstances of the local area, the need to conserve the resources of the basic health plan trust account, and other factors the administrator finds relevant.

(12) To monitor the provision of covered services to enrollees by participating managed health care systems in order to assure enrollee access to good quality basic health care, to require periodic data reports concerning the utilization of health care services rendered to enrollees in order to provide adequate information for evaluation, and to inspect the books and records of participating managed health care systems to assure compliance with the purposes of this chapter. In requiring reports from participating managed health care systems, including data on services rendered enrollees, the administrator shall endeavor to minimize costs, both to the managed health care systems and to the plan. The administrator shall coordinate any such reporting requirements with other state agencies, such as the insurance commissioner and the department of health, to minimize duplication of effort.

(13) To evaluate the effects this chapter has on private employer-based health care coverage and to take appropriate measures consistent with state and federal statutes that will discourage the reduction of such coverage in the state.

(14) To develop a program of proven preventive health measures and to integrate it into the plan wherever possible and consistent with this chapter.

(15) To provide, consistent with available funding, assistance for rural residents, underserved populations, and persons of color.

Sec. 207. RCW 48.20.028 and 1995 c 265 s 13 are each amended to read as follows:

TENURE DISCOUNTS—INDIVIDUAL DISABILITY COVERAGE. (1)(a) An insurer offering any health benefit plan to any individual shall offer and actively market to all individuals a health benefit plan providing benefits identical to the schedule of covered health ((services)) benefits that are required to be

delivered to an individual enrolled in the basic health plan subject to RCW 48.43.025 and 48.43.035. Nothing in this subsection shall preclude an insurer from offering, or an individual from purchasing, other health benefit plans that may have more or less comprehensive benefits than the basic health plan, provided such plans are in accordance with this chapter. An insurer offering a health benefit plan that does not include benefits provided in the basic health plan shall clearly disclose these differences to the individual in a brochure approved by the commissioner.

(b) A health benefit plan shall provide coverage for hospital expenses and services rendered by a physician licensed under chapter 18.57 or 18.71 RCW but is not subject to the requirements of RCW 48.20.390, 48.20.393, 48.20.395, 48.20.397, 48.20.410, 48.20.411, 48.20.412, 48.20.416, and 48.20.420 if the health benefit plan is the mandatory offering under (a) of this subsection that provides benefits identical to the basic health plan, to the extent these requirements differ from the basic health plan.

(2) Premiums for health benefit plans for individuals shall be calculated using the adjusted community rating method that spreads financial risk across the carrier's entire individual product population. All such rates shall conform to the following:

(a) The insurer shall develop its rates based on an adjusted community rate and may only vary the adjusted community rate for:

- (i) Geographic area;
- (ii) Family size;
- (iii) Age; ~~((and))~~
- (iv) Tenure discounts; and
- ~~(v)~~ Wellness activities.

(b) The adjustment for age in (a)(iii) of this subsection may not use age brackets smaller than five-year increments which shall begin with age twenty and end with age sixty-five. Individuals under the age of twenty shall be treated as those age twenty.

(c) The insurer shall be permitted to develop separate rates for individuals age sixty-five or older for coverage for which medicare is the primary payer and coverage for which medicare is not the primary payer. Both rates shall be subject to the requirements of this subsection.

(d) The permitted rates for any age group shall be no more than four hundred twenty-five percent of the lowest rate for all age groups on January 1, 1996, four hundred percent on January 1, 1997, and three hundred seventy-five percent on January 1, 2000, and thereafter.

(e) A discount for wellness activities shall be permitted to reflect actuarially justified differences in utilization or cost attributed to such programs not to exceed twenty percent.

(f) The rate charged for a health benefit plan offered under this section may not be adjusted more frequently than annually except that the premium may be changed to reflect:

- (i) Changes to the family composition;
- (ii) Changes to the health benefit plan requested by the individual; or
- (iii) Changes in government requirements affecting the health benefit plan.

(g) For the purposes of this section, a health benefit plan that contains a restricted network provision shall not be considered similar coverage to a health benefit plan that does not contain such a provision, provided that the restrictions of benefits to network providers result in substantial differences in claims costs. This subsection does not restrict or enhance the portability of benefits as provided in RCW 48.43.015.

(h) A tenure discount for continuous enrollment in the health plan of two years or more may be offered, not to exceed ten percent.

(3) Adjusted community rates established under this section shall pool the medical experience of all individuals purchasing coverage, and shall not be required to be pooled with the medical experience of health benefit plans offered to small employers under RCW 48.21.045.

(4) As used in this section, "health benefit plan," "basic health plan," "adjusted community rate," and "wellness activities" mean the same as defined in RCW 48.43.005.

Sec. 208. RCW 48.44.022 and 1995 c 265 s 15 are each amended to read as follows:

TENURE DISCOUNTS—HEALTH CARE SERVICE CONTRACTORS.

(1)(a) A health care service contractor offering any health benefit plan to any individual shall offer and actively market to all individuals a health benefit plan providing benefits identical to the schedule of covered health ~~(services)~~ benefits that are required to be delivered to an individual enrolled in the basic health plan, subject to the provisions in RCW 48.43.025 and 48.43.035. Nothing in this subsection shall preclude a contractor from offering, or an individual from purchasing, other health benefit plans that may have more or less comprehensive benefits than the basic health plan, provided such plans are in accordance with this chapter. A contractor offering a health benefit plan that does not include benefits provided in the basic health plan shall clearly disclose these differences to the individual in a brochure approved by the commissioner.

(b) A health benefit plan shall provide coverage for hospital expenses and services rendered by a physician licensed under chapter 18.57 or 18.71 RCW but is not subject to the requirements of RCW 48.44.225, 48.44.240, 48.44.245, 48.44.290, 48.44.300, 48.44.310, 48.44.320, 48.44.325, 48.44.330, 48.44.335, 48.44.340, 48.44.344, 48.44.360, 48.44.400, 48.44.440, 48.44.450, and 48.44.460 if the health benefit plan is the mandatory offering under (a) of this subsection that provides benefits identical to the basic health plan, to the extent these requirements differ from the basic health plan.

(2) Premium rates for health benefit plans for individuals shall be subject to the following provisions:

(a) The health care service contractor shall develop its rates based on an adjusted community rate and may only vary the adjusted community rate for:

- (i) Geographic area;
- (ii) Family size;
- (iii) Age; ~~((and))~~
- (iv) Tenure discounts; and
- (v) Wellness activities.

(b) The adjustment for age in (a)(iii) of this subsection may not use age brackets smaller than five-year increments which shall begin with age twenty and end with age sixty-five. Individuals under the age of twenty shall be treated as those age twenty.

(c) The health care service contractor shall be permitted to develop separate rates for individuals age sixty-five or older for coverage for which medicare is the primary payer and coverage for which medicare is not the primary payer. Both rates shall be subject to the requirements of this subsection.

(d) The permitted rates for any age group shall be no more than four hundred twenty-five percent of the lowest rate for all age groups on January 1, 1996, four hundred percent on January 1, 1997, and three hundred seventy-five percent on January 1, 2000, and thereafter.

(e) A discount for wellness activities shall be permitted to reflect actuarially justified differences in utilization or cost attributed to such programs not to exceed twenty percent.

(f) The rate charged for a health benefit plan offered under this section may not be adjusted more frequently than annually except that the premium may be changed to reflect:

- (i) Changes to the family composition;
- (ii) Changes to the health benefit plan requested by the individual; or
- (iii) Changes in government requirements affecting the health benefit plan.

(g) For the purposes of this section, a health benefit plan that contains a restricted network provision shall not be considered similar coverage to a health benefit plan that does not contain such a provision, provided that the restrictions of benefits to network providers result in substantial differences in claims costs. This subsection does not restrict or enhance the portability of benefits as provided in RCW 48.43.015.

(h) A tenure discount for continuous enrollment in the health plan of two years or more may be offered, not to exceed ten percent.

(3) Adjusted community rates established under this section shall pool the medical experience of all individuals purchasing coverage, and shall not be required to be pooled with the medical experience of health benefit plans offered to small employers under RCW 48.44.023.

(4) As used in this section and RCW 48.44.023 "health benefit plan," "small employer," "basic health plan," "adjusted community rates," and "wellness activities" mean the same as defined in RCW 48.43.005.

Sec. 209. RCW 48.46.064 and 1995 c 265 s 17 are each amended to read as follows:

TENURE DISCOUNTS—HEALTH MAINTENANCE ORGANIZATIONS.

(1)(a) A health maintenance organization offering any health benefit plan to any individual shall offer and actively market to all individuals a health benefit plan providing benefits identical to the schedule of covered health ~~((services))~~ benefits that are required to be delivered to an individual enrolled in the basic health plan, subject to the provisions in RCW 48.43.025 and 48.43.035. Nothing in this subsection shall preclude a health maintenance organization from offering, or an individual from purchasing, other health benefit plans that may have more or less comprehensive benefits than the basic health plan, provided such plans are in accordance with this chapter. A health maintenance organization offering a health benefit plan that does not include benefits provided in the basic health plan shall clearly disclose these differences to the individual in a brochure approved by the commissioner.

(b) A health benefit plan shall provide coverage for hospital expenses and services rendered by a physician licensed under chapter 18.57 or 18.71 RCW but is not subject to the requirements of RCW 48.46.275, ~~((48.26.280 {48.46.280}))~~ 48.46.280, 48.46.285, 48.46.290, 48.46.350, 48.46.355, 48.46.375, 48.46.440, 48.46.480, 48.46.510, 48.46.520, and 48.46.530 if the health benefit plan is the mandatory offering under (a) of this subsection that provides benefits identical to the basic health plan, to the extent these requirements differ from the basic health plan.

(2) Premium rates for health benefit plans for individuals shall be subject to the following provisions:

(a) The health maintenance organization shall develop its rates based on an adjusted community rate and may only vary the adjusted community rate for:

- (i) Geographic area;
- (ii) Family size;
- (iii) Age; ~~((and))~~
- (iv) Tenure discounts; and
- (v) Wellness activities.

(b) The adjustment for age in (a)(iii) of this subsection may not use age brackets smaller than five-year increments which shall begin with age twenty and end with age sixty-five. Individuals under the age of twenty shall be treated as those age twenty.

(c) The health maintenance organization shall be permitted to develop separate rates for individuals age sixty-five or older for coverage for which medicare is the primary payer and coverage for which medicare is not the primary payer. Both rates shall be subject to the requirements of this subsection.

(d) The permitted rates for any age group shall be no more than four hundred twenty-five percent of the lowest rate for all age groups on January 1, 1996, four hundred percent on January 1, 1997, and three hundred seventy-five percent on January 1, 2000, and thereafter.

(e) A discount for wellness activities shall be permitted to reflect actuarially justified differences in utilization or cost attributed to such programs not to exceed twenty percent.

(f) The rate charged for a health benefit plan offered under this section may not be adjusted more frequently than annually except that the premium may be changed to reflect:

- (i) Changes to the family composition;
- (ii) Changes to the health benefit plan requested by the individual; or
- (iii) Changes in government requirements affecting the health benefit plan.

(g) For the purposes of this section, a health benefit plan that contains a restricted network provision shall not be considered similar coverage to a health benefit plan that does not contain such a provision, provided that the restrictions of benefits to network providers result in substantial differences in claims costs. This subsection does not restrict or enhance the portability of benefits as provided in RCW 48.43.015.

(h) A tenure discount for continuous enrollment in the health plan of two years or more may be offered, not to exceed ten percent.

(3) Adjusted community rates established under this section shall pool the medical experience of all individuals purchasing coverage, and shall not be required to be pooled with the medical experience of health benefit plans offered to small employers under RCW 48.46.066.

(4) As used in this section and RCW 48.46.066, "health benefit plan," "basic health plan," "adjusted community rate," "small employer," and "wellness activities" mean the same as defined in RCW 48.43.005.

Sec. 210. RCW 48.41.030 and 1989 c 121 s 1 are each amended to read as follows:

HEALTH INSURANCE POOL—DEFINITIONS. As used in this chapter, the following terms have the meaning indicated, unless the context requires otherwise:

(1) "Accounting year" means a twelve-month period determined by the board for purposes of record-keeping and accounting. The first accounting year may be more or less than twelve months and, from time to time in subsequent years, the board may order an accounting year of other than twelve months as may be required for orderly management and accounting of the pool.

(2) "Administrator" means the entity chosen by the board to administer the pool under RCW 48.41.080.

(3) "Board" means the board of directors of the pool.

(4) "Commissioner" means the insurance commissioner.

(5) "Health care facility" has the same meaning as in RCW 70.38.025.

(6) "Health care provider" means any physician, facility, or health care professional, who is licensed in Washington state and entitled to reimbursement for health care services.

(7) "Health care services" means services for the purpose of preventing, alleviating, curing, or healing human illness or injury.

(8) "Health ((insurance)) coverage" means any group or individual disability insurance policy, health care service contract, and health maintenance agreement, except those contracts entered into for the provision of health care services pursuant to Title XVIII of the Social Security Act, 42 U.S.C. Sec. 1395 et seq. The term does not include short-term care, long-term care, dental, vision, accident, fixed indemnity, disability income contracts, civilian health and medical program for the uniform services (CHAMPUS), 10 U.S.C. 55, limited benefit or credit insurance, coverage issued as a supplement to liability insurance, insurance arising out of the worker's compensation or similar law, automobile medical payment insurance, or insurance under which benefits are payable with or without regard to fault and which is statutorily required to be contained in any liability insurance policy or equivalent self-insurance.

(9) "Health plan" means any arrangement by which persons, including dependents or spouses, covered or making application to be covered under this pool, have access to hospital and medical benefits or reimbursement including any group or individual disability insurance policy; health care service contract; health maintenance agreement; uninsured arrangements of group or group-type contracts including employer self-insured, cost-plus, or other benefit methodologies not involving insurance or not governed by Title 48 RCW; coverage under group-type contracts which are not available to the general public and can be obtained only because of connection with a particular organization or group; and coverage by medicare or other governmental benefits. This term includes coverage through "health ((insurance)) coverage" as defined under this section, and specifically excludes those types of programs excluded under the definition of "health ((insurance)) coverage" in subsection (8) of this section.

(10) (~~"Insured" means any individual resident of this state who is eligible to receive benefits from any member, or other health plan:~~

~~—(11))~~ "Medical assistance" means coverage under Title XIX of the federal Social Security Act (42 U.S.C., Sec. 1396 et seq.) and chapter 74.09 RCW.

~~((12))~~ (11) "Medicare" means coverage under Title XVIII of the Social Security Act, (42 U.S.C. Sec. 1395 et seq., as amended).

~~((13))~~ (12) "Member" means any commercial insurer which provides disability insurance, any health care service contractor, and any health maintenance organization licensed under Title 48 RCW. "Member" shall also mean, as soon as authorized by federal law, employers and other entities, including a self-funding entity and employee welfare benefit plans that provide health plan benefits in this state on or after May 18, 1987. "Member" does not include any insurer, health care service contractor, or health maintenance organization whose products are

exclusively dental products or those products excluded from the definition of "health ~~((insurance))~~ coverage" set forth in subsection (8) of this section.

(13) "Network provider" means a health care provider who has contracted in writing with the pool administrator to accept payment from and to look solely to the pool according to the terms of the pool health plans.

(14) "Plan of operation" means the pool, including articles, by-laws, and operating rules, adopted by the board pursuant to RCW 48.41.050.

(15) "Point of service plan" means a benefit plan offered by the pool under which a covered person may elect to receive covered services from network providers, or nonnetwork providers at a reduced rate of benefits.

(16) "Pool" means the Washington state health insurance pool as created in RCW 48.41.040.

~~((16))~~ (17) "Substantially equivalent health plan" means a "health plan" as defined in subsection (9) of this section which, in the judgment of the board or the administrator, offers persons including dependents or spouses covered or making application to be covered by this pool an overall level of benefits deemed approximately equivalent to the minimum benefits available under this pool.

Sec. 211. RCW 48.41.060 and 1989 c 121 s 3 are each amended to read as follows:

HEALTH INSURANCE POOL—BOARD POWERS MODIFIED. The board shall have the general powers and authority granted under the laws of this state to insurance companies, health care service contractors, and health maintenance organizations, licensed or registered to ~~((transact))~~ offer or provide the kinds of ~~((insurance))~~ health coverage defined under this title. In addition thereto, the board may:

(1) Enter into contracts as are necessary or proper to carry out the provisions and purposes of this chapter including the authority, with the approval of the commissioner, to enter into contracts with similar pools of other states for the joint performance of common administrative functions, or with persons or other organizations for the performance of administrative functions;

(2) Sue or be sued, including taking any legal action as necessary to avoid the payment of improper claims against the pool or the coverage provided by or through the pool;

(3) Establish appropriate rates, rate schedules, rate adjustments, expense allowances, agent referral fees, claim reserve formulas and any other actuarial functions appropriate to the operation of the pool. Rates shall not be unreasonable in relation to the coverage provided, the risk experience, and expenses of providing the coverage. Rates and rate schedules may be adjusted for appropriate risk factors such as age and area variation in claim costs and shall take into consideration appropriate risk factors in accordance with established actuarial underwriting practices consistent with Washington state small group plan rating requirements under RCW 48.20.028, 48.44.022, and 48.46.064;

(4) Assess members of the pool in accordance with the provisions of this chapter, and make advance interim assessments as may be reasonable and necessary for the organizational or interim operating expenses. Any interim assessments will be credited as offsets against any regular assessments due following the close of the year;

(5) Issue policies of (~~insurance~~) health coverage in accordance with the requirements of this chapter;

(6) Appoint appropriate legal, actuarial and other committees as necessary to provide technical assistance in the operation of the pool, policy, and other contract design, and any other function within the authority of the pool; and

(7) Conduct periodic audits to assure the general accuracy of the financial data submitted to the pool, and the board shall cause the pool to have an annual audit of its operations by an independent certified public accountant.

Sec. 212. RCW 48.41.080 and 1989 c 121 s 5 are each amended to read as follows:

HEALTH INSURANCE POOL—ADMINISTRATOR'S POWER MODIFIED. The board shall select an administrator from the membership of the pool whether domiciled in this state or another state through a competitive bidding process to administer the pool.

(1) The board shall evaluate bids based upon criteria established by the board, which shall include:

(a) The administrator's proven ability to handle (~~accident and health insurance~~) health coverage;

(b) The efficiency of the administrator's claim-paying procedures;

(c) An estimate of the total charges for administering the plan; and

(d) The administrator's ability to administer the pool in a cost-effective manner.

(2) The administrator shall serve for a period of three years subject to removal for cause. At least six months prior to the expiration of each three-year period of service by the administrator, the board shall invite all interested parties, including the current administrator, to submit bids to serve as the administrator for the succeeding three-year period. Selection of the administrator for this succeeding period shall be made at least three months prior to the end of the current three-year period.

(3) The administrator shall perform such duties as may be assigned by the board including:

(a) All eligibility and administrative claim payment functions relating to the pool;

(b) Establishing a premium billing procedure for collection of premiums from (~~insured~~) covered persons. Billings shall be made on a periodic basis as determined by the board, which shall not be more frequent than a monthly billing;

(c) Performing all necessary functions to assure timely payment of benefits to covered persons under the pool including:

(i) Making available information relating to the proper manner of submitting a claim for benefits to the pool, and distributing forms upon which submission shall be made; (~~and~~)

(ii) Taking steps necessary to offer and administer managed care benefit plans;
and

(iii) Evaluating the eligibility of each claim for payment by the pool;

(d) Submission of regular reports to the board regarding the operation of the pool. The frequency, content, and form of the report shall be as determined by the board;

(e) Following the close of each accounting year, determination of net paid and earned premiums, the expense of administration, and the paid and incurred losses for the year and reporting this information to the board and the commissioner on a form as prescribed by the commissioner.

(4) The administrator shall be paid as provided in the contract between the board and the administrator for its expenses incurred in the performance of its services.

Sec. 213. RCW 48.41.110 and 1987 c 431 s 11 are each amended to read as follows:

HEALTH INSURANCE POOL—BENEFITS MODIFIED. (1) The pool is authorized to offer one or more managed care plans of coverage. Such plans may, but are not required to, include point of service features that permit participants to receive in-network benefits or out-of-network benefits subject to differential cost shares. Covered persons enrolled in the pool on January 1, 1997, may continue coverage under the pool plan in which they are enrolled on that date. However, the pool may incorporate managed care features into such existing plans.

(2) The administrator shall prepare a brochure outlining the benefits and exclusions of the pool policy in plain language. After approval by the board of directors, such brochure shall be made reasonably available to participants or potential participants. The health insurance policy issued by the pool shall pay only usual, customary, and reasonable charges for medically necessary eligible health care services rendered or furnished for the diagnosis or treatment of illnesses, injuries, and conditions which are not otherwise limited or excluded. Eligible expenses are the usual, customary, and reasonable charges for the health care services and items for which benefits are extended under the pool policy. Such benefits shall at minimum include, but not be limited to, the following services or related items:

(a) Hospital services, including charges for the most common semiprivate room, for the most common private room if semiprivate rooms do not exist in the health care facility, or for the private room if medically necessary, but limited to a total of one hundred eighty inpatient days in a calendar year, and limited to thirty days inpatient care for mental and nervous conditions, or alcohol, drug, or chemical dependency or abuse per calendar year;

(b) Professional services including surgery for the treatment of injuries, illnesses, or conditions, other than dental, which are rendered by a health care provider, or at the direction of a health care provider, by a staff of registered or licensed practical nurses, or other health care providers;

(c) The first twenty outpatient professional visits for the diagnosis or treatment of one or more mental or nervous conditions or alcohol, drug, or chemical dependency or abuse rendered during a calendar year by one or more physicians, psychologists, or community mental health professionals, or, at the direction of a physician, by other qualified licensed health care practitioners, in the case of mental or nervous conditions, and rendered by a state certified chemical dependency program approved under chapter 70.96A RCW, in the case of alcohol, drug, or chemical dependency or abuse;

(d) Drugs and contraceptive devices requiring a prescription;

(e) Services of a skilled nursing facility, excluding custodial and convalescent care, for not more than one hundred days in a calendar year as prescribed by a physician;

(f) Services of a home health agency;

(g) Chemotherapy, radioisotope, radiation, and nuclear medicine therapy;

(h) Oxygen;

(i) Anesthesia services;

(j) Prostheses, other than dental;

(k) Durable medical equipment which has no personal use in the absence of the condition for which prescribed;

(l) Diagnostic x-rays and laboratory tests;

(m) Oral surgery limited to the following: Fractures of facial bones; excisions of mandibular joints, lesions of the mouth, lip, or tongue, tumors, or cysts excluding treatment for temporomandibular joints; incision of accessory sinuses, mouth salivary glands or ducts; dislocations of the jaw; plastic reconstruction or repair of traumatic injuries occurring while covered under the pool; and excision of impacted wisdom teeth;

(n) Maternity care services, as provided in the managed care plan to be designed by the pool board of directors, and for which no preexisting condition waiting periods may apply;

~~(o)~~ (o) Services of a physical therapist and services of a speech therapist;

~~((p))~~ (p) Hospice services;

~~((q))~~ (q) Professional ambulance service to the nearest health care facility qualified to treat the illness or injury; and

~~((r))~~ (r) Other medical equipment, services, or supplies required by physician's orders and medically necessary and consistent with the diagnosis, treatment, and condition.

~~((z))~~ (3) The board shall design and employ cost containment measures and requirements such as, but not limited to, care coordination, provider network

limitations, preadmission certification, and concurrent inpatient review which may make the pool more cost-effective.

~~((3))~~ (4) The pool benefit policy may contain benefit limitations, exceptions, and ((reductions)) cost shares such as copayments, coinsurance, and deductibles that are consistent with managed care products, except that differential cost shares may be adopted by the board for nonnetwork providers under point of service plans. The pool benefit policy cost shares and limitations must be consistent with those that are generally included in health ((insurance)) plans ((and are)) approved by the insurance commissioner; however, no limitation, exception, or reduction may be ((approved)) used that would exclude coverage for any disease, illness, or injury.

(5) The pool may not reject an individual for health plan coverage based upon preexisting conditions of the individual or deny, exclude, or otherwise limit coverage for an individual's preexisting health conditions; except that it may impose a three-month benefit waiting period for preexisting conditions for which medical advice was given, or for which a health care provider recommended or provided treatment, within three months before the effective date of coverage. The pool may not avoid the requirements of this section through the creation of a new rate classification or the modification of an existing rate classification.

Sec. 214. RCW 48.41.200 and 1987 c 431 s 20 are each amended to read as follows:

HEALTH INSURANCE POOL—RATE MODIFIED. The pool shall determine the standard risk rate by calculating the average group standard rate for groups comprised of up to ~~((ten))~~ fifty persons charged by the five largest members offering coverages in the state comparable to the pool coverage. In the event five members do not offer comparable coverage, the standard risk rate shall be established using reasonable actuarial techniques and shall reflect anticipated experience and expenses for such coverage. Maximum rates for pool coverage shall be one hundred fifty percent for the indemnity health plan and one hundred twenty-five percent for managed care plans of the rates established as applicable for group standard risks in groups comprised of up to ~~((ten))~~ fifty persons~~((—All rates and rate schedules shall be submitted to the commissioner for approval))~~.

Sec. 215. RCW 48.41.130 and 1987 c 431 s 13 are each amended to read as follows:

HEALTH INSURANCE POOL—SUBSTANTIAL EQUIVALENT CLARIFIED. All policy forms issued by the pool shall conform in substance to prototype forms developed by the pool, and shall in all other respects conform to the requirements of this chapter, and shall be filed with and approved by the commissioner before they are issued. The pool shall not issue a pool policy to any individual who, on the effective date of the coverage applied for, already has or would have coverage substantially equivalent to a pool policy as an insured or covered dependent, or who would be eligible for such coverage if he or she elected to obtain it at a lesser premium rate. However, coverage provided by the basic

health plan, as established pursuant to chapter 70.47 RCW, shall not be deemed substantially equivalent for the purposes of this section.

***NEW SECTION.** *Sec. 216. A new section is added to chapter 48.44 RCW to read as follows:*

LOSS RATIOS—HEALTH CARE SERVICE CONTRACTORS. *(1) For purposes of RCW 48.44.020(2)(d), benefits in a contract shall be deemed reasonable in relation to the amount charged provided that the anticipated loss ratio is at least:*

- (a) Sixty-five percent for individual subscriber contract forms;*
- (b) Seventy percent for franchise plan contract forms;*
- (c) Eighty percent for group contract forms other than small group contract forms; and*
- (d) Seventy-five percent for small group contract forms.*

(2) With the approval of the commissioner, contract, rider, and endorsement forms that provide substantially similar coverage may be combined for the purpose of determining the anticipated loss ratio.

(3) A health care service contractor may charge the rate for prepayment of health care services in any contract identified in RCW 48.44.020(1) upon filing of the rate with the commissioner. If the commissioner disapproves the rate, the commissioner shall explain in writing the specific reasons for the disapproval. A health care service contractor may continue to charge such rate pending a final order in any hearing held under chapters 48.04 and 34.05 RCW, or if applicable, pending a final order in any appeal. Any amount charged that is determined in a final order on appeal to be unreasonable in relation to the benefits provided is subject to refund.

(4) For the purposes of this section:

(a) "Anticipated loss ratio" means the ratio of all anticipated claims or costs for the delivery of covered health care services including incurred but not reported claims and costs and medical management costs to premium minus any applicable taxes.

(b) "Small group contract form" means a form offered to a small employer as defined in RCW 48.43.005(24).

**Sec. 216 was vetoed. See message at end of chapter.*

***NEW SECTION.** *Sec. 217. A new section is added to chapter 48.46 RCW to read as follows:*

LOSS RATIOS—HEALTH MAINTENANCE ORGANIZATIONS. *(1) For purposes of RCW 48.46.060(3)(d), benefits shall be deemed reasonable in relation to the amount charged provided that the anticipated loss ratio is at least:*

- (a) Sixty-five percent for individual subscriber contract forms;*
- (b) Seventy percent for franchise plan contract forms;*
- (c) Eighty percent for group contract forms other than small group contract forms; and*
- (d) Seventy-five percent for small group contract forms.*

(2) *With the approval of the commissioner, contract, rider, and endorsement forms that provide substantially similar coverage may be combined for the purpose of determining the anticipated loss ratio.*

(3) *A health maintenance organization may charge the rate for prepayment of health care services in any contract identified in RCW 48.46.060(1) upon filing of the rate with the commissioner. If the commissioner disapproves the rate, the commissioner shall explain in writing the specific reasons for the disapproval. A health maintenance organization may continue to charge such rate pending a final order in any hearing held under chapters 48.04 and 34.05 RCW, or if applicable, pending a final order in any appeal. Any amount charged that is determined in a final order on appeal to be unreasonable in relation to the benefits provided is subject to refund.*

(4) *For the purposes of this section:*

(a) *"Anticipated loss ratio" means the ratio of all anticipated claims or costs for the delivery of covered health care services including incurred but not reported claims and costs and medical management costs to premium minus any applicable taxes.*

(b) *"Small group contract form" means a form offered to a small employer as defined in RCW 48.43.005(24).*

**Sec. 217 was vetoed. See message at end of chapter.*

***NEW SECTION.** *Sec. 218. A new section is added to chapter 48.21 RCW to read as follows:*

LOSS RATIOS—GROUPS' DISABILITY COVERAGE. *The following standards and requirements apply to group and blanket disability insurance policy forms and manual rates:*

(1) *Specified disease group insurance shall generate at least a seventy-five percent loss ratio regardless of the size of the group.*

(2) *Group disability insurance, other than specified disease insurance, as to which the insureds pay all or substantially all of the premium shall generate loss ratios no lower than those set forth in the following table.*

<i>Number of Certificate Holders at Issue, Renewal, or Rerating</i>	<i>Minimum Overall Loss Ratio</i>
<i>9 or less</i>	<i>60%</i>
<i>10 to 24</i>	<i>65%</i>
<i>25 to 49</i>	<i>70%</i>
<i>50 to 99</i>	<i>75%</i>
<i>100 or more</i>	<i>80%</i>

(3) *Group disability policy forms, other than for specified disease insurance, for issue to single employers insuring less than one hundred lives shall generate loss ratios no lower than those set forth in subsection (2) of this section for groups of the same size.*

(4) *The calculating period may vary with the benefit and premium provisions. The company may be required to demonstrate the reasonableness of the calculating period chosen by the actuary responsible for the premium calculations.*

(5) *A request for a rate increase submitted at the end of the calculating period shall include a comparison of the actual to the expected loss ratios and shall employ any accumulation of reserves in the determination of rates for the selected calculating period and account for the maintenance of such reserves for future needs. The request for the rate increase shall be further documented by the expected loss ratio for the new calculating period.*

(6) *A request for a rate increase submitted during the calculating period shall include a comparison of the actual to the expected loss ratios, a demonstration of any contributions to or support from the reserves, and shall account for the maintenance of such reserves for future needs. If the experience justifies a premium increase it shall be deemed that the calculating period has prematurely been brought to an end. The rate increase shall further be documented by the expected loss ratio for the next calculating period.*

(7) *The commissioner may approve a series of two or three smaller rate increases in lieu of one larger increase. These should be calculated to reduce the lapses and antiselection that often result from large rate increases. A demonstration of such calculations, whether for a single rate increase or a series of smaller rate increases, satisfactory to the commissioner, shall be attached to the filing.*

(8) *Companies shall review their experience periodically and file appropriate rate revisions in a timely manner to reduce the necessity of later filing of exceptionally large rate increases.*

(9) *The definitions in section 221 of this act and the provisions in section 220 of this act apply to this section.*

*Sec. 218 was vetoed. See message at end of chapter.

***NEW SECTION.** *Sec. 219. A new section is added to chapter 48.20 RCW to read as follows:*

LOSS RATIOS—INDIVIDUAL DISABILITY COVERAGE. *The following standards and requirements apply to individual disability insurance forms:*

(1) *The overall loss ratio shall be deemed reasonable in relation to the premiums if the overall loss ratio is at least sixty percent over a calculating period chosen by the insurer and satisfactory to the commissioner.*

(2) *The calculating period may vary with the benefit and renewal provisions. The company may be required to demonstrate the reasonableness of the calculating period chosen by the actuary responsible for the premium calculations. A brief explanation of the selected calculating period shall accompany the filing.*

(3) *Policy forms, the benefits of which are particularly exposed to the effects of inflation and whose premium income may be particularly vulnerable to an*

eroding persistency and other similar forces, shall use a relatively short calculating period reflecting the uncertainties of estimating the risks involved. Policy forms based on more dependable statistics may employ a longer calculating period. The calculating period may be the lifetime of the contract for guaranteed renewable and noncancellable policy forms if such forms provide benefits that are supported by reliable statistics and that are protected from inflationary or eroding forces by such factors as fixed dollar coverages, inside benefit limits, or the inherent nature of the benefits. The calculating period may be as short as one year for coverages that are based on statistics of minimal reliability or that are highly exposed to inflation.

(4) A request for a rate increase to be effective at the end of the calculating period shall include a comparison of the actual to the expected loss ratios, shall employ any accumulation of reserves in the determination of rates for the new calculating period, and shall account for the maintenance of such reserves for future needs. The request for the rate increase shall be further documented by the expected loss ratio for the new calculating period.

(5) A request for a rate increase submitted during the calculating period shall include a comparison of the actual to the expected loss ratios, a demonstration of any contributions to and support from the reserves, and shall account for the maintenance of such reserves for future needs. If the experience justifies a premium increase it shall be deemed that the calculating period has prematurely been brought to an end. The rate increase shall further be documented by the expected loss ratio for the next calculating period.

(6) The commissioner may approve a series of two or three smaller rate increases in lieu of one large increase. These should be calculated to reduce lapses and anti-selection that often result from large rate increases. A demonstration of such calculations, whether for a single rate increase or for a series of smaller rate increases, satisfactory to the commissioner, shall be attached to the filing.

(7) Companies shall review their experience periodically and file appropriate rate revisions in a timely manner to reduce the necessity of later filing of exceptionally large rate increases.

*Sec. 219 was vetoed. See message at end of chapter.

NEW SECTION. *Sec. 220. A new section is added to chapter 48.20 RCW to read as follows:*

LOSS RATIOS—DISABILITY COVERAGE EXEMPTIONS. *Sections 218 and 219 of this act apply to all insurers and to every disability insurance policy form filed for approval in this state after the effective date of this section, except:*

(1) Additional indemnity and premium waiver forms for use only in conjunction with life insurance policies;

(2) Medicare supplement policy forms that are regulated by chapter 48.66 RCW;

(3) Credit insurance policy forms issued pursuant to chapter 48.34 RCW;

- (4) *Group policy forms other than:*
- (a) *Specified disease policy forms;*
 - (b) *Policy forms, other than loss of income forms, as to which all or substantially all of the premium is paid by the individuals insured thereunder;*
 - (c) *Policy forms, other than loss of income forms, for issue to single employers insuring less than one hundred employees;*
- (5) *Policy forms filed by health care service contractors or health maintenance organizations;*
- (6) *Policy forms initially approved, including subsequent requests for rate increases and modifications of rate manuals.*

*Sec. 220 was vetoed. See message at end of chapter.

***NEW SECTION.** *Sec. 221. A new section is added to chapter 48.20 RCW to read as follows:*

LOSS RATIOS—DISABILITY COVERAGE DEFINITIONS. (1) *The "expected loss ratio" is a prospective calculation and shall be calculated as the projected "benefits incurred" divided by the projected "premiums earned" and shall be based on the actuary's best projections of the future experience within the "calculating period."*

(2) *The "actual loss ratio" is a retrospective calculation and shall be calculated as the "benefits incurred" divided by the "premiums earned," both measured from the beginning of the "calculating period" to the date of the loss ratio calculations.*

(3) *The "overall loss ratio" shall be calculated as the "benefits incurred" divided by the "premiums earned" over the entire "calculating period" and may involve both retrospective and prospective data.*

(4) *The "calculating period" is the time span over which the actuary expects the premium rates, whether level or increasing, to remain adequate in accordance with his or her best estimate of future experience and during which the actuary does not expect to request a rate increase.*

(5) *The "benefits incurred" is the "claims incurred" plus any increase, or less any decrease, in the "reserves."*

(6) *The "claims incurred" means:*

- (a) *Claims paid during the accounting period; plus*
- (b) *The change in the liability for claims that have been reported but not paid; plus*

- (c) *The change in the liability for elaims that have not been reported but which may reasonably be expected.*

The "claims incurred" does not include expenses incurred in processing the claims, home office or field overhead, acquisition and selling costs, taxes or other expenses, contributions to surplus, or profit.

(7) *The "reserves," as referred to in sections 218 and 219 of this act include:*

- (a) *Active life disability reserves;*

- (b) Additional reserves whether for a specific liability purpose or not;*
- (c) Contingency reserves;*
- (d) Reserves for select morbidity experience; and*
- (e) Increased reserves that may be required by the commissioner.*
- (8) The "premiums earned" means the premiums, less experience credits, refunds, or dividends, applicable to an accounting period whether received before, during, or after such period.*
- (9) Renewal provisions are defined as follows:*
 - (a) "Guaranteed renewable" means renewal cannot be declined by the insurance company for any reason, but the insurance company can revise rates on a class basis.*
 - (b) "Noncancellable" means renewal cannot be declined nor can rates be revised by the insurance company.*

*Sec. 221 was vetoed. See message at end of chapter.

PART III—BENEFITS AND SERVICE DELIVERY

NEW SECTION. Sec. 301. A new section is added to chapter 48.43 RCW to read as follows:

EMERGENCY MEDICAL SERVICES. (1) When conducting a review of the necessity and appropriateness of emergency services or making a benefit determination for emergency services:

(a) A health carrier shall cover emergency services necessary to screen and stabilize a covered person if a prudent layperson acting reasonably would have believed that an emergency medical condition existed. In addition, a health carrier shall not require prior authorization of such services provided prior to the point of stabilization if a prudent layperson acting reasonably would have believed that an emergency medical condition existed. With respect to care obtained from a nonparticipating hospital emergency department, a health carrier shall cover emergency services necessary to screen and stabilize a covered person if a prudent layperson would have reasonably believed that use of a participating hospital emergency department would result in a delay that would worsen the emergency, or if a provision of federal, state, or local law requires the use of a specific provider or facility. In addition, a health carrier shall not require prior authorization of such services provided prior to the point of stabilization if a prudent layperson acting reasonably would have believed that an emergency medical condition existed and that use of a participating hospital emergency department would result in a delay that would worsen the emergency.

(b) If an authorized representative of a health carrier authorizes coverage of emergency services, the health carrier shall not subsequently retract its authorization after the emergency services have been provided, or reduce payment for an item or service furnished in reliance on approval, unless the approval was based on a material misrepresentation about the covered person's health condition made by the provider of emergency services.

(c) Coverage of emergency services may be subject to applicable copayments, coinsurance, and deductibles, and a health carrier may impose reasonable differential cost-sharing arrangements for emergency services rendered by nonparticipating providers, if such differential between cost-sharing amounts applied to emergency services rendered by participating provider versus nonparticipating provider does not exceed fifty dollars. Differential cost sharing for emergency services may not be applied when a covered person presents to a nonparticipating hospital emergency department rather than a participating hospital emergency department when the health carrier requires preauthorization for postevaluation or poststabilization emergency services if:

(i) Due to circumstances beyond the covered person's control, the covered person was unable to go to a participating hospital emergency department in a timely fashion without serious impairment to the covered person's health; or

(ii) A prudent layperson possessing an average knowledge of health and medicine would have reasonably believed that he or she would be unable to go to a participating hospital emergency department in a timely fashion without serious impairment to the covered person's health.

(d) If a health carrier requires preauthorization for postevaluation or poststabilization services, the health carrier shall provide access to an authorized representative twenty-four hours a day, seven days a week, to facilitate review. In order for postevaluation or poststabilization services to be covered by the health carrier, the provider or facility must make a documented good faith effort to contact the covered person's health carrier within thirty minutes of stabilization, if the covered person needs to be stabilized. The health carrier's authorized representative is required to respond to a telephone request for preauthorization from a provider or facility within thirty minutes. Failure of the health carrier to respond within thirty minutes constitutes authorization for the provision of immediately required medically necessary postevaluation and poststabilization services, unless the health carrier documents that it made a good faith effort but was unable to reach the provider or facility within thirty minutes after receiving the request.

(e) A health carrier shall immediately arrange for an alternative plan of treatment for the covered person if a nonparticipating emergency provider and health plan cannot reach an agreement on which services are necessary beyond those immediately necessary to stabilize the covered person consistent with state and federal laws.

(2) Nothing in this section is to be construed as prohibiting the health carrier from requiring notification within the time frame specified in the contract for inpatient admission or as soon thereafter as medically possible but no less than twenty-four hours. Nothing in this section is to be construed as preventing the health carrier from reserving the right to require transfer of a hospitalized covered person upon stabilization. Follow-up care that is a direct result of the emergency must be obtained in accordance with the health plan's usual terms and conditions

of coverage. All other terms and conditions of coverage may be applied to emergency services.

PART IV—MISCELLANEOUS

NEW SECTION. Sec. 401. WICKLINE CLAUSE STUDY. (1) There is some question regarding who should be liable when a health carrier or other third-party payer refuses to pay for or provide health services recommended by a health care provider and the patient suffers injury as a result of not receiving the recommended care. This issue typically arises in managed care systems, which integrate the financing and delivery of health care services to covered persons through selected providers. Contracts between a health carrier and a provider may address potential liability issues regarding the relationship between the carrier and the provider. Some contracts shift potential liability for a health carrier's decision not to pay for recommended health services to the provider or patient through what are commonly referred to as "Wickline clauses." These clauses generally state it is a medical decision between the provider and patient as to whether the patient receives services that the carrier refuses to cover; this ignores the fact that the decision not to provide coverage influences the decision of the patient whether to receive the recommended care. The legislature intends to review the policy questions raised by this issue, particularly to what extent the carrier should be able to avoid liability for its decisions by insulating itself through its contracts with providers.

(2) A joint task force on Wickline clauses shall review the practice of contractually assigning or avoiding potential liability for decisions by a health carrier or other third-party payer not to pay for health care services recommended by a health care provider. The task force shall be comprised of two members of the house of representatives appointed by the speaker of the house, one from each major caucus, two members of the senate appointed by the president of the senate, one from each major caucus, and eight persons appointed by the legislative members of the task force. The eight nonlegislative persons on the task force shall consist of: Two representatives of health care providers; two representatives of health care consumers; two representatives of health carriers; and two representatives of self-funded health plans. The legislative members shall organize and administer the task force. Staffing shall be provided by the office of program research and senate committee services.

(3) The task force shall report to the health care committees of the legislature by December 1, 1997. The report shall discuss the policy issues regarding Wickline clauses and the more general issue of potential liability for decisions of a health carrier and others not to cover health care recommended by the provider. The report may contain recommendations for the legislature to consider.

NEW SECTION. Sec. 402. COMMON TITLE. This act shall be known as the consumer assistance and insurance market stabilization act.

NEW SECTION. Sec. 403. Part headings and section captions used in this act are not part of the law.

NEW SECTION. Sec. 404. SEVERABILITY CLAUSE. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

NEW SECTION. Sec. 405. EFFECTIVE DATES. (1) Sections 104 through 108 and 301 of this act take effect January 1, 1998.

(2) Section 111 of this act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect July 1, 1997.

(3) Section 205 of this act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately.

Passed the House April 19, 1997.

Passed the Senate April 18, 1997.

Approved by the Governor April 26, 1997, with the exception of certain items that were vetoed.

Filed in Office of Secretary of State April 26, 1997.

Note: Governor's explanation of partial veto is as follows:

"I am returning herewith, without my approval as to sections 101, 102, 103, 104, 105, 106, 107, 108, 109, 110, 111, 201, 203, 204, 216, 217, 218, 219, 220, and 221, Engrossed Substitute House Bill No. 2018 entitled:

"AN ACT Relating to health insurance reform;"

For the following reasons, I have vetoed sections 101, 102, 103, 104, 105, 106, 107, 108, 109, 110, 111, 201, 203, 204, 216, 217, 218, 219, 220 and 221 of Engrossed Substitute House Bill No. 2018:

ESHB 2018 is entitled the "Consumer Assistance and Insurance Market Stabilization Act". I believe strongly in both concepts reflected in that title, but I do not think that this bill would effectively achieve either of those goals. It is in everyone's interests to have a strong, viable private health insurance market, but it is equally important to maintain the commitments that were previously made by the legislature to guarantee access to insurance for the people of this state.

I believe our goal must be to have a wide range of options to those in all health insurance markets. I commit to work with consumers, insurance companies, health care providers and other interested parties to develop meaningful solutions that will increase the availability of a wide range of choices in the individual market, while promoting stability.

The viability of the individual insurance market is critical, but we must consider other options that do not roll back the progress we have made in access to health care in this state. A comprehensive solution must include the Washington State Health Insurance Pool (WSHIP) (the state's high-risk pool), the Basic Health Plan, predictable rate review in a stable regulatory environment, and the involvement of consumers, health care providers, health insurers and others. I commit to work with interested parties to develop equitable solutions to these complex problems.

I have vetoed sections 101 through 108 and section 111 which create standards for grievance procedures, utilization review and access plans for health carriers. Those sections "deem" compliance with the national organization standards of the National Commission on Quality Assurance (NCQA) to be sufficient to meet the standards contained in the bill.

This would be a direct violation of Woodson v. State, 95 Wn.2d 257 (1980) which prohibits delegation of legislative power to non-governmental entities. NCQA is a private organization that can change standards at any time. I would hope that by working together, we can develop or appropriately adopt standards to protect consumers and achieve stability for managed care plans. I am not opposed to looking at the use of national standards on these issues in a constitutional manner.

ESHB 2018 directs the Health Care Authority, along with state agencies, consumers, carriers and providers to review the need for network adequacy requirements. While there may be a need for such a study, no funding is provided for the Health Care Authority to conduct the study. Therefore, I have vetoed sections 109 and 110.

Section 203 creates a two-month (July and August) open enrollment period and, during the rest of the year, allows insurance carriers to deny applicants based on medical conditions. Those who enter during the two-month period would still be subject to the three-month pre-existing condition waiting period. Such individuals could find themselves waiting as long as 13 months for regular coverage. Those denied coverage the rest of the year would have access to the state's high risk pool at higher rates than individual plans, an unaffordable option for many. Section 203 represents a significant change from current policy, which provides that no one may be denied health insurance coverage for any reason.

In section 204, health carriers are given the option to discontinue or modify a particular plan with ninety days' notice to enrollees. While carriers must make available all other plans currently offered, there is no requirement that comparable benefits be offered in those plans. This proposes significant change from current law which requires that carriers may not discontinue a plan unless the carrier offers a comparable product as an alternative.

Section 201 expresses legislative intent to preserve guaranteed issue and renewability, portability and limitations on the use of pre-existing condition exclusions. This bill represents an attempt to significantly limit those reforms. There is no objective data to support the claim that the "lack of incentives" to purchase health care in a timely manner is contributing significantly to the costs of health insurance. We want to encourage coverage by having a choice of affordable products available to consumers, ranging from comprehensive to basic benefits.

I have vetoed sections 216 through 221 because I believe rate review standards are more appropriately dealt with in the administrative rule making process. I believe there must be reasonable standards for rate regulation that protect consumers from excessive charges while, and at the same time allow predictability for insurance companies in the rate review process.

I encourage the development of standards that meet both of these objectives and stand ready to work with interested parties to achieve such a compromise. The language in sections 218 through 221 is currently included in Washington Administrative Code and is therefore unnecessary in statute. Further, the language of the bill is ambiguous as to loss ratios for health maintenance organizations and health care service contractors.

There are many aspects of the bill that I support. For example, the changes in sections 210 through 215 to the WSHIP are positive. The bill allows the plan to develop a managed care program at a lower premium than the current fee-for-service plan. It also expands coverage to include maternity benefits and eliminates gender rating for pool insurance products. This makes WSHIP a better plan. However, with current law in effect, very few have access to it. We must look at WSHIP as a part of the solution to broadening coverage options in the individual market.

Section 301 creates a standard for health plan coverage of emergency room care, when a reasonable person would have believed that an emergency medical condition exists. This is a very positive move for consumers who find themselves in a perceived medical crisis forcing them to seek services in an emergency room. In a medical crisis, families should not be forced to worry about whether or not their health insurance plan will pay for the needed services.

With the exception of sections 101, 102, 103, 104, 105, 106, 107, 108, 109, 110, 111, 201, 203, 204, 216, 217, 218, 219, 220 and 221, I am approving Engrossed Substitute House Bill No. 2018."

CHAPTER 232

[Substitute House Bill 2090]

COMMUNITY AND TECHNICAL COLLEGE EMPLOYEE ATTENDANCE INCENTIVE PROGRAMS

AN ACT Relating to community and technical college employees; amending RCW 41.04.340; adding a new section to chapter 28B.50 RCW; and creating a new section.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. Sec. 1. A new section is added to chapter 28B.50 RCW to read as follows:

(1) Unless the context clearly requires otherwise, the definitions in this subsection apply throughout this section.

(a) "Employer" means the board of trustees for each college district or the state board for community and technical colleges.

(b) "Eligible employee" means an employee of a college district or the state board for community and technical colleges who belongs to one of the following classifications:

(i) Academic employees as defined in RCW 28B.52.020;

(ii) Classified employees of technical colleges whose employment is governed under chapter 41.56 RCW;

(iii) Professional, paraprofessional, and administrative employees exempt from chapter 41.06 RCW; and

(iv) Employees of the state board for community and technical colleges who are exempt from chapter 41.06 RCW.

(2) An attendance incentive program is established for all eligible employees of a college district or the state board for community and technical colleges entitled to accumulate sick leave and for whom accurate sick leave records have been maintained. An eligible employee may not receive compensation under this section for a portion of sick leave accumulated at a rate in excess of one day per month.

(3) In January of the year following a year in which a minimum of sixty days of sick leave is accrued, and each following January, an eligible employee may exercise an option to receive remuneration for unused sick leave accumulated in the previous year at a rate equal to one day's monetary compensation of the employee for each four full days of accrued sick leave in excess of sixty days. Sick leave for which compensation has been received shall be deducted from accrued sick leave at the rate of four days for every one day's monetary compensation.

(4) At the time of separation from employment with a college district or the state board for community and technical colleges due to retirement or death, an eligible employee or the employee's estate may receive remuneration at a rate equal

to one day's current monetary compensation of the employee for each four full days' accrued sick leave.

(5) In lieu of remuneration for unused sick leave at retirement as provided in subsection (4) of this section, an employer may, with equivalent funds, provide eligible employees with a benefit plan that provides reimbursement for medical expenses. For employees whose conditions of employment are governed by chapter 28B.52 or 41.56 RCW, such benefit plans shall be instituted only by agreement applicable to the members of a bargaining unit. A benefit plan adopted must require, as a condition of participation under the plan, that the employee sign an agreement with the employer. The agreement must include a provision to hold the employer harmless should the United States government find that the employer or the employee is in debt to the United States as a result of the employee not paying income taxes due on the equivalent funds placed into the plan, or as a result of the employer not withholding or deducting a tax, assessment, or other payment on the funds as required under federal law. The agreement must also include a provision that requires an eligible employee to forfeit remuneration under subsection (4) of this section if the employee belongs to a unit that has been designated to participate in the benefit plan permitted under this subsection and the employee refuses to execute the required agreement.

(6) Remuneration or benefits received under this section are not included for the purposes of computing a retirement allowance under a public retirement system in this state.

(7) The state board for community and technical colleges shall adopt uniform rules to carry out the purposes of this section. The rules shall define categories of eligible employees. The categories of eligible employees are subject to approval by the office of financial management. The rules shall also require that each employer maintain complete and accurate sick leave records for all eligible employees.

(8) Should the legislature revoke a remuneration or benefit granted under this section, an affected employee is not then entitled to receive the benefits as a matter of contractual right.

Sec. 2. RCW 41.04.340 and 1993 c 281 s 17 are each amended to read as follows:

(1) An attendance incentive program is established for all eligible employees. As used in this section the term "eligible employee" means any employee of the state, other than eligible employees of the community and technical colleges and the state board for community and technical colleges identified in section 1 of this act, and teaching and research faculty at the state and regional universities and The Evergreen State College, entitled to accumulate sick leave and for whom accurate sick leave records have been maintained. No employee may receive compensation under this section for any portion of sick leave accumulated at a rate in excess of one day per month. The state and regional universities and The Evergreen State

College shall maintain complete and accurate sick leave records for all teaching and research faculty.

(2) In January of the year following any year in which a minimum of sixty days of sick leave is accrued, and each January thereafter, any eligible employee may receive remuneration for unused sick leave accumulated in the previous year at a rate equal to one day's monetary compensation of the employee for each four full days of accrued sick leave in excess of sixty days. Sick leave for which compensation has been received shall be deducted from accrued sick leave at the rate of four days for every one day's monetary compensation.

(3) At the time of separation from state service due to retirement or death, an eligible employee or the employee's estate may elect to receive remuneration at a rate equal to one day's current monetary compensation of the employee for each four full days of accrued sick leave.

(4) Pursuant to this subsection, in lieu of cash remuneration the state may, with equivalent funds, provide eligible employees with a benefit plan providing for reimbursement of medical expenses. The committee for deferred compensation shall develop any benefit plan established under this subsection, but may offer and administer the plan only if (a) each eligible employee has the option of whether to receive cash remuneration or to have his or her employer transfer equivalent funds to the plan; and (b) the committee has received an opinion from the United States internal revenue service stating that participating employees, prior to the time of receiving reimbursement for expenses, will incur no United States income tax liability on the amount of the equivalent funds transferred to the plan.

(5) Remuneration or benefits received under this section shall not be included for the purpose of computing a retirement allowance under any public retirement system in this state.

(6) With the exception of subsection (4) of this section, this section shall be administered, and rules shall be adopted to carry out its purposes, by the Washington personnel resources board for persons subject to chapter 41.06 RCW: PROVIDED, That determination of classes of eligible employees shall be subject to approval by the office of financial management.

(7) Should the legislature revoke any remuneration or benefits granted under this section, no affected employee shall be entitled thereafter to receive such benefits as a matter of contractual right.

NEW SECTION. Sec. 3. If any part of section I(5) of this act is found to be in conflict with federal tax laws or rulings or regulations of the federal internal revenue service, the conflicting part of section I(5) of this act is inoperative solely to the extent of the conflict and such finding shall not affect the remainder of this act.

Passed the House March 15, 1997.
 Passed the Senate April 14, 1997.
 Approved by the Governor April 26, 1997.
 Filed in Office of Secretary of State April 26, 1997.

CHAPTER 233

[Substitute House Bill 2149]

DUNGENESS CRAB—PUGET SOUND FISHERY LICENSES—LANDING REQUIREMENT REMOVAL—OPERATION OF VESSELS BY TWO LICENSEES

AN ACT Relating to removing landing requirements for the Puget Sound commercial crab fishery and allowing two licensees to operate one vessel; and amending RCW 75.30.130 and 75.28.048.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 75.30.130 and 1993 c 340 s 34 are each amended to read as follows:

(1) It is unlawful to take dungeness crab (*Cancer magister*) in Puget Sound without first obtaining a dungeness crab—Puget Sound fishery license. As used in this section, "Puget Sound" has the meaning given in RCW 75.28.110(5)(a). A dungeness crab—Puget Sound fishery license is not required to take other species of crab, including red rock crab (*Cancer productus*).

(2) Except as provided in subsections (3) and ~~((7))~~ (6) of this section, after January 1, 1982, the director shall issue no new dungeness crab—Puget Sound fishery licenses. Only a person who meets the following qualification~~((s))~~ may renew an existing license: ~~((a))~~ The person shall have held the dungeness crab—Puget Sound fishery license sought to be renewed during the previous year or acquired the license by transfer from someone who held it during the previous year, and shall not have subsequently transferred the license to another person~~((;~~ and

~~—(b) The person shall document, by valid shellfish receiving tickets issued by the department, that one thousand pounds of dungeness crab were caught and sold during the previous two-year period ending on December 31st of an odd-numbered year;~~

~~—(i) Under the license sought to be renewed; or~~

~~—(ii) Under any combination of the following commercial fishery licenses that the person held when the crab were caught and sold: Crab pot—Non-Puget Sound; crab ring net—Non-Puget Sound, dungeness crab—Puget Sound. Sales under a license other than the one sought to be renewed may be used for the renewal of no more than one dungeness crab—Puget Sound fishery license)).~~

(3) Where the person failed to obtain the license during the previous year because of a license suspension, the person may qualify for a license by establishing that the person held such a license during the last year in which the license was not suspended.

~~(4) ((The director may reduce or waive the poundage requirement established under subsection (2)(b) of this section upon the recommendation of a review board established under RCW 75.30.050. The review board may recommend a reduction or waiver of the poundage requirement in individual cases if, in the board's judgment, extenuating circumstances prevent achievement of the poundage requirement. The director shall adopt rules governing the operation of the review boards and defining "extenuating circumstances."~~

~~—(5))~~ This section does not restrict the issuance of commercial crab licenses for areas other than Puget Sound or for species other than dungeness crab.

~~((6) Subject to the restrictions in section 11 of this act,)~~ (5) Dungeness crab—Puget Sound fishery licenses are transferable from one license holder to another.

~~((7))~~ (6) If fewer than two hundred persons are eligible for dungeness crab—Puget Sound fishery licenses, the director may accept applications for new licenses. The director shall determine by random selection the successful applicants for the additional licenses. The number of additional licenses issued shall be sufficient to maintain two hundred licenses in the Puget Sound dungeness crab fishery. The director shall adopt rules governing the application, selection, and issuance procedures for new dungeness crab—Puget Sound fishery licenses, based upon recommendations of a board of review established under RCW 75.30.050.

Sec. 2. RCW 75.28.048 and 1993 c 340 s 25 are each amended to read as follows:

(1) A person who holds a commercial fishery license, delivery license, or charter license may operate the vessel designated on the license. A person who is not the license holder may operate the vessel designated on the license only if:

(a) The person holds an alternate operator license issued by the director; and

(b) The person is designated as an alternate operator on the underlying commercial fishery license, delivery license, or charter license under RCW 75.28.046.

(2) Only an individual at least sixteen years of age may hold an alternate operator license.

(3) No individual may hold more than one alternate operator license. An individual who holds an alternate operator license may be designated as an alternate operator on an unlimited number of commercial fishery licenses, delivery licenses, and charter licenses under RCW 75.28.046.

(4) An individual who holds two dungeness crab—Puget Sound fishery licenses may operate the licenses on one vessel if the vessel owner or alternate operator is on the vessel. The department shall allow a license holder to operate up to one hundred crab pots for each license.

(5) As used in this section, to "operate" means to control the deployment or removal of fishing gear from state waters while aboard a vessel, to operate a vessel as a charter boat, or to operate a vessel delivering food fish or shellfish taken in offshore waters to a port within the state.

Passed the House March 13, 1997.
 Passed the Senate April 17, 1997.
 Approved by the Governor April 26, 1997.
 Filed in Office of Secretary of State April 26, 1997.

CHAPTER 234

[House Bill 2163]

**VETERANS REMEMBRANCE EMBLEMS AND CAMPAIGN MEDAL EMBLEMS—
 REQUIREMENTS**

AN ACT Relating to veterans remembrance emblems; and amending RCW 46.16.319.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 46.16.319 and 1991 c 339 s 11 are each amended to read as follows:

~~(1) ((The department shall issue upon payment of a fee and proof from an honorably discharged veteran, veterans with honorable military service, or military personnel on active duty in the armed service, a remembrance emblem depicting a tribute or message and the American flag.~~

~~— (2) Veterans and military personnel who served in our nation's wars and conflicts can, upon request and payment of a fee and proof of service, receive a remembrance emblem depicting the campaign ribbon they were awarded. The following campaign ribbon remembrance emblems will be available: World War I victory medal; Asiatic-Pacific campaign medal, WWII; European-African-Middle East campaign medal, WWII; American campaign medal, WWII; Korean service medal; Vietnam service medal; Armed Forces Expeditionary, after 1958. The director may adopt additional campaign ribbon remembrance emblems by rule.~~

~~— (3) The remembrance emblem will be displayed upon vehicle license plates in the manner prescribed by the department.~~

~~— (4) A veteran or military personnel requesting a remembrance emblem from the department shall provide a copy of his or her discharge papers (DD-214) or military orders indicating their military status and campaign ribbon awarded along with payment of the fee. A veteran or military personnel requesting a remembrance emblem must be a legal or registered owner of the vehicle on which remembrance emblems are to be displayed.)~~ Veterans discharged under honorable conditions (veterans) and individuals serving on active duty in the United States armed forces (active duty military personnel) may purchase a veterans remembrance emblem or campaign medal emblem. The emblem is to be displayed on vehicle license plates in the manner described by the department, existing vehicular licensing procedures, and current laws.

(2) Veterans and active duty military personnel who served during periods of war or armed conflict may purchase a remembrance emblem depicting campaign ribbons which they were awarded.

(3) The following campaign ribbon remembrance emblems are available:

(a) World War I victory medal;

- (b) World War II Asiatic-Pacific campaign medal;
- (c) World War II European-African Middle East campaign medal;
- (d) World War II American campaign medal;
- (e) Korean service medal;
- (f) Vietnam service medal;
- (g) Armed forces expeditionary medal awarded after 1958; and
- (h) Southwest Asia medal.

The director may issue additional campaign ribbon emblems by rule as authorized decorations by the United States department of defense.

(4) Veterans or active duty military personnel requesting a veteran remembrance emblem or campaign medal emblem or emblems must:

- (a) Pay a prescribed fee set by the department; and
- (b) Show proof of eligibility through:
 - (i) Providing a DD-214 or discharge papers if a veteran;
 - (ii) Providing a copy of orders awarding a campaign ribbon if an individual serving on military active duty; or
 - (iii) Attesting in a notarized affidavit of their eligibility as required under this section.

(5) Veterans or active duty military personnel who purchase a veteran remembrance emblem or a campaign medal emblem must be the legal or registered owner of the vehicle on which the emblem is to be displayed.

Passed the House March 12, 1997.

Passed the Senate April 14, 1997.

Approved by the Governor April 26, 1997.

Filed in Office of Secretary of State April 26, 1997.

CHAPTER 235

[Substitute Senate Bill 6063]

CAPITAL BUDGET 1997-1999

AN ACT Relating to the capital budget; making appropriations and authorizing expenditures for capital improvements; amending RCW 43.98A.040, 43.98A.060, 43.98A.070, and 43.160.070; amending 1995 2nd sp.s. c 16 s 713 (uncodified); adding new sections to chapter 16, Laws of 1995 2nd sp.s. creating new sections; and declaring an emergency.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. Sec. 1. A capital budget is hereby adopted and, subject to the provisions set forth in this act, the several dollar amounts hereinafter specified, or so much thereof as shall be sufficient to accomplish the purposes designated, are hereby appropriated and authorized to be incurred for capital projects during the period ending June 30, 1999, out of the several funds specified in this act.

NEW SECTION. Sec. 2. As used in this act, the following phrases have the following meanings:

- "Aquatic Lands Acct" means the Aquatic Lands Enhancement Account;
- "Cap Bldg Constr Acct" means Capitol Building Construction Account;

"Capital improvements" or "capital projects" means acquisition of sites, easements, rights of way, or improvements thereon and appurtenances thereto, design, engineering, legal services, construction and initial equipment, reconstruction, demolition, or major alterations of new or presently owned capital assets;

"CEP & RI Acct" means Charitable, Educational, Penal, and Reformatory Institutions Account;

"Common School Constr Fund" means Common School Construction Fund;

"CWU Cap Proj Acct" means Central Washington University Capital Projects Account;

"EWU Cap Proj Acct" means Eastern Washington University Capital Projects Account;

"For Dev Acct" means Forest Development Account;

"H Ed Constr Acct" means Higher Education Construction Account;

"LIRA" means State and Local Improvement Revolving Account—Waste Disposal Facilities;

"LIRA, Waste Fac 1980" means State and Local Improvement Revolving Account, Waste Disposal Facilities, 1980;

"LIRA, Water Sup Fac" means State and Local Improvements Revolving Account—Water Supply Facilities;

"Lapse" or "revert" means the amount shall return to an unappropriated status;

"Nat Res Prop Repl Acct" means Natural Resources Real Property Replacement Account;

"NOVA" means the Nonhighway and Off-Road Vehicle Activities Program Account;

"ORA" means Outdoor Recreation Account;

"Provided solely" means the specified amount may be spent only for the specified purpose. Unless otherwise specifically authorized in this act, any portion of an amount provided solely for a specified purpose which is unnecessary to fulfill the specified purpose shall lapse;

"Pub Fac Constr Loan Rev Acct" means Public Facility Construction Loan Revolving Account;

"Public Safety Reimb Bond" means Public Safety Reimbursable Bond Account;

"Rec Fisheries Enh Acct" means Recreational Fisheries Enhancement Account;

"Spec Wildlife Acct" means Special Wildlife Account;

"St Bldg Constr Acct" means State Building Construction Account;

"State Emerg Water Proj Rev" means State Emergency Water Projects Revolving Account;

"TESC Cap Proj Acct" means The Evergreen State College Capital Projects Account;

"Thurston County Cap Fac Acct" means Thurston County Capital Facilities Account;

"UW Bldg Acct" means University of Washington Building Account;

"WA Housing Trust Acct" means Washington Housing Trust Account;

"WA St Dev Loan Acct" means Washington State Development Loan Account;

"Water Pollution Cont Rev Fund" means Water Pollution Control Revolving Fund;

"WSU Bldg Acct" means Washington State University Building Account; and

"WWU Cap Proj Acct" means Western Washington University Capital Projects Account.

Numbers shown in parentheses refer to project identifier codes established by the office of financial management.

**PART 1
GENERAL GOVERNMENT**

NEW SECTION. Sec. 101. FOR THE COURT OF APPEALS

Spokane Division III: Remodel and addition (98-1-001)

Appropriation:

St Bldg Constr Acct—State	\$	2,499,980
Prior Biennia (Expenditures)	\$	0
Future Biennia (Projected Costs)	\$	0
TOTAL	\$	2,499,980

NEW SECTION. Sec. 102. FOR THE OFFICE OF THE SECRETARY OF STATE

Birch Bay Records Storage: Asbestos abatement (94-1-002)

Reappropriation:

St Bldg Constr Acct—State	\$	50,000
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Appropriation:

St Bldg Constr Acct—State	\$	150,000
Prior Biennia (Expenditures)	\$	0
Future Biennia (Projected Costs)	\$	0
TOTAL	\$	200,000

NEW SECTION. Sec. 103. FOR THE OFFICE OF THE SECRETARY OF STATE

Puget Sound Archives Building (94-2-003)

The reappropriation in this section is subject to the review and allotment procedures under section 712 of this act.

Reappropriation:

St Bldg Constr Acct—State	\$	5,969,041
Prior Biennia (Expenditures)	\$	771,084
Future Biennia (Projected Costs)	\$	0
TOTAL	\$	6,740,125

NEW SECTION. Sec. 104. FOR THE OFFICE OF THE SECRETARY OF STATE

Eastern Branch Archives Building—Design (98-2-001)

The reappropriation in this section is subject to the review and allotment procedures under section 712 of this act.

Reappropriation:

St Bldg Constr Acct—State	\$	2,042
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Appropriation:

St Bldg Constr Acct—State	\$	521,417
Prior Biennia (Expenditures)	\$	56,158
Future Biennia (Projected Costs)	\$	4,176,493
TOTAL	\$	4,756,110

NEW SECTION. Sec. 105. FOR THE DEPARTMENT OF COMMUNITY, TRADE, AND ECONOMIC DEVELOPMENT

The appropriations in this section are subject to the following conditions and limitations:

\$4,000,000 from the new appropriation from the public works assistance account shall be deposited in the public facilities construction loan revolving account, and is hereby appropriated from the public facilities construction loan revolving account to the department of community, trade, and economic development for the fiscal biennium ending June 30, 1999, for the community economic revitalization program under chapter 43.160 RCW. The moneys from the new appropriation from the public works assistance account shall be used solely to provide loans to eligible local governments and shall not be used for grants. The department shall ensure that all principal and interest payments from loans made from moneys from the new appropriation from the public works assistance account are paid into the public works assistance account.

Community economic revitalization (86-1-001)

Reappropriation:

St Bldg Constr Acct—State	\$	222,039
Public Works Assistance Account—State .	\$	4,481,071
Pub Fac Constr Loan Rev Acct—State ...	\$	70,508
Subtotal Reappropriation	\$	4,773,618

Appropriation:

Pub Fac Constr Loan Acct—State	\$ 6,000,000
Public Works Assistance Account	
—State	\$ 4,000,000
Subtotal Appropriation	\$ 10,000,000
Prior Biennia (Expenditures)	\$ 15,242,633
Future Biennia (Projected Costs)	\$ 36,000,000
TOTAL	\$ 66,016,251

NEW SECTION. Sec. 106. FOR THE DEPARTMENT OF COMMUNITY, TRADE, AND ECONOMIC DEVELOPMENT

Development loan fund (88-2-002)

Reappropriation:

St Bidg Constr Acct—State	\$ 1,208,001
WA St Dev Loan Acct—Federal	\$ 166,138
Subtotal Reappropriation	\$ 1,374,139

Appropriation:

WA St Dev Loan Acct—Federal	\$ 3,000,000
Prior Biennia (Expenditures)	\$ 10,245,450
Future Biennia (Projected Costs)	\$ 17,000,000
TOTAL	\$ 31,619,589

NEW SECTION. Sec. 107. FOR THE DEPARTMENT OF COMMUNITY, TRADE, AND ECONOMIC DEVELOPMENT

Grays Harbor dredging (88-3-006)

The reappropriation in this section is subject to the following conditions and limitations:

(1) The reappropriation is provided solely for the state's share of remaining costs for Grays Harbor dredging and associated mitigation.

(2) State funds shall be disbursed at a rate not to exceed one dollar for every four dollars of federal funds expended by the army corps of engineers and one dollar from other nonstate sources.

(3) Expenditure of moneys from this reappropriation is contingent on a cost-sharing arrangement and the execution of a local cooperation agreement between the port of Grays Harbor and the army corps of engineers pursuant to P.L. 99-662, the federal water resources development act of 1986, whereby the corps of engineers will construct the project as authorized by that federal act.

(4) In the event the project cost is reduced, any resulting reduction or reimbursement of nonfederal costs realized by the port of Grays Harbor shall be shared proportionally with the state.

Reappropriation:

St Bldg Constr Acct—State	\$ 1,000,000
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Prior Biennia (Expenditures)	\$	4,259,037
Future Biennia (Projected Costs)	\$	<u>0</u>
TOTAL	\$	5,259,037

NEW SECTION. Sec. 108. FOR THE DEPARTMENT OF COMMUNITY, TRADE, AND ECONOMIC DEVELOPMENT

Housing assistance, weatherization, and affordable housing program (88-5-015)

The appropriations in this section are subject to the following conditions and limitations:

(1) \$3,000,000 of the new appropriation from the state building construction account is provided solely to promote development of safe and affordable housing units for persons eligible for services from the division of developmental disabilities within the department of social and health services.

(2) \$2,000,000 of the reappropriation from the state building construction account is provided solely to promote development of safe and affordable housing units for persons eligible for services from the division of developmental disabilities within the department of social and health services.

Reappropriation:

St Bldg Constr Acct—State	\$	25,000,000
Washington Housing Trust Acct—State ..	\$	<u>400,000</u>
Subtotal Reappropriation	\$	25,400,000

Appropriation:

St Bldg Constr Acct—State	\$	50,000,000
Prior Biennia (Expenditures)	\$	125,116,142
Future Biennia (Projected Costs)	\$	<u>200,000,000</u>
TOTAL	\$	400,516,142

NEW SECTION. Sec. 109. FOR THE DEPARTMENT OF COMMUNITY, TRADE, AND ECONOMIC DEVELOPMENT

Snohomish County drainage: To purchase land in drainage district number 6 and construct a cross-levee on it, in order to decrease damaging flooding of adjacent lands and to reestablish wetlands (92-2-011)

The reappropriation in this section shall be matched by at least \$585,000 provided from nonstate sources for capital costs of this project.

Reappropriation:

St Bldg Constr Acct—State	\$	344,837
Prior Biennia (Expenditures)	\$	3,416
Future Biennia (Projected Costs)	\$	<u>0</u>
TOTAL	\$	348,253

NEW SECTION. Sec. 110. FOR THE DEPARTMENT OF COMMUNITY, TRADE, AND ECONOMIC DEVELOPMENT

Columbia River dredging feasibility (92-5-006)

Reappropriation:

St Bldg Constr Acct—State	\$	374,568
Prior Biennia (Expenditures)	\$	245,392
Future Biennia (Projected Costs)	\$	0
TOTAL	\$	619,960

NEW SECTION. Sec. 111. FOR THE DEPARTMENT OF COMMUNITY, TRADE, AND ECONOMIC DEVELOPMENT

Building for the arts: For grants to local performing arts and art museum organizations for facility improvements or additions (92-5-100)

The appropriations in this section are subject to the following conditions and limitations:

(1) The following projects are eligible for funding in phase 4:

Phase 4	Estimated Total Capital Cost
African American Museum and Cultural Center (Seattle)	\$ 12,544,130
Allied Arts of Whatcom County (Bellingham)	\$ 130,334
Childrens' Museum of Snohomish County (Everett)	\$ 393,597
Columbia Point Amphitheatre (Richland)	\$ 3,273,218
Columbia Theatre (Phase II) (Longview)	\$ 500,000
Enumclaw High School Auditorium	\$ 1,152,500
Evergreen City Ballet (Auburn)	\$ 186,328
The Group Theatre (Phase II) (Seattle)	\$ 983,000
Int'l Museum of Modern Glass (Tacoma)	\$ 15,072,145
Kirkland Performance Center (Phase II)	\$ 1,450,184
Lopez Center for the Arts	\$ 1,007,000

Mount Baker Theatre (Phase II) (Bellingham)	\$ 916,900
Museum of Northwest Art (Phase II) (La Conner)	\$ 265,470
On the Boards (Seattle)	\$ 2,667,000
People's Lodge (Seattle)	\$ 1,710,301
Pilchuck School (Seattle)	\$ 3,400,000
Princess Cultural Center (Prosser)	\$ 770,000
Wenatchee Civic Center	\$ <u>10,178,361</u>
Total	\$ 56,600,468

(2) The reappropriation and new appropriation in this section are provided to fund the state share of capital costs of phases 1 through 4 of the building for the arts program.

(3) \$3,000,000 of the appropriation in this section is provided solely for the Wenatchee civic center. The remaining reappropriation and appropriation shall be distributed as follows:

(a) State grants shall not exceed fifteen percent of the estimated total capital cost or actual capital cost of a project, whichever is less. The remaining portions of project capital costs shall be a match from nonstate sources. The match may include cash and land value. The department is authorized to set matching requirements for individual projects. State grants shall not exceed \$1,000,000 for any single project unless there are uncommitted funds after January 1, 1999.

(b) State grants shall be distributed in the order in which matching requirements are met. The department may fund projects that demonstrate adequate progress and have secured the necessary match funding. The department may require that projects recompile for funding.

(4) By December 15, 1997, the department shall submit a report to the appropriate fiscal committees of the legislature on the progress of the building for the arts program, including a list of projects funded under this section.

(5) The department shall submit a list of recommended performing arts, museum, and cultural organization projects for funding in the 1999-2001 capital budget. The list shall result from a competitive grants program developed by the department based upon: Uniform criteria for the selection of projects and awarding of grants for up to fifteen percent of the total project cost; local community support for the project; a requirement that the sites for the projects are secured or optioned for purchase; and a state-wide geographic distribution of projects.

Reappropriation:

St Bldg Constr Acct—State \$ 2,162,297

Appropriation:

St Bldg Constr Acct—State \$ 6,000,000

Prior Biennia (Expenditures) \$ 18,047,689

Future Biennia (Projected Costs)	\$ 16,000,000
TOTAL	\$ 42,209,986

NEW SECTION. Sec. 112. FOR THE DEPARTMENT OF COMMUNITY, TRADE, AND ECONOMIC DEVELOPMENT

Challenger Learning Center (93-5-006)

The reappropriation in this section is subject to the following conditions and limitations:

(1) The appropriation is provided solely for support of science education at the Challenger learning center at the museum of flight; and

(2) Each dollar expended from the appropriation in this section shall be matched by at least one dollar from nonstate sources for the same purpose.

Reappropriation:

St Bldg Constr Acct—State	\$ 320,312
Prior Biennia (Expenditures)	\$ 479,688
Future Biennia (Projected Costs)	\$ 0
TOTAL	\$ 800,000

NEW SECTION. Sec. 113. FOR THE DEPARTMENT OF COMMUNITY, TRADE, AND ECONOMIC DEVELOPMENT

Public works trust fund (94-2-001)

The appropriation in this section is subject to the following conditions and limitations:

\$15,646,000 of the reappropriation in this section is provided solely for the preconstruction program.

Reappropriation:

Public Works Assistance Account—	
State	\$ 108,746,982

Appropriation:

Public Works Assistance Account—	
State	\$ 180,977,328
Prior Biennia (Expenditures)	\$ 287,953,301
Future Biennia (Projected Costs)	\$ 820,000,000
TOTAL	\$1,397,677,611

NEW SECTION. Sec. 114. FOR THE DEPARTMENT OF COMMUNITY, TRADE, AND ECONOMIC DEVELOPMENT

Washington Technology Center: Equipment (94-2-002)

The reappropriation in this section is provided solely for equipment installations on the first floor of Fluke Hall. The appropriation shall be transferred to and administered by the University of Washington.

Reappropriation:

St Bldg Constr Acct—State	\$	301,299
Prior Biennia (Expenditures)	\$	964,701
Future Biennia (Projected Costs)	\$	0
TOTAL	\$	1,266,000

NEW SECTION. Sec. 115. FOR THE DEPARTMENT OF COMMUNITY, TRADE, AND ECONOMIC DEVELOPMENT

Olympic Peninsula Natural History Museum (94-2-005)

The reappropriation in this section is subject to the following conditions and limitations:

(1) Each two dollars expended from this reappropriation shall be matched by at least one dollar from other sources. The match may include cash, land, and in-kind donations.

(2) It is the intent of the legislature that this reappropriation represents a one-time grant for this project.

Reappropriation:

St Bldg Constr Acct—State	\$	169,830
Prior Biennia (Expenditures)	\$	130,170
Future Biennia (Projected Costs)	\$	0
TOTAL	\$	300,000

NEW SECTION. Sec. 116. FOR THE DEPARTMENT OF COMMUNITY, TRADE, AND ECONOMIC DEVELOPMENT

Thorp Grist Mill: To develop the ice pond park and provide facilities to accommodate public access (94-2-007)

The reappropriation in this section shall be matched by at least \$100,000 from nonstate and nonfederal sources. The match may include cash or in-kind contributions. The department shall assist the Thorp Mill Town Historical Preservation Society in soliciting moneys from the intermodal surface transportation efficiency act to support the project.

Reappropriation:

St Bldg Constr Acct—State	\$	62,874
Prior Biennia (Expenditures)	\$	67,126
Future Biennia (Projected Costs)	\$	0
TOTAL	\$	130,000

NEW SECTION. Sec. 117. FOR THE DEPARTMENT OF COMMUNITY, TRADE, AND ECONOMIC DEVELOPMENT

7th Street Theatre (90-2-008)

Reappropriation:

St Bldg Constr Acct—State	\$	130,000
Prior Biennia (Expenditures)	\$	270,000
Future Biennia (Projected Costs)	\$	0
TOTAL	\$	400,000

NEW SECTION. Sec. 118. FOR THE DEPARTMENT OF COMMUNITY, TRADE, AND ECONOMIC DEVELOPMENT

Daybreak Star Center (94-2-100)

Reappropriation:

St Bldg Constr Acct—State	\$	19,690
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Appropriation:

St Bldg Constr Acct—State	\$	650,000
Prior Biennia (Expenditures)	\$	207,310
Future Biennia (Projected Costs)	\$	0
TOTAL	\$	877,000

NEW SECTION. Sec. 119. FOR THE DEPARTMENT OF COMMUNITY, TRADE, AND ECONOMIC DEVELOPMENT

Timber ports capital asset improvements: To assist the ports of Grays Harbor, Port Angeles, and Longview with infrastructure development and facilities improvements to increase economic diversity and enhance employment opportunities (94-2-102)

The reappropriation in this section is subject to the following conditions and limitations:

(1) Each port shall provide, at a minimum, six dollars of nonstate match for each five dollars received from this reappropriation. The match may include cash and land value.

(2) State assistance to each port shall not exceed the following amounts:

<u>Port</u>	<u>Amount</u>
Port of Grays Harbor	\$ 564,000
Port of Port Angeles	\$ 1,500,000
Port of Longview	\$ 1,855,000

Reappropriation:

St Bldg Constr Acct—State	\$	2,456,390
Prior Biennia (Expenditures)	\$	1,443,610

Future Biennia (Projected Costs)	\$	0
TOTAL	\$	3,900,000

NEW SECTION. Sec. 120. FOR THE DEPARTMENT OF COMMUNITY, TRADE, AND ECONOMIC DEVELOPMENT

Pacific Science Center (96-1-900)

The reappropriation in this section is provided for capital facilities improvements.

Reappropriation:

St Bldg Constr Acct—State	\$	3,669,885
Prior Biennia (Expenditures)	\$	330,115
Future Biennia (Projected Costs)	\$	0
TOTAL	\$	4,000,000

***NEW SECTION. Sec. 121. FOR THE DEPARTMENT OF COMMUNITY, TRADE, AND ECONOMIC DEVELOPMENT**

Emergency projects declared and specifically enacted by the legislature

Appropriation:

St Bldg Constr Acct—State	\$	10,000,000
Prior Biennia (Expenditures)	\$	0
Future Biennia (Projected Costs)	\$	0
TOTAL	\$	10,000,000

*Sec. 121 was vetoed. See message at end of chapter.

NEW SECTION. Sec. 122. FOR THE DEPARTMENT OF COMMUNITY, TRADE, AND ECONOMIC DEVELOPMENT

Community Services Facilities Program: For grants to nonprofit community-based family service organizations to assist in acquiring, developing, or rehabilitating buildings (98-2-007)

The appropriation in this section is subject to the following conditions and limitations:

- (1) The state grant may provide no more than twenty-five percent of the estimated total capital cost or actual total capital cost of the project, whichever is less. The remaining portions of project capital costs shall be a match from nonstate sources. The match may include cash, land value, and other in-kind contributions;
- (2) The following projects are eligible for funding:

Phase 1	Estimated Total Capital Cost	State Grant
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Benton Franklin Community

Action Committee	\$ 1,200,000	\$ 300,000
Central Area Motivation Project	\$ 1,000,000	\$ 250,000
Community Action Center of Whitman County	\$ 390,000	\$ 90,000
Community Action Council of Lewis, Mason, and Thurston Counties	\$ 700,000	\$ 175,000
El Centro de la Raza	\$ 1,250,000	\$ 300,000
Fremont Public Association	\$ 3,000,000	\$ 600,000
Kitsap Community Action Program	\$ 465,000	\$ 110,000
Kittitas Community Action Council	\$ 600,000	\$ 150,000
Lower Columbia Community Action Council	\$ 1,331,625	\$ 300,000
Metropolitan Development Council	\$ 880,000	\$ 220,000
Multi-Service Centers of North and East King County	\$ 1,600,000	\$ 350,000
Northeast Washington Rural Resources Development Association	\$ 1,200,000	\$ 350,000
Okanogan County Community Action Council	\$ 350,000	\$ 80,000
South King County Multi-Service Center	\$ 800,000	\$ 200,000
Spokane Neighborhood Action Programs	\$ 1,500,000	\$ 375,000
Yakima Valley Farmworker Clinic	<u>\$ 605,000</u>	<u>\$ 150,000</u>
Total	\$16,871,625	\$4,000,000

Phase 2	Estimated Total Capital Cost	State Grant
Benton-Franklin Community Action Committee (Phase II) (Pasco)	\$ 100,000	\$ 25,000
Community Action Center of Whitman County (Phase II) (Pullman)	\$ 250,000	\$ 62,500
Community Action Council of Lewis, Mason, and Thurston Counties (Phase II) (Lacey)	\$ 300,000	\$ 75,000
Fremont Public Association (Phase II) (Seattle)	\$ 1,400,000	\$ 350,000
Kitsap Community Action Program (Phase II)	\$ 145,000	\$ 36,250
Lower Columbia Community Action		

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Council (Phase II) (Longview)	\$ 268,375	\$ 67,093
Metropolitan Development Council (Phase II) (Tacoma)	\$ 1,240,000	\$ 310,000
Multi-Service Centers of North and East King County (Phase II) (Redmond)	\$ 200,000	\$ 50,000
Northeast Washington Rural Resources Development Association (Phase II) (Colville)	\$ 990,000	\$ 247,500
South King County Multi-Service Center (Phase II) (Federal Way)	\$ 270,000	\$ 67,500
Atlantic Street Center (Seattle)	\$ 1,700,000	\$ 425,000
Boys and Girls Club of Bellevue (Bellevue)	\$ 2,000,000	\$ 500,000
Childrens' Home Society (Kent)	\$ 1,400,000	\$ 350,000
Childrens' Home Society (Tacoma)	\$ 145,000	\$ 36,250
Childrens' Home Society (Elk Plain)	\$ 150,000	\$ 37,500
Childrens' Home Society (Seattle)	\$ 355,000	\$ 88,750
Childrens' Home Society (Vancouver)	\$ 200,000	\$ 50,000
Childrens' Home Society (Walla Walla)	\$ 650,000	\$ 162,500
Childrens' Home Society (Wenatchee)	\$ 210,000	\$ 52,500
Community Action Council of Lewis, Mason, and Thurston Counties (Rochester)	\$ 700,000	\$ 175,000
Eastside Domestic Violence (Bellevue)	\$ 850,000	\$ 212,500
Kitsap Community Action (Phase II) (Bremerton)	\$ 600,000	\$ 150,000
Lutheran Social Services (Seattle)	\$ 315,000	\$ 78,750
Metropolitan Development Council (Tacoma)	\$ 640,000	\$ 160,000
Multi-Service Centers of North and East King County (Redmond)	\$ 1,600,000	\$ 400,000
Neighborhood House (Seattle)	\$ 2,200,000	\$ 550,000
Yakima Valley Opportunities Industrialization Center (Yakima)	\$ 1,575,000	\$ 393,750

YWCA of Clark County		
(Vancouver)	\$ 2,185,000	\$ 525,000
Family Support Center (Olympia)	<u>\$ 1,957,000</u>	<u>\$ 400,000</u>
Total	\$24,595,375	\$6,038,343

(3) State funding shall be distributed to projects in the order in which matching requirements for specific project phases have been met;

(4) \$10,000 of the reappropriation is provided solely for the Wapato community center.

(5) The new appropriation and reappropriation in this section are provided to fund the state share for phase 1 and 2 of the community services facilities program. Within this amount the department may fund projects that demonstrate adequate progress and have secured the necessary match funding.

(6) The department is authorized to allocate the amounts appropriated in this section among the eligible projects in phases 1 and 2 and to set matching requirements for individual projects.

Reappropriation:

 St Bldg Constr Acct—State \$ 1,901,449

Appropriation:

 St Bldg Constr Acct—State \$ 2,000,000

 Prior Biennia (Expenditures) \$ 2,098,551

 Future Biennia (Projected Costs) \$ 2,000,000

 TOTAL \$ 8,000,000

NEW SECTION. Sec. 123. FOR THE DEPARTMENT OF COMMUNITY, TRADE, AND ECONOMIC DEVELOPMENT

Public Participation Grants

The appropriation in this section is provided solely for the department to administer the public participation grant program pursuant to RCW 70.105D.070. In administering the grant program, the department shall award grants based upon a state-wide competitive process each year. Priority is to be given to applicants that demonstrate the ability to provide accurate technical information on complex waste management issues. Amounts provided in this section may not be spent on lobbying activities.

Appropriation:

Local Toxics Control Account—

 State \$ 435,000

 Prior Biennia (Expenditures) \$ 0

 Future Biennia (Projected Costs) \$ 0

 TOTAL \$ 435,000

NEW SECTION. Sec. 124. FOR THE DEPARTMENT OF COMMUNITY, TRADE, AND ECONOMIC DEVELOPMENT

Clover Park Vocational-Technical Institute settlement (98-1-193)

The appropriation in this section is subject to the following conditions and limitations:

The appropriation in this section completes the state's obligation to the Clover Park School District in the transfer of the Clover Park Vocational-Technical Institute to the Community and Technical College system.

Appropriation:

St Bidg Constr Acct—State	\$	5,000,000
Prior Biennia (Expenditures)	\$	0
Future Biennia (Projected Costs)	\$	<u>0</u>
TOTAL	\$	5,000,000

NEW SECTION. Sec. 125. FOR THE DEPARTMENT OF COMMUNITY, TRADE, AND ECONOMIC DEVELOPMENT

Drinking Water Assistance Program (98-2-008)

The appropriations in this section are subject to the following conditions and limitations:

(1) Funding from the state public works trust fund program shall be matched with new federal resources to improve the quality of drinking water in the state, and shall be used solely for projects which achieve the goals of the federal safe drinking water act.

(2) The department shall report to the appropriate committees of the legislature by January 1, 1998, on the progress of the program, including administrative and technical assistance procedures, the application process, and funding priorities.

Appropriation:

Drinking Water Assistance Account—		
State	\$	9,949,000
Prior Biennia (Expenditures)	\$	0
Future Biennia (Projected Costs)	\$	<u>39,796,000</u>
TOTAL	\$	49,745,000

NEW SECTION. Sec. 126. FOR THE DEPARTMENT OF COMMUNITY, TRADE, AND ECONOMIC DEVELOPMENT

Miraheau Point Community Complex

The appropriation in this section is subject to the following conditions and limitations:

(1) The amount provided in this section is provided solely for a grant to Spokane county for design and development costs for Mirabeau Point community complex.

(2) The amount provided in this section represents the entire state contribution to the project and shall be matched by \$8,500,000 in contributions toward the project from nonstate sources.

Appropriation:

St Bldg Constr Acct—State	\$	1,500,000
Prior Biennia (Expenditures)	\$	0
Future Biennia (Projected Costs)	\$	0
TOTAL	\$	1,500,000

NEW SECTION. Sec. 127. FOR THE OFFICE OF FINANCIAL MANAGEMENT

Colocated Cascadia Branch Campus (94-1-003)

Reappropriation:

St Bldg Constr Acct—State	\$	6,012,555
Prior Biennia (Expenditures)	\$	11,409,333
Future Biennia (Projected Costs)	\$	0
TOTAL	\$	17,421,888

NEW SECTION. Sec. 128. FOR THE OFFICE OF FINANCIAL MANAGEMENT

Underground storage tank: Pool (98-1-001)

The appropriation in this section is subject to the following conditions and limitations:

(1) The money provided in this section shall be allocated to agencies and institutions for removal, replacement, and environmental cleanup projects related to underground storage tanks.

(2) No moneys appropriated in this section or in any section specifically referencing this section shall be expended unless the office of financial management has reviewed and approved the cost estimates for the project. Projects to replace tanks shall conform with guidelines to minimize risk of environmental contamination. Above ground storage tanks shall be used whenever possible and agencies shall avoid duplication of tanks.

(3) Funds not needed for the purposes identified in this section may be transferred for expenditure to the Americans with Disabilities Act: Pool in section 130 of this act.

Reappropriation:

St Bldg Constr Acct—State	\$	400,000
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Appropriation:

St Bldg Constr Acct—State	\$	3,000,000
Prior Biennia (Expenditures)	\$	0
Future Biennia (Projected Costs)	\$	<u>7,000,000</u>
TOTAL	\$	10,400,000

NEW SECTION. Sec. 129. FOR THE OFFICE OF FINANCIAL MANAGEMENT

Asbestos abatement and demolition: Pool (98-1-002)

The appropriation in this section is subject to the following conditions and limitations:

(1) The money provided in this section shall be allocated to agencies and institutions for removal or abatement of asbestos.

(2) No moneys appropriated in this section or in any section specifically referencing this section shall be expended unless the office of financial management has reviewed and approved the cost estimates for the project.

(3) Funds not needed for the purposes identified in this section may be transferred for expenditure to the Americans with Disabilities Act: Pool in section 130 of this act.

Reappropriation:

St Bldg Constr Acct—State	\$	500,000
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Appropriation:

St Bldg Constr Acct—State	\$	3,000,000
Prior Biennia (Expenditures)	\$	0
Future Biennia (Projected Costs)	\$	<u>12,000,000</u>
TOTAL	\$	15,500,000

NEW SECTION. Sec. 130. FOR THE OFFICE OF FINANCIAL MANAGEMENT

Americans with Disabilities Act: Pool (98-1-003)

The appropriation in this section is subject to the following conditions and limitations:

(1) The money provided in this section shall be allocated to agencies and institutions for improvements to state-owned facilities for program access enhancements.

(2) No moneys appropriated in this section shall be expended unless the office of financial management has reviewed and approved the cost estimates for the project. The office of financial management shall implement an agency request and evaluation procedure similar to the one adopted in the 1995-97 biennium for distribution of funds.

(3) No moneys appropriated in this section shall be available to institutions of higher education to modify dormitories.

Reappropriation:	
St Bldg Constr Acct—State	\$ 500,000
Appropriation:	
St Bldg Constr Acct—State	\$ 3,000,000
Prior Biennia (Expenditures)	\$ 0
Future Biennia (Projected Costs)	\$ 12,000,000
TOTAL	\$ 15,500,000

NEW SECTION. Sec. 131. FOR THE OFFICE OF FINANCIAL MANAGEMENT

Capital hudget system improvements (98-1-006)

Reappropriation:	
St Bldg Constr Acct—State	\$ 100,000
Appropriation:	
St Bldg Constr Acct—State	\$ 300,000
Prior Biennia (Expenditures)	\$ 300,000
Future Biennia (Projected Costs)	\$ 1,200,000
TOTAL	\$ 1,900,000

NEW SECTION. Sec. 132. FOR THE DEPARTMENT OF GENERAL ADMINISTRATION

East Campus Plaza and Plaza Garage repalrs (96-1-002)

The appropriation in this section is subject to the review and allotment procedures under section 712 of this act.

Reappropriation:	
St Bldg Constr Acct—State	\$ 500,000
Appropriation:	
St Bldg Constr Acct—State	\$ 7,041,000
Cap Bldg Constr Acct—State	\$ 1,805,000
Suhtotal Appropriation	\$ 8,846,000
Prior Biennia (Expenditures)	\$ 8,821,200
Future Biennia (Projected Costs)	\$ 20,162,000
TOTAL	\$ 38,329,200

NEW SECTION. Sec. 133. FOR THE DEPARTMENT OF GENERAL ADMINISTRATION

Heritage Park—Phased development (92-5-105)

The appropriation in this section is subject to the review and allotment procedures under section 712 of this act.

Reappropriation:

Cap Bldg Constr Acct	\$	275,000
Prior Biennia (Expenditures)	\$	760,000
Future Biennia (Projected Costs)	\$	14,864,500
TOTAL	\$	16,899,500

NEW SECTION. Sec. 134. FOR THE DEPARTMENT OF GENERAL ADMINISTRATION

General Administration Building—Preservation: To make critical repairs to the electrical service of the General Administration Building (96-1-003)

Reappropriation:

Cap Bldg Constr Acct—State	\$	1,900,000
Prior Biennia (Expenditures)	\$	300,000
Future Biennia (Projected Costs)	\$	0
TOTAL	\$	2,200,000

NEW SECTION. Sec. 135. FOR THE DEPARTMENT OF GENERAL ADMINISTRATION

CFC/Halon fire control systems: Removal and replacement (96-1-011)

Reappropriation:

St Bidg Constr Acct—State	\$	375,000
Prior Biennia (Expenditures)	\$	0
Future Biennia (Projected Costs)	\$	0
TOTAL	\$	375,000

NEW SECTION. Sec. 136. FOR THE DEPARTMENT OF GENERAL ADMINISTRATION

Archives Building heating, ventilation, and air conditioning: Repairs (96-1-012)

Reappropriation:

Cap Bldg Constr Acct—State	\$	250,000
Prior Biennia (Expenditures)	\$	1,400,000
Future Biennia (Projected Costs)	\$	0
TOTAL	\$	1,650,000

NEW SECTION. Sec. 137. FOR THE DEPARTMENT OF GENERAL ADMINISTRATION

Thurston County buildings: Preservation (96-1-013)

The reappropriation in this section is subject to the following conditions and limitations:

The reappropriation shall support the detailed list of projects maintained by the office of financial management, including electrical improvements, elevator and escalator preservation, building preservation, infrastructure preservation, and emergency and small repairs.

Reappropriation:

Cap Bidg Constr Acct—State	\$	150,000
St Bidg Constr Acct—State	\$	150,000
Thurston County Cap Fac Acct—State ..	\$	<u>1,250,000</u>
Subtotal Reappropriation	\$	1,550,000
Prior Biennia (Expenditures)	\$	0
Future Biennia (Projected Costs)	\$	<u>0</u>
TOTAL	\$	1,550,000

NEW SECTION. Sec. 138. FOR THE DEPARTMENT OF GENERAL ADMINISTRATION

Northern State Multiservice Center: To replace the central heating system with individual building heating systems (96-1-019)

The reappropriation in this section is subject to the review and allotment procedures in section 712 of this act and shall not be expended until the office of financial management has made a determination that the replacement individual heating systems will have a cost efficiency payback of less than five years.

Reappropriation:

St Bidg Constr Acct—State	\$	555,000
Prior Biennia (Expenditures)	\$	22,000
Future Biennia (Projected Costs)	\$	<u>0</u>
TOTAL	\$	577,000

NEW SECTION. Sec. 139. FOR THE DEPARTMENT OF GENERAL ADMINISTRATION

Washington State Training and Conference Center: To construct a mock city, indoor firing range, and running track (96-2-004)

Reappropriation:

Public Safety Reimb Bond—State	\$	1,750,000
Prior Biennia (Expenditures)	\$	1,162,000
Future Biennia (Projected Costs)	\$	<u>0</u>
TOTAL	\$	2,912,000

NEW SECTION. Sec. 140. FOR THE DEPARTMENT OF GENERAL ADMINISTRATION

Emergency, small repairs, and improvements (98-1-001)

Appropriation:

St Bldg Constr Acct—State	\$	200,000
Thurston County Cap Fac Acct—State ..	\$	<u>700,000</u>
Subtotal Appropriation	\$	900,000
Prior Biennia (Expenditures)	\$	931,418
Future Biennia (Projected Costs)	\$	<u>4,900,000</u>
TOTAL	\$	6,731,418

NEW SECTION. Sec. 141. FOR THE DEPARTMENT OF GENERAL ADMINISTRATION

Capitol Campus facilities: Preservation (98-1-003)

The appropriation in this section is subject to the following conditions and limitations:

The appropriation shall support the detailed list of projects maintained by the office of financial management.

Appropriation:

Cap Bldg Constr Acct—State	\$	340,000
St Bldg Constr Acct—State	\$	240,000
Thurston County Cap Fac Acct—State ..	\$	<u>2,200,000</u>
Subtotal Appropriation	\$	2,780,000
Prior Biennia (Expenditures)	\$	0
Future Biennia (Projected Costs)	\$	<u>4,000,000</u>
TOTAL	\$	6,780,000

NEW SECTION. Sec. 142. FOR THE DEPARTMENT OF GENERAL ADMINISTRATION

Northern State Multiservice Center: Preservation (98-1-004)

The appropriation in this section is subject to the following conditions and limitations:

The appropriation shall support the detailed list of projects maintained by the office of financial management.

Appropriation:

General Fund—Private/Local	\$	500,000
CEP & RI Acct—State	\$	600,000
St Bldg Constr Acct—State	\$	<u>300,000</u>
Subtotal Appropriation	\$	1,400,000

Prior Biennia (Expenditures)	\$	0
Future Biennia (Projected Costs)	\$	<u>3,200,000</u>
TOTAL	\$	4,600,000

NEW SECTION. Sec. 143. FOR THE DEPARTMENT OF GENERAL ADMINISTRATION

Legislative buildings: Safety and infrastructure: To make improvements to the Legislative, Cherberg, O'Brien, Institutions, and 1007 Washington buildings (98-1-005)

The appropriation in this section is subject to the following conditions and limitations:

- (1) The appropriation shall support the detailed list of projects maintained by the office of financial management.
- (2) Up to \$395,000 of the appropriation may be expended for the installation of handrails in the legislative building.

Appropriation:

Cap Bldg Constr Acct—State	\$	895,000
Thurston County Cap Fac Acct—State ..	\$	<u>1,675,000</u>
St Bldg Constr Acct—State	\$	<u>395,000</u>
Subtotal Appropriation	\$	2,965,000
Prior Biennia (Expenditures)	\$	0
Future Biennia (Projected Costs)	\$	<u>17,000,000</u>
TOTAL	\$	19,965,000

NEW SECTION. Sec. 144. FOR THE DEPARTMENT OF GENERAL ADMINISTRATION

600 S. Franklin Building: Preservation (98-1-006)

Appropriation:

St Bldg Constr Acct—State	\$	925,000
Thurston County Cap Fac Acct—State ..	\$	<u>175,000</u>
Subtotal Appropriation	\$	1,100,000
Prior Biennia (Expenditures)	\$	0
Future Biennia (Projected Costs)	\$	<u>0</u>
TOTAL	\$	1,100,000

NEW SECTION. Sec. 145. FOR THE DEPARTMENT OF GENERAL ADMINISTRATION

OB-2 Building: Preservation (98-1-007)

The appropriation in this section is subject to the review and allotment procedures under section 712 of this act.

Appropriation:

St Bldg Constr Acct—State	\$	357,000
Thurston County Cap Fac Acct—State ..	\$	2,093,000
Cap Bldg Constr Acct—State	\$	<u>1,800,000</u>
Subtotal Appropriation	\$	4,250,000
Prior Biennia (Expenditures)	\$	0
Future Biennia (Projected Costs)	\$	<u>15,425,000</u>
TOTAL	\$	19,675,000

NEW SECTION. Sec. 146. FOR THE DEPARTMENT OF GENERAL ADMINISTRATION

Department of Transportation Building: Preservation (98-1-008)

The appropriation in this section is subject to the review and allotment procedures under section 712 of this act.

Appropriation:

Thurston County Cap Fac Acct—State ..	\$	734,000
Prior Biennia (Expenditures)	\$	0
Future Biennia (Projected Costs)	\$	<u>10,100,000</u>
TOTAL	\$	10,834,000

NEW SECTION. Sec. 147. FOR THE DEPARTMENT OF GENERAL ADMINISTRATION

Monumental buildings: Cleaning and preservation (98-1-011)

Appropriation:

Cap Bldg Constr Acct—State	\$	3,000,000
Prior Biennia (Expenditures)	\$	0
Future Biennia (Projected Costs)	\$	<u>12,000,000</u>
TOTAL	\$	15,000,000

NEW SECTION. Sec. 148. FOR THE DEPARTMENT OF GENERAL ADMINISTRATION

Washington State Training and Conference Center: Preservation (98-1-013)

The appropriation in this section is subject to the following conditions and limitations:

- (1) The appropriation shall support the detailed list of projects maintained by the office of financial management.
- (2) The department shall coordinate all work with the tenants of the center.

Appropriation:

St Bldg Constr Acct—State	\$	1,000,000
Prior Biennia (Expenditures)	\$	0
Future Biennia (Projected Costs)	\$	<u>1,000,000</u>
TOTAL	\$	2,000,000

NEW SECTION. Sec. 149. FOR THE DEPARTMENT OF GENERAL ADMINISTRATION

Infrastructure savings (98-1-016)

Projects that are completed in accordance with section 711 of this act that have been reviewed by the office of financial management may have their remaining funds transferred to this project for the following purposes: (1) Road repair; (2) roof repair; (3) electrical system repair; (4) steam and utility distribution system repair; (5) plumbing system repair; (6) heating, ventilating, and air conditioning repairs; and (7) emergency repairs due to natural disasters or accidents.

A report of any transfer effected under this section shall be filed with the legislative fiscal committees of the senate and house of representatives by the office of financial management.

Appropriation:

St Bldg Constr Acct—State	\$	1
Prior Biennia (Expenditures)	\$	0
Future Biennia (Projected Costs)	\$	<u>0</u>
TOTAL	\$	1

NEW SECTION. Sec. 150. FOR THE DEPARTMENT OF GENERAL ADMINISTRATION

Washington State Training and Conference Center: Dormitory (98-2-004)

The appropriation in this section is to be used to design and construct the first of two new prototype dormitories for the criminal justice training commission.

Appropriation:

Public Safety Reimb Bond—State	\$	1,600,000
Prior Biennia (Expenditures)	\$	0
Future Biennia (Projected Costs)	\$	<u>1,400,000</u>
TOTAL	\$	3,000,000

NEW SECTION. Sec. 151. FOR THE DEPARTMENT OF GENERAL ADMINISTRATION

Engineering and architectural services project management (98-2-011)

The appropriation in this section is subject to the following conditions and limitations:

The appropriation in this section shall be used to provide those services to state agencies required by RCW 43.19.450 that are essential and mandated activities defined as core services and are included in the engineering and architectural services responsibilities and task list for general public works projects of normal complexity. The department may negotiate agreements with agencies for additional fees to manage exceptional projects or those that require services in addition to core services and that are described as optional and extra services in the task list.

Appropriation:

St Bldg Constr Acct—State	\$	8,313,500
Prior Biennia (Expenditures)	\$	7,500,000
Future Biennia (Projected Costs)	\$	37,000,000
TOTAL	\$	52,813,500

NEW SECTION. Sec. 152. FOR THE DEPARTMENT OF GENERAL ADMINISTRATION

The control and management of the Wellington Hills property which was purchased by the state of Washington as a potential site for the University of Washington Bothell branch campus is transferred to the department of general administration. The site shall be disposed of at fair market value and the proceeds from the sale shall be deposited in the state building construction account. The department may retain from the proceeds of the sale an amount sufficient to provide reimbursement for expenses as approved by the office of financial management.

The University of Washington shall continue to pay all necessary fees and assessments appurtenant to the property until the property is sold.

NEW SECTION. Sec. 153. FOR THE MILITARY DEPARTMENT

Emergency Coordination Center: For design and construction of an emergency coordination center and remodeling of associated facilities at Camp Murray (95-5-010)

The reappropriation in this section is subject to the following conditions and limitations:

(1) The reappropriation in this section is subject to the review and allotment procedures under section 712 of this act; and

(2) The reappropriation in this section represents the maximum amount of funding available for this project. To the extent moneys in this appropriation are not needed to complete the project, as mutually determined by the military department and the office of financial management, the appropriation in this section shall be reduced accordingly.

Reappropriation:

General Fund—Federal	\$	8,112,000
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Prior Biennia (Expenditures)	\$	954,000
Future Biennia (Projected Costs)	\$	0
TOTAL	\$	9,066,000

NEW SECTION. Sec. 154. FOR THE MILITARY DEPARTMENT

Camp Murray buildings: Preservation (96-1-002)

Reappropriation:

General Fund—Federal	\$	750,000
Prior Biennia (Expenditures)	\$	300,000
Future Biennia (Projected Costs)	\$	0
TOTAL	\$	1,050,000

NEW SECTION. Sec. 155. FOR THE MILITARY DEPARTMENT

Everett Armory: Preservation (96-1-003)

Reappropriation:

General Fund—Federal	\$	375,000
Prior Biennia (Expenditures)	\$	125,000
Future Biennia (Projected Costs)	\$	0
TOTAL	\$	500,000

NEW SECTION. Sec. 156. FOR THE MILITARY DEPARTMENT

Camp Murray Infrastructure: Preservation (96-1-006)

Reappropriation:

General Fund—Federal	\$	185,000
Prior Biennia (Expenditures)	\$	315,000
Future Biennia (Projected Costs)	\$	0
TOTAL	\$	500,000

NEW SECTION. Sec. 157. FOR THE MILITARY DEPARTMENT

Yakima National Guard Armory and Readiness Center: Design and Utilities (98-2-001)

The appropriation in this section is subject to the following conditions and limitations:

Funds expended on this project for off-site utility infrastructure which may include the provision of electricity, natural gas service, water service or sewer service shall be for the benefit of the state. Entities which subsequently connect or use this off-site utility infrastructure shall reimburse the state at a rate proportional to their use. The military department shall develop policies and procedures to ensure that this reimbursement occurs.

Appropriation:

St Bldg Constr Acct—State	\$	5,260,700
General Fund—Federal	\$	8,275,000
Subtotal Appropriation	\$	13,535,700
Prior Biennia (Expenditures)	\$	0
Future Biennia (Projected Costs)	\$	3,288,300
TOTAL	\$	16,824,000

NEW SECTION. Sec. 158. FOR THE MILITARY DEPARTMENT

Buildings and infrastructure savings (96-1-999)

Projects that are completed in accordance with section 711 of this act that have been reviewed by the office of financial management may have their remaining funds transferred to this project for the following purposes: (1) Road and sidewalk repair; (2) roof repair; (3) electrical system repair; (4) steam and utility distribution system repair; (5) plumbing system repair; (6) heating, ventilating, and air conditioning repairs; and (7) emergency repairs due to natural disasters or accidents.

A report of any transfer effected under this section shall be filed with the legislative fiscal committees of the senate and house of representatives by the office of financial management.

Reappropriation:

St Bldg Constr Acct—State	\$	1
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Appropriation:

General Fund—Federal	\$	1
Prior Biennia (Expenditures)	\$	0
Future Biennia (Projected Costs)	\$	0
TOTAL	\$	2

NEW SECTION. Sec. 159. FOR THE MILITARY DEPARTMENT

Minor works: Federal construction projects (98-1-001)

The appropriation in this section is subject to the following conditions and limitations:

The appropriation shall support the detailed list of projects maintained by the office of financial management.

Appropriation:

General Fund—Federal	\$	6,320,600
St Bldg Constr Acct—State	\$	1,137,600
Subtotal Appropriation	\$	7,458,200
Prior Biennia (Expenditures)	\$	4,303,000
Future Biennia (Projected Costs)	\$	39,500,300

TOTAL \$ 51,261,500

NEW SECTION. Sec. 160. FOR THE MILITARY DEPARTMENT

Minor works: Preservation (98-1-002)

The appropriation in this section is subject to the following conditions and limitations:

The appropriation shall support the detailed list of projects maintained by the office of financial management.

Appropriation:

St Bldg Constr Acct—State	\$	1,000,000
Prior Biennia (Expenditures)	\$	0
Future Biennia (Projected Costs)	\$	<u>4,000,000</u>
TOTAL	\$	5,000,000

NEW SECTION. Sec. 161. FOR THE MILITARY DEPARTMENT

Tacoma Community Center—Sprinkler system: To reimburse Pierce county for the cost of the fire sprinkler system installed during the lease of the facility. (98-1-004)

Appropriation:

St Bldg Constr Acct—State	\$	149,000
Prior Biennia (Expenditures)	\$	0
Future Biennia (Projected Costs)	\$	<u>0</u>
TOTAL	\$	149,000

NEW SECTION. Sec. 162. FOR THE MILITARY DEPARTMENT

Montesano Community Center: Renovation (98-1-029)

Appropriation:

St Bldg Constr Acct—State	\$	582,000
Prior Biennia (Expenditures)	\$	0
Future Biennia (Projected Costs)	\$	<u>0</u>
TOTAL	\$	582,000

NEW SECTION. Sec. 163. FOR THE MILITARY DEPARTMENT

Federal construction projects: For minor capital construction projects included on office of financial management unanticipated receipt approval request log numbers 261 and 275.

Reappropriation:

General Fund—Federal	\$	3,644,300
Prior Biennia (Expenditures)	\$	0

Future Biennia (Projected Costs)	\$	<u>0</u>
TOTAL	\$	3,644,300

**PART 2
HUMAN SERVICES**

NEW SECTION. Sec. 201. FOR THE DEPARTMENT OF SOCIAL AND HEALTH SERVICES

Firecrest School: Renovate apartment (94-1-142)

Reappropriation:

CEP & RI Acct—State	\$	1,668,927
Prior Biennia (Expenditures)	\$	440,375
Future Biennia (Projected Costs)	\$	<u>0</u>
TOTAL	\$	2,109,302

NEW SECTION. Sec. 202. FOR THE DEPARTMENT OF SOCIAL AND HEALTH SERVICES

Maple Lane School Wastewater Treatment Plant (94-1-201)

Reappropriation:

St Bldg Constr Acct—State	\$	4,147,132
Prior Biennia (Expenditures)	\$	125,367
Future Biennia (Projected Costs)	\$	<u>0</u>
TOTAL	\$	4,272,499

NEW SECTION. Sec. 203. FOR THE DEPARTMENT OF SOCIAL AND HEALTH SERVICES

Naselle Youth Camp: Water system Improvements (94-1-202)

Reappropriation:

St Bldg Constr Acct—State	\$	794,717
Prior Biennia (Expenditures)	\$	370,977
Future Biennia (Projected Costs)	\$	<u>0</u>
TOTAL	\$	1,165,694

NEW SECTION. Sec. 204. FOR THE DEPARTMENT OF SOCIAL AND HEALTH SERVICES

Western State Hospital ward renovation phase 6 (94-1-316)

Reappropriation:

St Bldg Constr Acct—State	\$	866,277
Prior Biennia (Expenditures)	\$	11,305,003
Future Biennia (Projected Costs)	\$	<u>0</u>
TOTAL	\$	12,171,280

NEW SECTION. Sec. 205. FOR THE DEPARTMENT OF SOCIAL AND HEALTH SERVICES**Francis Haddon Morgan Center: Remodel (94-1-402)****Reappropriation:**

St Bldg Constr Acct—State	\$	1,577,024
Prior Biennia (Expenditures)	\$	144,275
Future Biennia (Projected Costs)	\$	<u>0</u>
TOTAL	\$	1,721,299

NEW SECTION. Sec. 206. FOR THE DEPARTMENT OF SOCIAL AND HEALTH SERVICES**Ashestos abatement (96-1-002)****Reappropriation:**

St Bldg Constr Acct—State	\$	615,845
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Appropriation:

St Bldg Constr Acct—State	\$	200,000
Prior Biennia (Expenditures)	\$	1,215,155
Future Biennia (Projected Costs)	\$	<u>0</u>
TOTAL	\$	2,031,000

NEW SECTION. Sec. 207. FOR THE DEPARTMENT OF SOCIAL AND HEALTH SERVICES**Americans with Disabilities Act Improvements (96-1-003)****Reappropriation:**

St Bldg Constr Acct—State	\$	181,121
Prior Biennia (Expenditures)	\$	266,730
Future Biennia (Projected Costs)	\$	<u>0</u>
TOTAL	\$	447,851

NEW SECTION. Sec. 208. FOR THE DEPARTMENT OF SOCIAL AND HEALTH SERVICES**Minor works: Preservation (96-1-004)****Reappropriation:**

CEP & RI Acct—State	\$	4,279,702
St Bldg Constr Acct—State	\$	<u>7,240,776</u>
Subtotal Reappropriation	\$	11,520,478

Appropriation:

CEP & RI Acct—State	\$	5,000,000
St Bldg Constr Acct—State	\$	3,720,000

Subtotal Appropriation	\$	8,720,000
Prior Biennia (Expenditures)	\$	7,507,532
Future Biennia (Projected Costs)	\$	64,000,000
TOTAL	\$	91,748,010

NEW SECTION. Sec. 209. FOR THE DEPARTMENT OF SOCIAL AND HEALTH SERVICES

Chlorofluorocarbon abatement (96-1-008)

Reappropriation:

CEP & RI Acct—State	\$	223,898
Prior Biennia (Expenditures)	\$	26,102
Future Biennia (Projected Costs)	\$	0
TOTAL	\$	250,000

NEW SECTION. Sec. 210. FOR THE DEPARTMENT OF SOCIAL AND HEALTH SERVICES

Juvenile facilities preservation and rehabilitation (96-1-020)

Reappropriation:

St Bldg Constr Acct—State	\$	428,109
Prior Biennia (Expenditures)	\$	1,651,491
Future Biennia (Projected Costs)	\$	0
TOTAL	\$	2,079,600

NEW SECTION. Sec. 211. FOR THE DEPARTMENT OF SOCIAL AND HEALTH SERVICES

Minor works projects: Mental health (96-1-030)

Reappropriation:

St Bldg Constr. Acct—State	\$	1,773,961
Prior Biennia (Expenditures)	\$	2,021,339
Future Biennia (Projected Costs)	\$	0
TOTAL	\$	3,795,300

NEW SECTION. Sec. 212. FOR THE DEPARTMENT OF SOCIAL AND HEALTH SERVICES

Minor works projects: Division of Developmental Disabilities (96-1-040)

The reappropriation in this section is subject to the following conditions and limitations:

The reappropriation shall support the detailed list of projects maintained by the department of financial management.

Reappropriation:

St Bidg Constr Acct—State	\$	386,549
Prior Biennia (Expenditures)	\$	684,798
Future Biennia (Projected Costs)	\$	0
TOTAL	\$	1,071,347

NEW SECTION. Sec. 213. FOR THE DEPARTMENT OF SOCIAL AND HEALTH SERVICES

Underground storage tanks removal and replacement (96-1-060)

Reappropriation:

CEP & RI Acct—State	\$	200,000
St Bidg Constr Acct—State	\$	453,523
Subtotal Reappropriation	\$	653,523
Prior Biennia (Expenditures)	\$	286,883
Future Biennia (Projected Costs)	\$	0
TOTAL	\$	940,406

NEW SECTION. Sec. 214. FOR THE DEPARTMENT OF SOCIAL AND HEALTH SERVICES

Maintenance management and planning (96-1-150)

Reappropriation:

CEP & RI Acct—State	\$	136,640
Prior Biennia (Expenditures)	\$	15,880
Future Biennia (Projected Costs)	\$	0
TOTAL	\$	152,520

NEW SECTION. Sec. 215. FOR THE DEPARTMENT OF SOCIAL AND HEALTH SERVICES

Medical Lake wastewater treatment facility (96-1-301)

Reappropriation:

St Bidg Constr Acct—State	\$	1,580,624
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Appropriation:

St Bidg Constr Acct—State	\$	500,000
Prior Biennia (Expenditures)	\$	433,817
Future Biennia (Projected Costs)	\$	6,411,000
TOTAL	\$	8,925,441

NEW SECTION. Sec. 216. FOR THE DEPARTMENT OF SOCIAL AND HEALTH SERVICES

Western State Hospital: Replace Boiler #1 (96-1-322)

Reappropriation:

St Bldg Constr Acct—State	\$	1,157,566
Prior Biennia (Expenditures)	\$	282,434
Future Biennia (Projected Costs)	\$	0
TOTAL	\$	1,440,000

NEW SECTION. Sec. 217. FOR THE DEPARTMENT OF SOCIAL AND HEALTH SERVICES

Crisis Residential Centers (96-1-900)

The reappropriation in this section is provided to the department of social and health services for grants to provide secure crisis residential centers consistent with the plan developed pursuant to the omnibus 1995-97 operating budget.

Reappropriation:

St Bldg Constr Acct—State	\$	3,000,000
Prior Biennia (Expenditures)	\$	0
Future Biennia (Projected Costs)	\$	0
TOTAL	\$	3,000,000

NEW SECTION. Sec. 218. FOR THE DEPARTMENT OF SOCIAL AND HEALTH SERVICES

Echo Glen: New beds and infrastructure (96-2-229)

The reappropriation in this section is subject to the following conditions and limitations:

The reappropriation in this section is subject to the review and allotment procedures under section 712 of this act.

Reappropriation:

St Bldg Constr Acct—State	\$	2,527,752
Prior Biennia (Expenditures)	\$	1,156,548
Future Biennia (Projected Costs)	\$	0
TOTAL	\$	3,684,300

NEW SECTION. Sec. 219. FOR THE DEPARTMENT OF SOCIAL AND HEALTH SERVICES

Green Hill redevelopment: 416-bed institution (96-2-230)

The appropriation in this section is subject to the following conditions and limitations:

(1) The appropriation in this section is subject to the review and allotment procedures under section 712 of this act.

(2) If Engrossed Third Substitute House Bill No. 3900 is not enacted by June 30, 1997, \$3,800,000 of the new appropriation in this section shall lapse.

Reappropriation:

St Bldg Constr Acct—State \$ 37,234,448

Appropriation:

St Bldg Constr Acct—State \$ 6,600,000

Prior Biennia (Expenditures) \$ 4,669,321

Future Biennia (Projected Costs) \$ 11,200,000

TOTAL \$ 59,703,769

NEW SECTION. Sec. 220. FOR THE DEPARTMENT OF SOCIAL AND HEALTH SERVICES

Maple Lane School: Renovation and infrastructure improvements (96-2-231)

The reappropriation in this section is subject to the following conditions and limitations:

The reappropriation in this section is subject to the review and allotment procedures under section 712 of this act.

Reappropriation:

St Bldg Constr Acct—State \$ 5,194,174

Prior Biennia (Expenditures) \$ 661,325

Future Biennia (Projected Costs) \$ 0

TOTAL \$ 5,855,499

NEW SECTION. Sec. 221. FOR THE DEPARTMENT OF SOCIAL AND HEALTH SERVICES

Mission Creek preservation projects (96-2-233)

Reappropriation:

St Bldg Constr Acct—State \$ 389,756

Prior Biennia (Expenditures) \$ 25,044

Future Biennia (Projected Costs) \$ 0

TOTAL \$ 414,800

NEW SECTION. Sec. 222. FOR THE DEPARTMENT OF SOCIAL AND HEALTH SERVICES

Indian Ridge utility upgrade projects (96-2-234)

Reappropriation:

St Bldg Constr Acct—State \$ 1,265,471

Prior Biennia (Expenditures) \$ 256,029

Future Biennia (Projected Costs) \$ 0

TOTAL \$ 1,521,500

NEW SECTION. Sec. 223. FOR THE DEPARTMENT OF SOCIAL AND HEALTH SERVICES

Minor works: State-owned Juvenile Rehabilitation Administration group homes (96-2-235)

The reappropriation in this section is subject to the following conditions and limitations:

The reappropriation shall support the detailed list of projects maintained by the office of financial management.

Reappropriation:

St Bldg Constr Acct—State	\$	233,482
Prior Biennia (Expenditures)	\$	110,917
Future Biennia (Projected Costs)	\$	0
TOTAL	\$	344,399

NEW SECTION. Sec. 224. FOR THE DEPARTMENT OF SOCIAL AND HEALTH SERVICES

Western State Hospital: South Hall heating, ventilation, and air conditioning retrofit (98-1-041)

Appropriation:

St Bldg Constr Acct—State	\$	1,000,000
Prior Biennia (Expenditures)	\$	0
Future Biennia (Projected Costs)	\$	0
TOTAL	\$	1,000,000

NEW SECTION. Sec. 225. FOR THE DEPARTMENT OF SOCIAL AND HEALTH SERVICES

Renovation of Main Building—Mission Creek (98-1-166)

Appropriation:

St Bldg Constr Acct—State	\$	2,500,000
Prior Biennia (Expenditures)	\$	0
Future Biennia (Projected Costs)	\$	0
TOTAL	\$	2,500,000

NEW SECTION. Sec. 226. FOR THE DEPARTMENT OF SOCIAL AND HEALTH SERVICES

Capital project management (98-1-406)

Appropriation:

CEP & RI Acct—State	\$	1,850,000
Prior Biennia (Expenditures)	\$	0
Future Biennia (Projected Costs)	\$	7,874,208
TOTAL	\$	9,724,208

NEW SECTION. Sec. 227. FOR THE DEPARTMENT OF SOCIAL AND HEALTH SERVICES

Emergency projects (98-1-428)

Appropriation:

St Bldg Constr Acct—State	\$	250,000
Prior Biennia (Expenditures)	\$	0
Future Biennia (Projected Costs)	\$	1,154,000
TOTAL	\$	1,404,000

NEW SECTION. Sec. 228. FOR THE DEPARTMENT OF SOCIAL AND HEALTH SERVICES

Eastern State Hospital: Legal Offender Unit (98-2-002)

The appropriation in this section is subject to the review and allotment procedures under section 712 of this act.

Reappropriation:

St Bldg Constr Acct—State	\$	965,015
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Appropriation:

St Bldg Constr Acct—State	\$	17,583,585
Prior Biennia (Expenditures)	\$	147,400
Future Biennia (Projected Costs)	\$	0
TOTAL	\$	18,696,000

NEW SECTION. Sec. 229. FOR THE DEPARTMENT OF SOCIAL AND HEALTH SERVICES

Western State Hospital: Legal Offender Unit (98-2-052)

The appropriation in this section is subject to the review and allotment procedures under section 712 of this act.

Appropriation:

St Bidg Constr Acct—State	\$	4,215,341
Prior Biennia (Expenditures)	\$	150,000
Future Biennia (Projected Costs)	\$	38,687,459
TOTAL	\$	43,052,800

NEW SECTION. Sec. 230. FOR THE DEPARTMENT OF SOCIAL AND HEALTH SERVICES

Naselle Youth Camp academlc school and support space (98-2-154)

The appropriation in this section is subject to the review and allotment procedures under section 712 of this act.

Appropriation:

St Bldg Constr Acct—State	\$	1,537,508
Prior Biennia (Expenditures)	\$	0
Future Biennia (Projected Costs)	\$	<u>0</u>
TOTAL	\$	1,537,508

NEW SECTION. Sec. 231. FOR THE DEPARTMENT OF SOCIAL AND HEALTH SERVICES

Predeslgn Echo Glen vocational program addition (98-2-211)

The appropriation in this section is subject to the review and allotment procedures under section 712 of this act.

Appropriation:

St Bldg Constr Acct—State	\$	100,000
Prior Biennia (Expenditures)	\$	0
Future Biennia (Projected Costs)	\$	<u>2,250,000</u>
TOTAL	\$	2,350,000

NEW SECTION. Sec. 232. FOR THE DEPARTMENT OF SOCIAL AND HEALTH SERVICES

Maple Lane School: 124-bed houslng replacement and support services (98-2-216)

The appropriation in this section is subject to the review and allotment procedures under section 712 of this act.

Appropriation:

St Bldg Constr Acct—State	\$	9,332,641
Prior Biennia (Expenditures)	\$	0
Future Biennia (Projected Costs)	\$	<u>0</u>
TOTAL	\$	9,332,641

NEW SECTION. Sec. 233. FOR THE DEPARTMENT OF SOCIAL AND HEALTH SERVICES

Northern State Hospital: Safe Passage program space (98-2-395)

Appropriation:

St Bldg Constr Acct—State	\$	329,500
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Prior Biennia (Expenditures)	\$	0
Future Biennia (Projected Costs)	\$	0
TOTAL	\$	329,500

NEW SECTION. Sec. 234. FOR THE DEPARTMENT OF SOCIAL AND HEALTH SERVICES

Minor works: Program (98-2-409)

The appropriation in this section is subject to the following conditions and limitations:

The appropriation shall support the detailed list of projects maintained by the office of financial management.

Appropriation:

St Bldg Constr Acct—State	\$	843,135
Prior Biennia (Expenditures)	\$	0
Future Biennia (Projected Costs)	\$	4,000,000
TOTAL	\$	4,843,135

NEW SECTION. Sec. 235. FOR THE DEPARTMENT OF HEALTH

Referendum 38—Water bonds (86-2-099)

Reappropriation:

LIRA, Water Sup Fac—State	\$	1,197,420
Prior Biennia (Expenditures)	\$	512,201
Future Biennia (Projected Costs)	\$	0
TOTAL	\$	1,709,621

NEW SECTION. Sec. 236. FOR THE DEPARTMENT OF HEALTH

Public Health Laboratory: Repairs and improvements (96-1-001)

Reappropriation:

CEP & RI Acct—State	\$	150,000
St Bldg Constr Acct—State	\$	805,241
Subtotal Reappropriation	\$	955,241

Appropriation:

St Bldg Constr Acct—State	\$	774,833
Prior Biennia (Expenditures)	\$	1,406,035
Future Biennia (Projected Costs)	\$	2,200,184
TOTAL	\$	5,336,293

NEW SECTION. Sec. 237. FOR THE DEPARTMENT OF HEALTH

Emergency power system (96-1-009)

Reappropriation:

CEP & RI Acct—State	\$	560,518
Prior Biennia (Expenditures)	\$	32,272
Future Biennia (Projected Costs)	\$	<u>0</u>
TOTAL	\$	592,790

NEW SECTION. Sec. 238. FOR THE DEPARTMENT OF HEALTH

Public Health Laboratory: Consolidation of facilities (96-2-001)

The appropriation in this section is subject to the review and allotment procedures under section 712 of this act.

Appropriation:

St Bldg Constr Acct—State	\$	660,300
Prior Biennia (Expenditures)	\$	0
Future Biennia (Projected Costs)	\$	<u>3,891,300</u>
TOTAL	\$	4,551,600

NEW SECTION. Sec. 239. FOR THE DEPARTMENT OF HEALTH

Public Health Laboratory: Building 5 system upgrades (98-1-002)

Appropriation:

CEP & RI Acct—State	\$	311,040
Prior Biennia (Expenditures)	\$	0
Future Biennia (Projected Costs)	\$	<u>0</u>
TOTAL	\$	311,040

NEW SECTION. Sec. 240. FOR THE DEPARTMENT OF HEALTH

Drinking Water Assistance Program: The appropriation provided in this section is provided solely for an interagency agreement with the department of community, trade, and economic development to make, in cooperation with the public works board, loans to local governments and public water systems for projects and activities to protect and improve the state's drinking water facilities and resources.

Appropriation:

Drinking Water Assistance Account—		
Federal	\$	33,873,450
Prior Biennia (Expenditures)	\$	0
Future Biennia (Projected Costs)	\$	<u>135,493,350</u>
TOTAL	\$	169,366,800

NEW SECTION. Sec. 241. FOR THE DEPARTMENT OF VETERANS AFFAIRS

Orting: Main kitchen upgrade (95-1-001)

Reappropriation:

CEP & RI Acct—State	\$	1,147,147
Prior Biennia (Expenditures)	\$	94,853
Future Biennia (Projected Costs)	\$	<u>0</u>
TOTAL	\$	1,242,000

NEW SECTION. Sec. 242. FOR THE DEPARTMENT OF VETERANS AFFAIRS

Americans with Disabilities Act projects (96-1-003)

Reappropriation:

St Bldg Constr Acct—State	\$	94,000
Prior Biennia (Expenditures)	\$	0
Future Biennia (Projected Costs)	\$	<u>0</u>
TOTAL	\$	94,000

NEW SECTION. Sec. 243. FOR THE DEPARTMENT OF VETERANS AFFAIRS

Orting: Dining hall remodel (97-1-002)

Appropriation:

CEP & RI Acct—State	\$	1,100,000
Prior Biennia (Expenditures)	\$	0
Future Biennia (Projected Costs)	\$	<u>0</u>
TOTAL	\$	1,100,000

NEW SECTION. Sec. 244. FOR THE DEPARTMENT OF VETERANS AFFAIRS

Retsil: Replace unsafe electrical distribution (97-1-003)

Appropriation:

CEP & RI Acct—State	\$	850,000
Prior Biennia (Expenditures)	\$	100,000
Future Biennia (Projected Costs)	\$	<u>0</u>
TOTAL	\$	950,000

NEW SECTION. Sec. 245. FOR THE DEPARTMENT OF VETERANS AFFAIRS

Retsil: Minor works projects (97-1-006)

Reappropriation:

CEP & RI Acct—State	\$	410,549
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Appropriation:

CEP & RI Acct—State	\$	755,000
Prior Biennia (Expenditures)	\$	249,451
Future Biennia (Projected Costs)	\$	<u>7,050,000</u>
TOTAL	\$	8,465,000

NEW SECTION. Sec. 246. FOR THE DEPARTMENT OF VETERANS AFFAIRS

Orting: Minor works projects (97-1-007)

Reappropriation:

CEP & RI Acct—State	\$	48,186
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Appropriation:

CEP & RI Acct—State	\$	750,000
Prior Biennia (Expenditures)	\$	186,814
Future Biennia (Projected Costs)	\$	<u>5,825,000</u>
TOTAL	\$	6,810,000

NEW SECTION. Sec. 247. FOR THE DEPARTMENT OF VETERANS AFFAIRS

Emergency fund (97-1-012)

Appropriation:

CEP & RI Acct—State	\$	700,000
Prior Biennia (Expenditures)	\$	0
Future Biennia (Projected Costs)	\$	<u>2,800,000</u>
TOTAL	\$	3,500,000

NEW SECTION. Sec. 248. FOR THE DEPARTMENT OF VETERANS AFFAIRS

Orting: Activities and Training Annex (97-1-014)

Appropriation:

CEP & RI Acct—State	\$	825,000
Prior Biennia (Expenditures)	\$	0
Future Biennia (Projected Costs)	\$	<u>0</u>
TOTAL	\$	825,000

NEW SECTION. Sec. 249. FOR THE DEPARTMENT OF VETERANS AFFAIRS

Retsll: Building feasibility study (97-2-015)

This appropriation is provided to conduct a study of the potential for consolidation of program functions and replacement of poor condition housing units into a new multi-use facility. The study will be submitted to the office of financial management and will be the basis of future capital investments at Retsil, based on clear programmatic need or economic benefits and improved efficiency.

Appropriation:

CEP & RI Acct—State	\$	112,000
Prior Biennia (Expenditures)	\$	0
Future Biennia (Projected Costs)	\$	0
TOTAL	\$	112,000

NEW SECTION. Sec. 250. FOR THE DEPARTMENT OF CORRECTIONS

McNeil Island master plan (94-2-001)

Reappropriation:

St Bldg Constr Acct—State	\$	139,844
Prior Biennia (Expenditures)	\$	12,738,845
Future Biennia (Projected Costs)	\$	0
TOTAL	\$	12,878,689

NEW SECTION. Sec. 251. FOR THE DEPARTMENT OF CORRECTIONS

Airway Heights improvements (94-2-016)

Reappropriation:

St Bldg Constr Acct—State	\$	296,199
Prior Biennia (Expenditures)	\$	11,891,149
Future Biennia (Projected Costs)	\$	0
TOTAL	\$	12,187,348

NEW SECTION. Sec. 252. FOR THE DEPARTMENT OF CORRECTIONS

Washington State Penitentiary steam system (96-1-016)

Reappropriation:

St Bldg Constr Acct—State	\$	3,657,549
Prior Biennia (Expenditures)	\$	753,703
Future Biennia (Projected Costs)	\$	0
TOTAL	\$	4,411,252

NEW SECTION. Sec. 253. FOR THE DEPARTMENT OF CORRECTIONS

Washington Corrections Center for Women (96-2-001)

The reappropriation in this section is subject to the review and allotment procedures under section 712 of this act.

Reappropriation:

St Bldg Constr Acct—State	\$	5,561,711
Prior Biennia (Expenditures)	\$	4,329,168
Future Biennia (Projected Costs)	\$	0
TOTAL	\$	9,890,879

NEW SECTION. Sec. 254. FOR THE DEPARTMENT OF CORRECTIONS

Washington State Reformatory: 400-bed facility (96-2-002)

The reappropriation in this section is subject to the review and allotment procedures under section 712 of this act.

Reappropriation:

St Bldg Constr Acct—State	\$	12,657,344
Prior Biennia (Expenditures)	\$	5,987,223
Future Biennia (Projected Costs)	\$	0
TOTAL	\$	18,644,567

NEW SECTION. Sec. 255. FOR THE DEPARTMENT OF CORRECTIONS

Airway Heights expansion (96-2-003)

The reappropriation in this section is subject to the review and allotment procedures under section 712 of this act.

Reappropriation:

St Bldg Constr Acct—State	\$	7,659,390
Prior Biennia (Expenditures)	\$	12,638,980
Future Biennia (Projected Costs)	\$	0
TOTAL	\$	20,298,370

NEW SECTION. Sec. 256. FOR THE DEPARTMENT OF CORRECTIONS

Washington Correction Center for Women Mental Health, Special Needs, and Reception Unit (96-2-006)

The appropriation in this section is subject to the following conditions and limitations:

The appropriation is subject to the review and allotment procedures under section 712 of this act.

Appropriation:

St Bldg Constr Acct—State	\$ 1,500,000
Prior Biennia (Expenditures)	\$ 0
Future Biennia (Projected Costs)	\$ 14,000,000
TOTAL	\$ 15,500,000

NEW SECTION. Sec. 257. FOR THE DEPARTMENT OF CORRECTIONS

Yakima Corrections Center (96-2-008)

The reappropriation in this section is subject to the review and allotment procedures under section 712 of this act.

Reappropriation:

St Bldg Constr Acct—State	\$ 6,234,339
Prior Biennia (Expenditures)	\$ 1,266,161
Future Biennia (Projected Costs)	\$ 0
TOTAL	\$ 7,500,500

NEW SECTION. Sec. 258. FOR THE DEPARTMENT OF CORRECTIONS

Larch and Cedar Creek expansion (96-2-010)

The reappropriation in this section is subject to the review and allotment procedures under section 712 of this act.

Reappropriation:

St Bldg Constr Acct—State	\$ 16,717,351
Prior Biennia (Expenditures)	\$ 5,282,649
Future Biennia (Projected Costs)	\$ 0
TOTAL	\$ 22,000,000

NEW SECTION. Sec. 259. FOR THE DEPARTMENT OF CORRECTIONS

State-wide preservation projects (98-1-001)

The appropriation in this section is subject to the following conditions and limitations:

The appropriation shall support the detailed list of projects maintained by the office of financial management.

Reappropriation:

St Bldg Constr Acct—State	\$ 15,804,257
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Appropriation:

CEP & RI Acct—State	\$ 3,200,000
St Bldg Constr Acct—State	\$ <u>15,700,000</u>
Subtotal Appropriation	\$ 18,900,000
Prior Biennia (Expenditures)	\$ 42,184,367
Future Biennia (Projected Costs)	\$ <u>134,400,000</u>
TOTAL	\$ 211,288,624

NEW SECTION. Sec. 260. FOR THE DEPARTMENT OF CORRECTIONS

Underground storage tank and above-ground storage tank program (98-1-002)

Reappropriation:

St Bldg Constr Acct—State	\$ 487,603
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Appropriation:

St Bldg Constr Acct—State	\$ 617,593
Prior Biennia (Expenditures)	\$ 1,009,221
Future Biennia (Projected Costs)	\$ <u>0</u>
TOTAL	\$ 2,114,417

NEW SECTION. Sec. 261. FOR THE DEPARTMENT OF CORRECTIONS

State-wide asbestos removal (98-1-003)

Reappropriation:

St Bldg Constr Acct—State	\$ 297,350
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Appropriation:

St Bldg Constr Acct—State	\$ 572,068
Prior Biennia (Expenditures)	\$ 1,899,137
Future Biennia (Projected Costs)	\$ <u>745,350</u>
TOTAL	\$ 3,513,905

NEW SECTION. Sec. 262. FOR THE DEPARTMENT OF CORRECTIONS

State-wide Americans with Disabilities Act compliance projects (98-1-004)

Reappropriation:

St Bldg Constr Acct—State	\$ 95,254
Prior Biennia (Expenditures)	\$ 184,600
Future Biennia (Projected Costs)	\$ <u>0</u>
TOTAL	\$ 279,854

NEW SECTION. Sec. 263. FOR THE DEPARTMENT OF CORRECTIONS

Emergency funds (98-1-005)

The reappropriation in this section is provided solely for projects under contract on or before June 30, 1997. Reappropriated funds not associated with contracted projects shall lapse on June 30, 1997. The office of financial management may grant waivers from this lapse requirement for specific projects upon findings of exceptional circumstances after notification of the chairmen of the house of representatives capital budget committee and senate ways and means committee.

Reappropriation:

CEP & RI Acct—State \$ 1,471,286

Appropriation:

CEP & RI Acct—State \$ 1,500,000

St Bldg Constr Acct—State \$ 1

Subtotal Appropriation \$ 1,500,001

Prior Biennia (Expenditures) \$ 2,180,705

Future Biennia (Projected Costs) \$ 7,000,000

TOTAL \$ 12,151,992

NEW SECTION. Sec. 264. FOR THE DEPARTMENT OF CORRECTIONS

Construct Stafford Creek Corrections Center (98-2-001)

The appropriation in this section is subject to the following conditions and limitations:

The appropriation in this section is subject to the review and allotment procedures under section 712 of this act.

Reappropriation:

St Bldg Constr Acct—State \$ 14,744,552

Appropriation:

General Fund—Federal \$ 11,319,453

St Bldg Constr Acct—State \$ 143,790,354

Subtotal Appropriation \$ 155,109,807

Prior Biennia (Expenditures) \$ 2,636,441

Future Biennia (Projected Costs) \$ 0

TOTAL \$ 172,490,800

NEW SECTION. Sec. 265. FOR THE DEPARTMENT OF CORRECTIONS

Washington State Reformatory: Convert medium to close custody (98-2-002)

The appropriation in this section is subject to the review and allotment procedures under section 712 of this act.

Appropriation:

St Bldg Constr Acct—State	\$	4,375,588
Prior Biennia (Expenditures)	\$	0
Future Biennia (Projected Costs)	\$	0
TOTAL	\$	4,375,588

NEW SECTION. Sec. 266. FOR THE DEPARTMENT OF CORRECTIONS

Tacoma: Design 400-bed prerelease facility (98-2-003)

The appropriation in this section is subject to the following conditions and limitations:

(1) The appropriation is subject to the review and allotment procedures under section 712 of this act.

(2) The department and the developer of the prerelease facility shall abide by all local code, zoning, and development regulations when designing and constructing the facility. The department shall secure a release of liability concerning potential hazardous wastes on the site prior to entering into a lease or development agreement for the prerelease facility.

Appropriation:

St Bldg Constr Acct—State	\$	1,625,700
Prior Biennia (Expenditures)	\$	0
Future Biennia (Projected Costs)	\$	0
TOTAL	\$	1,625,700

NEW SECTION. Sec. 267. FOR THE DEPARTMENT OF CORRECTIONS

Expand special offenders center to 400 beds (98-2-010)

The appropriation in this section is subject to the review and allotment procedures under section 712 of this act.

Reappropriation:

St Bldg Constr Acct—State	\$	83,689
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Appropriation:

St Bldg Constr Acct—State	\$	3,507,879
Prior Biennia (Expenditures)	\$	243,711
Future Biennia (Projected Costs)	\$	35,852,811
TOTAL	\$	39,688,090

NEW SECTION. Sec. 268. FOR THE DEPARTMENT OF CORRECTIONS

Washington Corrections Center: Juvenile Justice Program Improvements

The appropriation in this section is subject to the following conditions and limitations:

(1) The appropriation is subject to the review and allotment procedures under section 712 of this act.

(2) If Engrossed Third Substitute House Bill No. 3900 is not enacted by June 30, 1997, the appropriation in this section shall lapse.

Appropriation:

St Bldg Constr Acct--State	\$	4,500,000
Prior Biennia (Expenditures)	\$	0
Future Biennia (Projected Costs)	\$	0
TOTAL	\$	4,500,000

NEW SECTION. Sec. 269. FOR THE DEPARTMENT OF CORRECTIONS

New 1,936-bed multicustody facility: Predesign and site selection (98-2-011)

The appropriation in this section is subject to the review and allotment procedures under section 712 of this act.

Appropriation:

St Bldg Constr Acct--State	\$	1,248,453
Prior Biennia (Expenditures)	\$	0
Future Biennia (Projected Costs)	\$	142,793,905
TOTAL	\$	144,042,358

NEW SECTION. Sec. 270. FOR THE DEPARTMENT OF CORRECTIONS

State-wide programmatic projects (98-2-013)

The appropriation in this section is subject to the following conditions and limitations:

The appropriation shall support the detailed list of projects maintained by the office of financial management. The department may apply moneys in the appropriation toward the construction of classrooms, offices, fences, or other improvements required to accommodate the programmatic requirements of chapter . . . , Laws of 1997 (Engrossed Third Substitute House Bill No. 3900).

Reappropriation:

St Bldg Constr Acct--State	\$	6,163,093
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Appropriation:

St Bldg Constr Acct—State	\$ 6,600,000
Prior Biennia (Expenditures)	\$ 36,226,994
Future Biennia (Projected Costs)	\$ 75,000,000
TOTAL	\$ 123,990,087

NEW SECTION. Sec. 271. FOR THE DEPARTMENT OF CORRECTIONS

Washington Correctious Center: Correctional Industries expansion (98-2-005)

The appropriation in this section is subject to the following conditions and limitations:

The appropriation shall lapse if House Bill No. 2252 or Senate Bill No. 6074 is enacted by June 30, 1997.

Appropriation:

St Bldg Constr Acct—State	\$ 3,300,000
Prior Biennia (Expenditures)	\$ 0
Future Biennia (Projected Costs)	\$ 16,700,000
TOTAL	\$ 20,000,000

**PART 3
NATURAL RESOURCES**

NEW SECTION. Sec. 301. FOR THE DEPARTMENT OF ECOLOGY

Referendum 26 waste disposal facilities (74-2-004)

The reappropriation in this section is provided solely for projects under contract on or before June 30, 1997. Reappropriated funds not associated with contracted projects shall lapse on June 30, 1997. The office of financial management may grant waivers from this lapse requirement for specific projects upon findings of exceptional circumstances after notification of the chairs of the house of representatives capital budget committee and senate ways and means committee. The department shall submit a report to the office of financial management and the house of representatives capital budget committee and senate ways and means committee by December 1, 1997, listing all projects funded from the reappropriation in this section.

Reappropriation:

LIRA—State	\$ 4,028,749
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Appropriation:

LIRA—State	\$ 210,969
Prior Biennia (Expenditures)	\$ 4,840,771
Future Biennia (Projected Costs)	\$ 800,000

TOTAL \$ 9,880,489

**NEW SECTION. Sec. 302. FOR THE DEPARTMENT OF ECOLOGY
Referendum 38 water supply facilities (74-2-006)**

The appropriations in this section are subject to the following conditions and limitations:

(1) \$2,500,000 of the state and local improvements revolving account reappropriation is provided solely for funding the state's cost share in the water conservation demonstration project—Yakima river reregulation reservoir.

(2) The reappropriation in this section is provided solely for projects under contract on or before June 30, 1997. Reappropriated funds not associated with contracted projects shall lapse on June 30, 1997. The office of financial management may grant waivers from this lapse requirement for specific projects upon findings of exceptional circumstances after notification of the chairs of the house of representatives capital budget committee and senate ways and means committee. The department shall submit a report to the office of financial management and the house of representatives capital budget committee and senate ways and means committee by December 1, 1997, listing all projects funded from the reappropriation in this section.

Reappropriation:

LIRA, Water Sup Fac—State \$ 6,763,571

Appropriation:

LIRA, Water Sup Fac—State \$ 485,495

Prior Biennia (Expenditures) \$ 10,141,668

Future Biennia (Projected Costs) \$ 1,600,000

TOTAL \$ 18,990,734

**NEW SECTION. Sec. 303. FOR THE DEPARTMENT OF ECOLOGY
State emergency water projects revolving account (76-2-003)**

Reappropriation:

State Emerg Water Proj Rev—State \$ 7,377,883

Prior Biennia (Expenditures) \$ 1,701,394

Future Biennia (Projected Costs) \$ 228,000

TOTAL \$ 9,307,277

**NEW SECTION. Sec. 304. FOR THE DEPARTMENT OF ECOLOGY
Referendum 39 waste disposal facilities (82-2-005)**

No expenditure from the appropriation in this section shall be made for any grant valued over fifty million dollars to a city or county for solid waste disposal facilities unless the following conditions are met:

- (1) The city or county agrees to comply with all the terms of the grant contract between the city or county and the department of ecology;
- (2) The city or county agrees to implement curbside collection of recyclable materials as prescribed in the grant contract; and
- (3) The city or county does not begin actual construction of the solid waste disposal facility until it has obtained a permit for prevention of significant deterioration as required by the federal clean air act.
- (4) The reappropriation in this section is provided solely for projects under contract on or before June 30, 1997. Reappropriated funds not associated with contracted projects shall lapse on June 30, 1997. The office of financial management may grant waivers from this subsection (4) for specific projects upon findings of exceptional circumstances after notification of the chairs of the house of representatives capital budget committee and senate ways and means committee. The department shall submit a report to the office of financial management and the house of representatives capital budget committee and senate ways and means committee by December 1, 1997, listing all projects funded from the reappropriation in this section.

Reappropriation:

LIRA, Waste Fac 1980—State	\$ 13,961,094
Prior Biennia (Expenditures)	\$ 40,176,560
Future Biennia (Projected Costs)	\$ <u>0</u>
TOTAL	\$ 54,137,654

**NEW SECTION. Sec. 305. FOR THE DEPARTMENT OF ECOLOGY
Centennial clean water fund (86-2-007)**

The appropriations in this section are subject to the following conditions and limitations:

- (1) \$25,000,000 of the appropriation is provided solely for the extended grant payment to Metro/King county.
- (2) \$10,000,000 of the appropriation is provided solely for an extended grant payment to Spokane for the Spokane-Rathdrum Prairie aquifer.
- (3) \$1,850,000 of the appropriation is provided solely for allocation for on-site sewage system projects or programs identified in local watershed plans. Of this amount, \$25,000 is provided solely for the Puyallup Washington state university research and extension center for on-site septic systems, and \$25,000 is provided solely for the department of health to support the work group making recommendations on the development of an on-site septic system certification program pursuant to Substitute Senate Bill No. 5838.
- (4) \$10,000,000 of the appropriation is provided for the department to establish and administer a reclaimed water demonstration program to provide grants to five demonstration projects consistent with this section, and, if enacted,

chapter . . . , Laws of 1997 (Second Substitute House Bill No. 1817). Of this amount:

(a) \$100,000 is provided solely for an interagency agreement with the department of health for monitoring the activities and progress of the demonstration projects and to refine reclaimed water standards from the results of the projects;

(b) \$75,000 is provided for the department of ecology's administrative costs in funding and monitoring the activities and progress of the demonstration projects;

(c) \$1,970,000 is provided solely for a grant to the city of Ephrata for a reclaimed water demonstration project;

(d) \$985,000 is provided solely for a grant to the city of Royal City for a reclaimed water demonstration project;

(e) \$3,398,500 is provided solely for a grant to the city of Sequim for a reclaimed water demonstration project;

(f) \$3,398,500 is provided solely for a grant to the city of Yelm for a reclaimed water demonstration project; and

(g) \$98,500 is provided solely for a grant to Lincoln county for a study of a reclaimed water demonstration project.

(5) A minimum of 80 percent of the remaining appropriation after allocation of subsections (1), (2), (3), and (4) of this section shall be allocated by the department for water quality implementation activities.

(6) A maximum of 20 percent of the remaining appropriation after allocation of subsections (1), (2), (3), and (4) of this section shall be allocated by the department for water quality planning activities.

(7) In awarding state-wide water quality implementation and planning grants and loans, the department shall give priority consideration to:

(a) Proposals submitted by communities with populations less than 2,500 or proposals that will be submitted by communities with populations less than 2,500 who have demonstrated an economic hardship which will prevent the completion or implementation of water quality projects; and

(b) Projects located in basins with critical or depressed salmonid stocks.

(8) The reappropriation in this section is provided solely for projects under contract on or before June 30, 1997. Reappropriated funds not associated with contracted projects shall lapse on June 30, 1997. The office of financial management may grant waivers from this subsection (8) for specific projects upon findings of exceptional circumstances after notification of the chairs of the house of representatives capital budget committee and senate ways and means committee. The department shall submit a report to the office of financial management and the house of representatives capital budget committee and senate ways and means committee by December 1, 1997, listing all projects funded from the reappropriation in this section.

Reappropriation:

Water Quality Account—State \$ 38,653,000

Appropriation:

Water Quality Account—State	\$ 70,000,000
Prior Biennia (Expenditures)	\$ 291,063,221
Future Biennia (Projected Costs)	\$ 311,000,000
TOTAL	\$ 710,716,221

**NEW SECTION. Sec. 306. FOR THE DEPARTMENT OF ECOLOGY
Local toxics control account (88-2-008)**

The appropriations in this section are subject to the following conditions and limitations:

(1) \$1,000,000 of the appropriation in this section shall be expended by the department of ecology as grants to assist local governments in developing and implementing area-wide strategies for the cleanup and reuse of industrial lands. The department shall provide a priority to funding activities by local governments that were developed with and facilitate active participation of property owners, businesses, and residents in the area, and that address industrial areas with one or more sites ranked highly under the state's hazard ranking system.

(2) The reappropriation in this section is provided solely for projects under contract on or before June 30, 1997. Reappropriated funds not associated with contracted projects shall lapse on June 30, 1997. The office of financial management may grant waivers from this lapse requirement for specific projects upon findings of exceptional circumstances after notification of the chairs of the house of representatives capital budget committee and senate ways and means committee. The department shall submit a report to the office of financial management and the house of representatives capital budget committee and senate ways and means committee by December 1, 1997, listing all projects funded from the reappropriation in this section.

Reappropriation:

Local Toxics Control Account—State	\$ 20,780,149
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Appropriation:

Local Toxics Control Account—State	\$ 43,044,000
Prior Biennia (Expenditures)	\$ 81,994,186
Future Biennia (Projected Costs)	\$ 173,100,389
TOTAL	\$ 318,918,724

**NEW SECTION. Sec. 307. FOR THE DEPARTMENT OF ECOLOGY
Water pollution control revolving fund (90-2-002)**

Reappropriation:

Water Pollution Cont Rev Fund— State	\$ 12,538,256
Water Pollution Cont Rev Fund—	

Federal	\$	<u>62,689,776</u>
Subtotal Reappropriation	\$	75,228,032
Appropriation:		
Water Pollution Cont Rev Fund—		
State	\$	57,459,441
Water Pollution Cont Rev Fund—		
Federal	\$	<u>44,000,000</u>
Subtotal Appropriation	\$	101,459,441
Prior Biennia (Expenditures)	\$	148,237,444
Future Biennia (Projected Costs)	\$	<u>299,947,557</u>
TOTAL	\$	624,872,474

NEW SECTION. Sec. 308. FOR THE DEPARTMENT OF ECOLOGY
Methow Basin water conservation (92-2-009)

Reappropriation:		
St Bidg Constr Acct—State	\$	102,689
Prior Biennia (Expenditures)	\$	397,310
Future Biennia (Projected Costs)	\$	<u>0</u>
TOTAL	\$	499,999

NEW SECTION. Sec. 309. FOR THE DEPARTMENT OF ECOLOGY
State-owned facilities: Repair and upgrades (97-2-011)

Appropriation:		
St Bidg Constr Acct—State	\$	430,000
Prior Biennia (Expenditures)	\$	0
Future Biennia (Projected Costs)	\$	<u>0</u>
TOTAL	\$	430,000

NEW SECTION. Sec. 310. FOR THE DEPARTMENT OF ECOLOGY
Low-level nuclear waste disposal trench closure (97-2-012)

Appropriation:		
Site Closure Acct—State	\$	6,433,381
Prior Biennia (Expenditures)	\$	0
Future Biennia (Projected Costs)	\$	<u>992,100</u>
TOTAL	\$	7,425,481

NEW SECTION. Sec. 311. FOR THE STATE PARKS AND RECREATION COMMISSION
Spokane Centennial Trail (89-5-112)

Reappropriation:

General Fund—Federal	\$	430,769
Prior Biennia (Expenditures)	\$	0
Future Biennia (Projected Costs)	\$	1,849
TOTAL	\$	432,618

NEW SECTION. Sec. 312. FOR THE STATE PARKS AND RECREATION COMMISSION

Deception Pass sewer: Phase 2 (91-2-006)

Reappropriation:

LIRA, Waste Fac 1980—State	\$	1,702,870
St Bldg Constr Acct—State	\$	500,000
Subtotal Appropriation	\$	2,202,870
Prior Biennia (Expenditures)	\$	931,586
Future Biennia (Projected Costs)	\$	0
TOTAL	\$	3,134,456

NEW SECTION. Sec. 313. FOR THE STATE PARKS AND RECREATION COMMISSION

St. Edwards State Park: Gym renovation and parking lot renovation (92-2-501)

Reappropriation:

St Bldg Constr Acct—State	\$	400,000
Prior Biennia (Expenditures)	\$	100,000
Future Biennia (Projected Costs)	\$	0
TOTAL	\$	500,000

NEW SECTION. Sec. 314. FOR THE STATE PARKS AND RECREATION COMMISSION

Boating access improvements (94-1-057)

Reappropriation:

ORA—State	\$	1,256,324
Prior Biennia (Expenditures)	\$	933,725
Future Biennia (Projected Costs)	\$	0
TOTAL	\$	2,190,049

NEW SECTION. Sec. 315. FOR THE STATE PARKS AND RECREATION COMMISSION

Building preservation: State-wide (96-1-004)

The reappropriation in this section is subject to the following conditions and limitations:

The reappropriation shall support the detailed list of projects maintained by the office of financial management.

Reappropriation:

St Bldg Constr Acct—State	\$	2,400,000
Prior Biennia (Expenditures)	\$	5,837,455
Future Biennia (Projected Costs)	\$	<u>0</u>
TOTAL	\$	8,237,455

NEW SECTION. Sec. 316. FOR THE STATE PARKS AND RECREATION COMMISSION

Preservation of utilities (96-1-005)

Reappropriation:

St Bldg Constr Acct—State	\$	1,500,000
Prior Biennia (Expenditures)	\$	4,999,957
Future Biennia (Projected Costs)	\$	<u>0</u>
TOTAL	\$	6,499,957

NEW SECTION. Sec. 317. FOR THE STATE PARKS AND RECREATION COMMISSION

State parks development: State-wide (96-2-007)

Reappropriation:

St Bldg Constr Acct—State	\$	500,000
Prior Biennia (Expenditures)	\$	1,380,400
Future Biennia (Projected Costs)	\$	<u>0</u>
TOTAL	\$	1,880,400

NEW SECTION. Sec. 318. FOR THE STATE PARKS AND RECREATION COMMISSION

Boat pumpouts: Federal Clean Vessel Act (96-2-008)

Reappropriation:

General Fund—Federal	\$	350,000
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Appropriation:

General Fund—Federal	\$	850,000
Prior Biennia (Expenditures)	\$	0
Future Biennia (Projected Costs)	\$	<u>0</u>
TOTAL	\$	1,200,000

NEW SECTION. Sec. 319. FOR THE STATE PARKS AND RECREATION COMMISSION

Americans with disabilities act improvements (96-5-003)

Reappropriation:

St Bldg Constr Acct—State	\$	500,000
Prior Biennia (Expenditures)	\$	210,657
Future Biennia (Projected Costs)	\$	0
TOTAL	\$	710,657

NEW SECTION. Sec. 320. FOR THE STATE PARKS AND RECREATION COMMISSION

State-wide emergency projects (98-1-001)

Reappropriation:

St Bldg Constr Acct—State	\$	353,191
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Appropriation:

St Bldg Constr Acct—State	\$	500,000
Prior Biennia (Expenditures)	\$	822,809
Future Biennia (Projected Costs)	\$	2,650,000
TOTAL	\$	4,326,000

NEW SECTION. Sec. 321. FOR THE STATE PARKS AND RECREATION COMMISSION

Underground storage tank replacement (98-1-002)

Reappropriation:

St Bldg Constr Acct—State	\$	456,800
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Appropriation:

St Bldg Constr Acct—State	\$	750,000
Prior Biennia (Expenditures)	\$	843,300
Future Biennia (Projected Costs)	\$	0
TOTAL	\$	2,050,100

NEW SECTION. Sec. 322. FOR THE STATE PARKS AND RECREATION COMMISSION

Facilities preservation: State-wide (98-1-003)

The appropriation in this section is subject to the following conditions and limitations:

- (1) The appropriation shall support the detailed list of projects maintained by the office of financial management.
- (2) The commission shall conduct a comprehensive condition survey and develop recommendations regarding the maintenance, repair, and capital

renovation needs of the Washington state park system. The recommendations shall include criteria for evaluating maintenance, repair, and capital renovation needs, funding options, and methods to ensure that funding is effectively applied to the preservation and public use of state parks. The commission shall report their findings and recommendations to the appropriate committees of the legislature by January 1, 1998.

Reappropriation:

St Bldg Constr Acct—State \$ 2,145,977

Appropriation:

St Bldg Constr Acct—State \$ 5,000,000

Prior Biennia (Expenditures) \$ 740,123

Future Biennia (Projected Costs) \$ 34,000,000

TOTAL \$ 41,886,100

NEW SECTION. Sec. 323. FOR THE STATE PARKS AND RECREATION COMMISSION

Historic facilities renovation (98-1-004)

The appropriation in this section is subject to the following conditions and limitations:

The appropriation shall support the detailed list of projects maintained by the office of financial management.

Appropriation:

St Bldg Constr Acct—State \$ 4,000,000

Prior Biennia (Expenditures) \$ 0

Future Biennia (Projected Costs) \$ 12,000,000

TOTAL \$ 16,000,000

NEW SECTION. Sec. 324. FOR THE STATE PARKS AND RECREATION COMMISSION

Natural and historic stewardshlp: State-wide (98-1-007)

The appropriation in this section is subject to the following conditions and limitations:

The appropriation shall support the detailed list of projects maintained by the office of financial management.

Appropriation:

St Bldg Constr Acct—State \$ 1,500,000

Prior Biennia (Expenditures) \$ 0

Future Biennia (Projected Costs) \$ 17,000,000

TOTAL \$ 18,500,000

NEW SECTION. Sec. 325. FOR THE STATE PARKS AND RECREATION COMMISSION

Recreation development: State-wide (98-2-008)

The appropriation in this section is subject to the following conditions and limitations:

The appropriation shall support the detailed list of projects maintained by the office of financial management.

Appropriation:

General Fund—Federal	\$ 1,000,000
St Bldg Constr Acct—State	\$ 2,500,000
Subtotal Appropriation	\$ 3,500,000
Prior Biennia (Expenditures)	\$ 0
Future Biennia (Projected Costs)	\$ 16,000,000
TOTAL	\$ 19,500,000

NEW SECTION. Sec. 326. FOR THE INTERAGENCY COMMITTEE FOR OUTDOOR RECREATION

Recreational facility acquisition and development projects (96-2-007)

Reappropriation:

St Bldg Constr Acct—State	\$ 77,029
Prior Biennia (Expenditures)	\$ 33,972
Future Biennia (Projected Costs)	\$ 0
TOTAL	\$ 111,001

NEW SECTION. Sec. 327. FOR THE INTERAGENCY COMMITTEE FOR OUTDOOR RECREATION

Boating Facilities (98-2-001)

Reappropriation:

ORA—State	\$ 4,557,823
Recreation Resources Account—State ...	\$ 7,266,835
Subtotal Reappropriation	\$ 11,824,658

Appropriation:

Recreation Resources Account—State ...	\$ 8,194,004
Prior Biennia (Expenditures)	\$ 5,819,302
Future Biennia (Projected Costs)	\$ 35,515,000
TOTAL	\$ 61,352,964

NEW SECTION. Sec. 328. FOR THE INTERAGENCY COMMITTEE FOR OUTDOOR RECREATION

Nonhighway and Off-Road Vehicle Activities Program (98-2-002)

Reappropriation:

ORA—State	\$	2,927,911
NOVA—State	\$	4,530,593
Subtotal Reappropriation	\$	7,458,504

Appropriation:

NOVA—State	\$	5,306,848
Prior Biennia (Expenditures)	\$	7,962,532
Future Biennia (Projected Costs)	\$	23,367,000
TOTAL	\$	44,094,884

NEW SECTION. Sec. 329. FOR THE INTERAGENCY COMMITTEE FOR OUTDOOR RECREATION

Washington Wildlife and Recreation Program (98-2-003)

The appropriations in this section for the Washington wildlife and recreation program under chapter 43.98A RCW are subject to the following conditions and limitations:

(1) \$22,500,000 of the state building construction account appropriation shall be deposited in the habitat conservation account and is hereby appropriated from the habitat conservation account to the interagency committee for outdoor recreation for the fiscal biennium ending June 30, 1999, for the Washington wildlife and recreation program under chapter 43.98A RCW.

(2) \$20,000,000 of the state building account appropriation and \$2,500,000 from the aquatic lands enhancement account appropriation shall be deposited in the outdoor recreation account, and \$22,500,000 is hereby appropriated from the outdoor recreation account to the interagency committee for outdoor recreation for the fiscal biennium ending June 30, 1999, for the Washington wildlife and recreation program under chapter 43.98A RCW. Funds from the aquatic lands enhancement account appropriation shall be distributed to eligible water access projects under RCW 43.98A.050.

(3) The new appropriations in this section are provided for the approved list of projects included in LEAP CAPITAL DOCUMENT NO. 98-6 as developed on April 15, 1997, at 10:00 a.m., the pilot watershed plan implementation program under subsection (6) of this section, and for other projects approved by the legislature under RCW 43.98A.080 referencing this section.

(4) No moneys from the appropriations in this section may be spent on the Rocky Reach trailway project until an agreement with affected property owners has been reached.

(5) The legislature finds that, since the inception of the Washington wildlife and recreation program, over eighty-five percent of the moneys provided for the state parks category has been used for acquisition of property, and that demands

for recreational facilities in state parks require that increased funding be devoted to development projects. The committee and the state parks and recreation commission shall ensure that at least forty percent of new funding provided for the state parks category during the 1997-99 biennium be allocated to development projects.

(6) \$4,000,000 of the habitat conservation account appropriation from the unallocated portion of the fund distribution under RCW 43.98A.040(1)(d) is provided solely for matching grants for riparian zone habitat protection projects that implement watershed plans pursuant to this subsection. The interagency committee for outdoor recreation shall develop a pilot watershed plan implementation program within the Washington wildlife and recreation program. The program shall provide matching grants to eligible agencies for implementation of riparian zone habitat protection projects within watershed restoration plans under RCW 89.08.460(1), watershed action plans developed pursuant to rules adopted by the Puget Sound water quality action team, or plans developed pursuant to chapter . . . , Laws of 1997 (Second Substitute House Bill No. 2054). Projects shall have a useful life of at least thirty years. Eligible agencies include conservation districts, counties, cities, and private nonprofit land trust or nature conservancy organizations. Projects eligible for funding under this section include acquisition of land using less-than-fee-simple instruments such as conservation easements and purchase of development rights; and habitat restoration and enhancement projects on such lands including fencing and revegetation of native trees and shrubs that enhance the long-term habitat values of protected lands. The committee shall develop an application process and project eligibility and evaluation criteria in consultation with the state conservation commission. The committee shall report to the appropriate committees of the legislature on the implementation of the pilot matching grant program. A preliminary status report shall be submitted by January 1, 1998, and a final report by January 1, 1999.

(7) Up to \$400,000 of the reappropriations in this section is provided to develop an inventory of all lands in the state owned by federal agencies, state agencies, local governments, and Indian tribes. The committee shall develop the inventory in a computer database format that will facilitate the sharing and reporting of inventory data and provide options for future updates. The inventory shall include, at a minimum, the following information: Owner, location, acreage, and principal use. The inventory shall also include resource-based information for state and federally-owned recreation and habitat lands. The committee shall submit a status report on the inventory to the appropriate committees of the legislature by January 1, 1999, and a final report by January 1, 2000.

(8) All land acquired by a state agency with moneys from these appropriations shall comply with class A, B, and C weed control provisions of chapter 17.10 RCW.

Reappropriation:

St Bidg Constr Acct—State \$ 14,264,419

Aquatic Lands Acct—State	\$	33,335
ORA—State	\$	21,985,067
Wildlife Account—State	\$	1,398,996
Habitat Conservation Account—State ...	\$	<u>18,700,633</u>
Subtotal Reappropriation	\$	56,382,450

Appropriation:

St Bldg Constr Acct—State	\$	42,500,000
Aquatic Lands Acct—State	\$	<u>2,500,000</u>
Subtotal Appropriation	\$	45,000,000
Prior Biennia (Expenditures)	\$	101,449,844
Future Biennia (Projected Costs)	\$	<u>200,000,000</u>
TOTAL	\$	402,832,294

NEW SECTION. Sec. 330. FOR THE INTERAGENCY COMMITTEE FOR OUTDOOR RECREATION

Firearms range program (98-2-004)

Reappropriation:

Firearms Range Account—State	\$	771,259
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Appropriation:

Firearms Range Account—State	\$	388,800
Prior Biennia (Expenditures)	\$	512,001
Future Biennia (Projected Costs)	\$	<u>800,000</u>
TOTAL	\$	2,472,060

NEW SECTION. Sec. 331. FOR THE INTERAGENCY COMMITTEE FOR OUTDOOR RECREATION

Land and water conservation fund (98-2-005)

Reappropriation:

ORA—Federal	\$	2,180,812
Prior Biennia (Expenditures)	\$	52,050,000
Future Biennia (Projected Costs)	\$	<u>0</u>
TOTAL	\$	54,230,812

NEW SECTION. Sec. 332. FOR THE INTERAGENCY COMMITTEE FOR OUTDOOR RECREATION

National Recreation Trails Act (98-2-006)

Reappropriation:

ORA—Federal	\$	112,751
Recreation Resources Account—		

Federal	\$	<u>562,146</u>
Subtotal Reappropriation	\$	674,897

Appropriation:

Recreation Resources Account—

Federal	\$	583,000
Prior Biennia (Expenditures)	\$	17,086
Future Biennia (Projected Costs)	\$	<u>2,332,000</u>
TOTAL	\$	3,606,983

NEW SECTION. Sec. 333. FOR THE STATE CONSERVATION COMMISSION

Water quality grants program (98-2-001)

The appropriations in this section are provided solely for grants to conservation districts for nonpoint water quality projects and programs.

Reappropriation:

Water Quality Account—State	\$	3,095,000
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Appropriation:

Water Quality Account—State	\$	5,000,000
Prior Biennia (Expenditures)	\$	5,500,000
Future Biennia (Projected Costs)	\$	<u>20,000,000</u>
TOTAL	\$	33,595,000

NEW SECTION. Sec. 334. FOR THE STATE CONSERVATION COMMISSION

Dairy Waste Management Grants Program (98-2-002)

The appropriation in this section is subject to the following conditions and limitations:

(1) \$1,500,000 of the appropriation is provided solely for a state-wide grant program to assist dairy operators in implementing dairy waste management systems; and

(2) \$1,500,000 of the appropriation is provided solely for a state-wide grant program to provide technical assistance to dairy operators for development and implementation of dairy waste management plans.

Appropriation:

Water Quality Account—State	\$	3,000,000
Prior Biennia (Expenditures)	\$	3,000,000
Future Biennia (Projected Costs)	\$	<u>0</u>
TOTAL	\$	6,000,000

NEW SECTION. Sec. 335. FOR THE STATE CONSERVATION COMMISSION

Puget Sound Action Plan (98-2-003)

The appropriation in this section is subject to the following conditions and limitations:

(1) These appropriations shall be used solely for grants to conservation districts in the Puget Sound area for water quality projects and programs contained in the Puget Sound work plan.

(2) The grants to the Puget Sound area conservation districts shall be in addition to other grant dollars that may be available from the water quality account and the basic funding grant programs administered by commission.

Appropriation:

Water Quality Account—State	\$	830,000
Prior Biennia (Expenditures)	\$	0
Future Biennia (Projected Costs)	\$	0
TOTAL	\$	830,000

NEW SECTION. Sec. 336. FOR THE DEPARTMENT OF FISH AND WILDLIFE

Devils Creek acclimatlon pond (87-1-001)

Reappropriation:

St Bldg Constr Acct—State	\$	332,823
Prior Biennia (Expenditures)	\$	7,504
Future Biennia (Projected Costs)	\$	0
TOTAL	\$	340,327

NEW SECTION. Sec. 337. FOR THE DEPARTMENT OF FISH AND WILDLIFE

Grandy Creek Hatchery (92-5-024)

Reappropriation:

St Bldg Constr Acct—State	\$	3,776,974
Prior Biennia (Expenditures)	\$	723,026
Future Biennia (Projected Costs)	\$	0
TOTAL	\$	4,500,000

NEW SECTION. Sec. 338. FOR THE DEPARTMENT OF FISH AND WILDLIFE

Warm water fish facilities (92-5-025)

Reappropriation:

St Bldg Constr Acct—State	\$	1,030,998
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Appropriation:

St Bldg Constr Acct—State	\$	400,000
Warm Water Game Fish Account—		
State	\$	<u>350,000</u>
Subtotal Appropriation	\$	750,000
Prior Biennia (Expenditures)	\$	829,323
Future Biennia (Projected Costs)	\$	<u>0</u>
TOTAL	\$	2,610,321

NEW SECTION. Sec. 339. FOR THE DEPARTMENT OF FISH AND WILDLIFE

Warm water game fish access facilities (98-2-006)

Appropriation:

Warm Water Game Fish Account—		
State	\$	210,000
Prior Biennia (Expenditures)	\$	0
Future Biennia (Projected Costs)	\$	<u>2,240,000</u>
TOTAL	\$	2,450,000

NEW SECTION. Sec. 340. FOR THE DEPARTMENT OF FISH AND WILDLIFE

Tideland acquisition (94-2-003)

Reappropriation:

General Fund—Federal	\$	1,386,925
Prior Biennia (Expenditures)	\$	3,613,075
Future Biennia (Projected Costs)	\$	<u>0</u>
TOTAL	\$	5,000,000

NEW SECTION. Sec. 341. FOR THE DEPARTMENT OF FISH AND WILDLIFE

Nemah Hatchery building and incubation system replacement (96-1-006)

Reappropriation:

General Fund—Federal	\$	1,682,880
Prior Biennia (Expenditures)	\$	17,120
Future Biennia (Projected Costs)	\$	<u>0</u>
TOTAL	\$	1,700,000

NEW SECTION. Sec. 342. FOR THE DEPARTMENT OF FISH AND WILDLIFE

Shellfish laboratory and hatchery upgrades (96-1-009)

Reappropriation:

St Bldg Constr Acct—State	\$	275,604
Prior Biennia (Expenditures)	\$	578,973
Future Biennia (Projected Costs)	\$	<u>0</u>
TOTAL	\$	854,577

NEW SECTION. Sec. 343. FOR THE DEPARTMENT OF FISH AND WILDLIFE

Minter Creek Hatchery renovation (96-2-019)

Funding from this reappropriation shall not be used to construct agency residential structures at the hatchery.

Reappropriation:

St Bldg Constr Acct—State	\$	657,630
Prior Biennia (Expenditures)	\$	4,475,982
Future Biennia (Projected Costs)	\$	<u>0</u>
TOTAL	\$	5,133,612

NEW SECTION. Sec. 344. FOR THE DEPARTMENT OF FISH AND WILDLIFE

Water access and development (96-2-027)

Reappropriation:

ORA—State	\$	997,000
Prior Biennia (Expenditures)	\$	1,057,600
Future Biennia (Projected Costs)	\$	<u>0</u>
TOTAL	\$	2,054,600

NEW SECTION. Sec. 345. FOR THE DEPARTMENT OF FISH AND WILDLIFE

Minor works: Preservation (98-1-001)

The appropriation in this section is subject to the following conditions and limitations:

The appropriation shall support the detailed list of projects maintained by the office of financial management.

Reappropriation:

General Fund—Federal	\$	757,181
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Appropriation:

St Bldg Constr Acct—State	\$	1,293,000
Prior Biennia (Expenditures)	\$	4,985,123
Future Biennia (Projected Costs)	\$	7,500,000

TOTAL \$ 14,535,304

NEW SECTION. Sec. 346. FOR THE DEPARTMENT OF FISH AND WILDLIFE

Underground storage tank removal and replacement (98-1-002)

Reappropriation:

St Bldg Constr Acct—State \$ 596,185

Appropriation:

St Bldg Constr Acct—State \$ 200,000

Prior Biennia (Expenditures) \$ 3,637,000

Future Biennia (Projected Costs) \$ 0

TOTAL \$ 4,433,185

NEW SECTION. Sec. 347. FOR THE DEPARTMENT OF FISH AND WILDLIFE

Emergency repair (98-1-003)

Reappropriation:

St Bldg Constr Acct—State \$ 219,353

Appropriation:

St Bldg Constr Acct—State \$ 300,000

Prior Biennia (Expenditures) \$ 1,530,646

Future Biennia (Projected Costs) \$ 1,200,000

TOTAL \$ 3,249,999

NEW SECTION. Sec. 348. FOR THE DEPARTMENT OF FISH AND WILDLIFE

Dam inspection and repair (98-1-004)

Appropriation:

St Bldg Constr Acct—State \$ 150,000

Prior Biennia (Expenditures) \$ 0

Future Biennia (Projected Costs) \$ 0

TOTAL \$ 150,000

NEW SECTION. Sec. 349. FOR THE DEPARTMENT OF FISH AND WILDLIFE

Facillties renovation (98-1-005)

Reappropriation:

St Bldg Constr Acct—State \$ 302,618

Appropriation:

St Bldg Constr Acct—State \$ 1,015,000

Prior Biennia (Expenditures)	\$	3,753,682
Future Biennia (Projected Costs)	\$	<u>7,000,000</u>
TOTAL	\$	12,071,300

NEW SECTION. Sec. 350. FOR THE DEPARTMENT OF FISH AND WILDLIFE

Hatchery renovation (98-1-006)

The appropriation in this section is subject to the following conditions and limitations:

(1) No funds will be provided to increase residential capacity at any state hatchery facility.

(2) The appropriation shall support the detailed list of projects maintained by the office of financial management.

Reappropriation:

St Bldg Constr Acct—State	\$	906,202
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Appropriation:

St Bldg Constr Acct—State	\$	3,025,000
Prior Biennia (Expenditures)	\$	7,119,953
Future Biennia (Projected Costs)	\$	<u>15,500,000</u>
TOTAL	\$	26,551,155

NEW SECTION. Sec. 351. FOR THE DEPARTMENT OF FISH AND WILDLIFE

Recreational access redevelopment (98-1-007)

Reappropriation:

St Bldg Constr Acct—State	\$	119,300
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Appropriation:

General Fund—Federal	\$	610,000
St Bldg Constr Acct—State	\$	<u>302,000</u>
Subtotal Appropriation	\$	912,000
Prior Biennia (Expenditures)	\$	3,559,850
Future Biennia (Projected Costs)	\$	<u>4,200,000</u>
TOTAL	\$	8,791,150

NEW SECTION. Sec. 352. FOR THE DEPARTMENT OF FISH AND WILDLIFE

Coast and Puget Sound wild salmonid habitat restoration (98-1-009)

Reappropriation:

St Bldg Constr Acct—State	\$	1,428,770
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Appropriation:

General Fund—Federal	\$	800,000
General Fund—Private/Local	\$	800,000
St Bldg Constr Acct—State	\$	<u>3,500,000</u>
Subtotal Appropriation	\$	5,100,000
Prior Biennia (Expenditures)	\$	8,986,230
Future Biennia (Projected Costs)	\$	<u>22,400,000</u>
TOTAL	\$	37,915,000

NEW SECTION. Sec. 353. FOR THE DEPARTMENT OF FISH AND WILDLIFE

Coast and Puget Sound wildstock restoration and hatcheries (98-1-010)

Reappropriation:

General Fund—Federal	\$	700,000
St Bldg Constr Acct—State	\$	<u>114,186</u>
Subtotal Reappropriation	\$	814,186

Appropriation:

St Bldg Constr Acct—State	\$	1,000,000
Prior Biennia (Expenditures)	\$	5,265,814
Future Biennia (Projected Costs)	\$	<u>6,500,000</u>
TOTAL	\$	13,580,000

NEW SECTION. Sec. 354. FOR THE DEPARTMENT OF FISH AND WILDLIFE

Fish protection facilities (98-1-011)

Reappropriation:

General Fund—Federal	\$	1,654,335
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Appropriation:

General Fund—Private/Local	\$	200,000
St Bldg Constr Acct—State	\$	<u>500,000</u>
Subtotal Appropriation	\$	700,000
Prior Biennia (Expenditures)	\$	3,300,765
Future Biennia (Projected Costs)	\$	<u>7,400,000</u>
TOTAL	\$	13,055,100

NEW SECTION. Sec. 355. FOR THE DEPARTMENT OF FISH AND WILDLIFE

State-wide fencing renovation and construction (98-1-012)

Reappropriation:

St Bldg Constr Acct—State	\$	272,743
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Appropriation:

St Bldg Constr Acct—State	\$	280,000
Prior Biennia (Expenditures)	\$	2,350,800
Future Biennia (Projected Costs)	\$	<u>2,400,000</u>
TOTAL	\$	5,303,543

NEW SECTION. Sec. 356. FOR THE DEPARTMENT OF FISH AND WILDLIFE

Wildlife area renovation (98-1-013)

Reappropriation:

Wildlife Account—State	\$	238,804
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Appropriation:

Wildlife Account—State	\$	548,000
Prior Biennia (Expenditures)	\$	1,225,196
Future Biennia (Projected Costs)	\$	<u>2,200,000</u>
TOTAL	\$	4,212,000

NEW SECTION. Sec. 357. FOR THE DEPARTMENT OF FISH AND WILDLIFE

Issaquah Hatchery improvements (98-1-015)

The appropriation in this section is subject to the following conditions and limitations:

The department shall provide a progress report on this project to the governor and the legislature by October 1, 1998.

Reappropriation:

General Fund—Private/Local	\$	60,097
St Bldg Constr Acct—State	\$	<u>211,217</u>
Subtotal Reappropriation	\$	271,314

Appropriation:

St Bldg Constr Acct—State	\$	3,000,000
Prior Biennia (Expenditures)	\$	878,684
Future Biennia (Projected Costs)	\$	<u>0</u>
TOTAL	\$	4,149,998

NEW SECTION. Sec. 358. FOR THE DEPARTMENT OF FISH AND WILDLIFE

Crop and orchard protection fencing (98-2-002)

Appropriation:

St Bldg Constr Acct—State	\$	300,000
Prior Biennia (Expenditures)	\$	0
Future Biennia (Projected Costs)	\$	1,200,000

TOTAL \$ 1,500,000

NEW SECTION, Sec. 359. FOR THE DEPARTMENT OF FISH AND WILDLIFE

Game farm consolidation (98-2-005)

Reappropriation:	
Wildlife Account—State	\$ 231,470
Appropriation:	
Wildlife Account—State	\$ 300,000
St Bldg Constr Acct—State	\$ 900,000
Subtotal Reappropriation	\$ 1,200,000
Prior Biennia (Expenditures)	\$ 1,593,530
Future Biennia (Projected Costs)	\$ 0
TOTAL	\$ 3,025,000

NEW SECTION, Sec. 360. FOR THE DEPARTMENT OF FISH AND WILDLIFE

Recreational fish enhancement (98-2-007)

Reappropriation:	
Rec Fisheries Enh Acct—State	\$ 1,078,400
Appropriation:	
Rec Fisheries Enh Acct—State	\$ 1,000,000
Prior Biennia (Expenditures)	\$ 221,600
Future Biennia (Projected Costs)	\$ 4,000,000
TOTAL	\$ 6,300,000

NEW SECTION, Sec. 361. FOR THE DEPARTMENT OF FISH AND WILDLIFE

Mitigation projects and dedicated funds (98-2-008)

Reappropriation:	
Spec Wildlife Acct—State	\$ 42,367
Spec Wildlife Acct—	
Private/Local	\$ 1,197,000
Subtotal Reappropriation	\$ 1,239,367
Appropriation:	
General Fund—Federal	\$ 4,000,000
General Fund—Private/Local	\$ 2,500,000
Spec Wildlife Acct—State	\$ 50,000
Subtotal Appropriation	\$ 6,550,000
Prior Biennia (Expenditures)	\$ 4,606,482

Future Biennia (Projected Costs)	\$	26,260,000
TOTAL	\$	38,655,849

NEW SECTION. Sec. 362. FOR THE DEPARTMENT OF FISH AND WILDLIFE

Migratory waterfowl habitat acquisition and development (98-2-009)

Reappropriation:

Wildlife Account—State	\$	251,567
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Appropriation:

Wildlife Account—State	\$	500,000
Prior Biennia (Expenditures)	\$	1,547,733
Future Biennia (Projected Costs)	\$	2,000,000
TOTAL	\$	4,299,300

NEW SECTION. Sec. 363. FOR THE DEPARTMENT OF FISH AND WILDLIFE

Columbia River Wildlife Mitigation (98-2-010)

Appropriation:

Spec Wildlife Acct—Federal	\$	6,600,000
Prior Biennia (Expenditures)	\$	0
Future Biennia (Projected Costs)	\$	23,200,000
TOTAL	\$	29,800,000

NEW SECTION. Sec. 364. FOR THE DEPARTMENT OF FISH AND WILDLIFE

Fish passage and habitat improvement (98-2-012)

Appropriation:

General Fund—Federal	\$	500,000
Prior Biennia (Expenditures)	\$	0
Future Biennia (Projected Costs)	\$	700,000
TOTAL	\$	1,200,000

NEW SECTION. Sec. 365. FOR THE DEPARTMENT OF FISH AND WILDLIFE

Deep water slough restoration (98-2-013)

Appropriation:

General Fund—Federal	\$	500,000
General Fund—Private/Local	\$	300,000
Subtotal Appropriation	\$	800,000

Prior Biennia (Expenditures)	\$	0
Future Biennia (Projected Costs)	\$	<u>2,400,000</u>
TOTAL	\$	3,200,000

NEW SECTION. Sec. 366. FOR THE DEPARTMENT OF FISH AND WILDLIFE

Clam and oyster beach enhancement (98-2-019)

Reappropriation:

Aquatic Lands Acct—State	\$	453,716
St Bldg Constr Acct—State	\$	<u>168,700</u>
Subtotal Reappropriation	\$	622,416
Prior Biennia (Expenditures)	\$	2,984,947
Future Biennia (Projected Costs)	\$	<u>1,600,000</u>
TOTAL	\$	5,207,363

NEW SECTION. Sec. 367. FOR THE DEPARTMENT OF FISH AND WILDLIFE

Replace unproductive habitat (98-2-020)

The appropriations in this section are subject to the following conditions and limitations:

(1) The department is authorized to convey to a qualified purchaser by either or both sale and exchange approximately 1,120 acres in or near the Mission Ridge ski area. The conveyance of these properties shall proceed pursuant to provisions in chapter 77.12 RCW regarding department property. The department is authorized to use the appropriation provided in this section to purchase replacement lands providing similar benefits to wildlife.

(2) \$20,000 of the appropriation is provided solely to purchase property that is inaccessible to its current owner as a result of a previous transaction with the department that provided public access to a lake.

(3) The department shall include a proposed acquisition plan for properties proposed for purchase under this program when submitting future requests for appropriation authority.

Appropriation:

Wildlife Account—State	\$	1,220,000
Prior Biennia (Expenditures)	\$	0
Future Biennia (Projected Costs)	\$	<u>0</u>
TOTAL	\$	1,220,000

NEW SECTION. Sec. 368. FOR THE DEPARTMENT OF NATURAL RESOURCES

Irrigation repairs and replacements (98-1-001)

Appropriation:

Resources Management Cost Account—	
State	\$ 100,000
Prior Biennia (Expenditures)	\$ 397,420
Future Biennia (Projected Costs)	\$ <u>1,600,000</u>
TOTAL	\$ 2,097,420

NEW SECTION. Sec. 369. FOR THE DEPARTMENT OF NATURAL RESOURCES

Real estate repairs, maintenance, and tenant improvements (98-1-002)

Appropriation:

Resources Management Cost Account—	
State	\$ 677,000
Prior Biennia (Expenditures)	\$ 691,155
Future Biennia (Projected Costs)	\$ <u>3,150,000</u>
TOTAL	\$ 4,518,155

NEW SECTION. Sec. 370. FOR THE DEPARTMENT OF NATURAL RESOURCES

Special lands acquisition: For acquisition of properties within the Trout Lake wetlands, as described on office of financial management unanticipated receipt approval request log number 265.

Reappropriation:

General Fund—Federal	\$ 450,000
Prior Biennia (Expenditures)	\$ 0
Future Biennia (Projected Costs)	\$ <u>0</u>
TOTAL	\$ 450,000

NEW SECTION. Sec. 371. FOR THE DEPARTMENT OF NATURAL RESOURCES

Communication site repair (98-1-003)

Appropriation:

For Dev Acct—State	\$ 90,000
Resources Management Cost Account—	
State	\$ <u>60,000</u>
Subtotal Appropriation	\$ 150,000
Prior Biennia (Expenditures)	\$ 199,146
Future Biennia (Projected Costs)	\$ <u>580,000</u>
TOTAL	\$ 929,146

NEW SECTION. Sec. 372. FOR THE DEPARTMENT OF NATURAL RESOURCES

Underground storage tank removal and upgrade (98-1-005)

Appropriation:

For Dev Acct—State	\$	51,120
Resources Management Cost Account—		
State	\$	<u>142,000</u>
Subtotal Appropriation	\$	193,120
Prior Biennia (Expenditures)	\$	30,000
Future Biennia (Projected Costs)	\$	<u>102,000</u>
TOTAL	\$	325,120

NEW SECTION. Sec. 373. FOR THE DEPARTMENT OF NATURAL RESOURCES

State-wide emergency repairs (98-1-006)

Appropriation:

For Dev Acct—State	\$	18,000
Resources Management Cost Account—		
State	\$	50,000
St Bidg Constr Acct—State	\$	<u>30,000</u>
Subtotal Appropriation	\$	98,000
Prior Biennia (Expenditures)	\$	361,493
Future Biennia (Projected Costs)	\$	<u>392,000</u>
TOTAL	\$	851,493

NEW SECTION. Sec. 374. FOR THE DEPARTMENT OF NATURAL RESOURCES

Americans with Disabilities Act compliance (98-1-009)

Appropriation:

For Dev Acct—State	\$	9,000
Resources Management Cost Account—		
State	\$	<u>25,000</u>
Subtotal Appropriation	\$	34,000
Prior Biennia (Expenditures)	\$	68,285
Future Biennia (Projected Costs)	\$	<u>272,000</u>
TOTAL	\$	374,285

NEW SECTION. Sec. 375. FOR THE DEPARTMENT OF NATURAL RESOURCES

Asbestos removal (98-1-010)

Appropriation:

For Dev Acct—State	\$	10,800
Resources Management Cost Account—		
State	\$	<u>30,000</u>
Subtotal Appropriation	\$	40,800
Prior Biennia (Expenditures)	\$	0
Future Biennia (Projected Costs)	\$	<u>136,000</u>
TOTAL	\$	176,800

NEW SECTION. Sec. 376. FOR THE DEPARTMENT OF NATURAL RESOURCES

Natural area preserve and natural resource conservation area management and emergency repairs (98-1-011)

Appropriation:

St Bldg Constr Acct—State	\$	350,000
Prior Biennia (Expenditures)	\$	590,739
Future Biennia (Projected Costs)	\$	<u>1,400,000</u>
TOTAL	\$	2,340,739

NEW SECTION. Sec. 377. FOR THE DEPARTMENT OF NATURAL RESOURCES

Hazardous waste cleanup (98-1-014)

Appropriation:

For Dev Acct—State	\$	120,000
Prior Biennia (Expenditures)	\$	692,547
Future Biennia (Projected Costs)	\$	<u>2,000,000</u>
TOTAL	\$	2,812,547

NEW SECTION. Sec. 378. FOR THE DEPARTMENT OF NATURAL RESOURCES

Emergency repairs: Recreation sites (98-1-015)

Appropriation:

St Bldg Constr Acct—State	\$	120,000
Prior Biennia (Expenditures)	\$	216,299
Future Biennia (Projected Costs)	\$	<u>480,000</u>
TOTAL	\$	816,299

NEW SECTION. Sec. 379. FOR THE DEPARTMENT OF NATURAL RESOURCES

Natural resource conservation area management plan implementation (98-1-012)

Appropriation:

St Bldg Constr Acct—State	\$	400,000
Prior Biennia (Expenditures)	\$	0
Future Biennia (Projected Costs)	\$	<u>1,500,000</u>
TOTAL	\$	1,900,000

NEW SECTION. Sec. 380. FOR THE DEPARTMENT OF NATURAL RESOURCES

Recreation health and safety (98-1-016)

Appropriation:

St Bldg Constr Acct—State	\$	300,000
Prior Biennia (Expenditures)	\$	556,160
Future Biennia (Projected Costs)	\$	<u>1,200,000</u>
TOTAL	\$	2,056,160

NEW SECTION. Sec. 381. FOR THE DEPARTMENT OF NATURAL RESOURCES

Americans with Disabilities Act recreation site improvements (98-1-017)

Appropriation:

St Bldg Constr Acct—State	\$	300,000
Prior Biennia (Expenditures)	\$	0
Future Biennia (Projected Costs)	\$	<u>1,200,000</u>
TOTAL	\$	1,500,000

NEW SECTION. Sec. 382. FOR THE DEPARTMENT OF NATURAL RESOURCES

Administrative site preservation (98-1-018)

Appropriation:

For Dev Acct—State	\$	169,000
Resources Management Cost Account— State	\$	469,000
St Bldg Constr Acct—State	\$	<u>300,000</u>
Subtotal Appropriation	\$	938,000
Prior Biennia (Expenditures)	\$	0
Future Biennia (Projected Costs)	\$	3,752,000

TOTAL \$ 4,690,000

NEW SECTION. Sec. 383. FOR THE DEPARTMENT OF NATURAL RESOURCES

Natural resources real property replacement (98-2-002)

The appropriation in this section is subject to the following conditions and limitations:

The appropriation is provided solely for the acquisition of timber lands for the common school trust to replace lands transferred from trust status under section 393 of this act, and for the reasonable costs incurred by the department in acquiring such lands. Lands acquired under this section shall be acquired solely for the benefit of the common school trust.

Appropriation:

Nat Res Prop Repl Acct—State	\$ 3,000,000
Prior Biennia (Expenditures)	\$ 35,354,155
Future Biennia (Projected Costs)	\$ 0
TOTAL	\$ 38,354,155

NEW SECTION. Sec. 384. The department of natural resources shall include a proposed acquisition plan for properties proposed for purchase under the land bank and natural resources real property replacement programs when submitting future requests for appropriation authority for the programs.

NEW SECTION. Sec. 385. FOR THE DEPARTMENT OF NATURAL RESOURCES

Right of way acquisition (98-2-005)

Appropriation:

For Dev Acct—State	\$ 409,000
Resources Management Cost Account— State	\$ 983,000
Subtotal Appropriation	\$ 1,392,000
Prior Biennia (Expenditures)	\$ 1,505,807
Future Biennia (Projected Costs)	\$ 6,050,000
TOTAL	\$ 8,947,807

NEW SECTION. Sec. 386. FOR THE DEPARTMENT OF NATURAL RESOURCES

Communication site construction (98-2-006)

Appropriation:

For Dev Acct—State	\$ 410,000
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Resources Management Cost Account—	
State	\$ <u>150,000</u>
Subtotal Appropriation	\$ 560,000
Prior Biennia (Expenditures)	\$ 474,561
Future Biennia (Projected Costs)	\$ <u>1,980,000</u>
TOTAL	\$ 3,014,561

NEW SECTION. Sec. 387. FOR THE DEPARTMENT OF NATURAL RESOURCES

Irrigation development (98-2-010)

Appropriation:

Resources Management Cost Account—	
State	\$ 300,000
Prior Biennia (Expenditures)	\$ 687,003
Future Biennia (Projected Costs)	\$ <u>2,000,000</u>
TOTAL	\$ 2,987,003

NEW SECTION. Sec. 388. FOR THE DEPARTMENT OF NATURAL RESOURCES

Minor works: Programmatic (98-2-011)

The appropriation in this section is subject to the following conditions and limitations:

The appropriation shall support the detailed list of projects maintained by the office of financial management.

Appropriation:

For Dev Acct—State	\$ 258,840
Resources Management Cost Account—	
State	\$ 719,000
St Bldg Constr Acct—State	\$ <u>300,000</u>
Subtotal Appropriation	\$ 1,277,840
Prior Biennia (Expenditures)	\$ 993,577
Future Biennia (Projected Costs)	\$ <u>7,811,540</u>
TOTAL	\$ 10,082,957

NEW SECTION. Sec. 389. FOR THE DEPARTMENT OF NATURAL RESOURCES

Mineral resource testing (98-2-012)

Appropriation:

For Dev Acct—State	\$ 18,000
Resources Management Cost Account—	

State	\$	<u>10,000</u>
Subtotal Appropriation	\$	28,000
Prior Biennia (Expenditures)	\$	20,000
Future Biennia (Projected Costs)	\$	<u>175,000</u>
TOTAL	\$	223,000

NEW SECTION. Sec. 390. FOR THE DEPARTMENT OF NATURAL RESOURCES

Commercial development: Local improvement districts (98-2-013)

Appropriation:

Resources Management Cost Account—

State	\$	200,000
Prior Biennia (Expenditures)	\$	650,568
Future Biennia (Projected Costs)	\$	<u>1,000,000</u>
TOTAL	\$	1,850,568

***NEW SECTION. Sec. 391. FOR THE DEPARTMENT OF NATURAL RESOURCES**

Aquatic lands enhancement grants (98-2-014)

The appropriation in this section is subject to the following conditions and limitations:

(1) The following phase 1 projects are eligible for funding from the reappropriation in this section.

(2) The following phase 2 projects are eligible for grant funding from the new appropriation in this section in the amounts indicated:

Phase 1

Alki/Harbor/Duwamish Corridor, City of Seattle	\$	200,000
ASARCO, Town of Ruston	\$	100,000
Cape Flattery, Makah Tribe	\$	200,000
Columbia River Renaissance, City of Vancouver	\$	2,800,000
Columbia River Trail, East Wenatchee	\$	100,000
Columbia River Trail Phase 2, LOOP Coalition	\$	400,000
Cooperative Environmental Education, North Mason School District	\$	300,000
Duckabush River, Jefferson County	\$	350,000
Latah Creek, City of Spokane	\$	300,000
Little Spokane River, Spokane County	\$	300,000
Odyssey Maritime Museum, Port of Seattle	\$	1,000,000
Raymond Waterfront Park, City of Raymond	\$	200,000
Seattle Aquarium, City of Seattle	\$	300,000
South Lake Union, City of Seattle	\$	200,000

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Statewide Competitive Small Grant Program	\$	500,000
Stevenson Waterfront Park, Port of Skamania	\$	75,000
Total	\$	<u>7,325,000</u>

Phase 2

Department of Natural Resources Natural		
Heritage, Chehalis River Surge Plain Trail	\$	128,475
State Parks, Rocky Reach Trailway	\$	200,000
City of Woodinville, Wilmot Park	\$	200,000
City of Seattle, South Lake Union	\$	75,000
City of Port Angeles, Centennial Trail	\$	148,300
Metropolitan Park District of Tacoma, Dickman Mill Park	\$	1,000,000
Snohomish County, Thomas' Eddy Trail	\$	75,000
City of Mount Vernon, Edgewater Park Extension	\$	312,000
Peninsula College, Fierro Marine Lab Exhibitry	\$	26,800
Jefferson County, Larry Scott Memorial Park	\$	134,650
Snohomish County, Drainage District #6	\$	841,000
City of Poulsbo, Nelson Property Acquisition	\$	253,000
Kitsap County, Old Mill Site Acquisition	\$	300,000
Padilla Bay National Estuarine Reserve, Exhibitry	\$	150,000
North Mason School District, Hood Canal Watershed Program, Sweetwater Creek	\$	160,000
Port of Whitman County, Snake River Trail	\$	238,779
Snohomish County, Lake Cassidy Boardwalk	\$	29,882
Makah Tribe, Shi Shi Access	\$	167,110
City of Seattle, Alki Beach Trail	\$	300,000
City of Seattle, The Seattle Aquarium Mountains to Sound	\$	279,004
Vashon Park District, Jensen Point Small Craft Center	\$	104,306
City of Medical Lake, Waterfront Trail Interpretive System	\$	8,750
Pacific County, Naselle Boat Launch Improvement	\$	77,500
State Parks, Fort Canby State Park Beard's Hollow	\$	101,760
City of Washougal, Sandy Swimming Hole	\$	39,045
City of Chelan, North Shore Pathway	\$	225,000
Port of Seattle, Odyssey Maritime Museum Phase 2	\$	1,000,000
City of Everett, Narheck Wetland Park	\$	<u>300,000</u>
Total	\$	<u>6,875,361</u>

(3) Grant funding from the new appropriation shall be distributed based on the order in which projects are ready to proceed, as determined by the department, and the availability of funds.

(4) No moneys from the appropriations in this section may be spent on the Rocky Reach trailway project until an agreement with affected property owners has been reached.

(5) The department shall submit a list of recommended projects to be funded from the aquatic lands enhancement account in the 1999-2001 capital budget. The list shall result from a competitive grants program developed by the department based upon, at a minimum: A uniform criteria for the selection of projects and awarding of grants for up to fifty percent of the total project cost; local community support for the project; and a state-wide geographic distribution of projects.

Reappropriation:

Aquatic Lands Acct—State \$ 3,756,817

Appropriation:

Aquatic Lands Acct—State \$ 6,000,000

Prior Biennia (Expenditures) \$ 8,086,566

Future Biennia (Projected Costs) \$ 22,000,000

TOTAL \$ 39,843,383

*Sec. 391 was partially vetoed. See message at end of chapter.

NEW SECTION. Sec. 392. FOR SPECIAL LAND PURCHASES AND COMMON SCHOOL CONSTRUCTION

Special land purchases and common school construction (98-2-015)

The appropriation in this section is subject to the following conditions and limitations:

(1) The appropriation is provided to the department of natural resources solely for the purposes of transferring from trust status certain trust lands of state-wide significance to state park, wildlife habitat, natural area preserve, natural resources conservation area, open space, or recreation purposes, acquiring replacement timber trust lands, and providing funding for common school construction.

(2) The appropriation in this section is provided solely for the transfer of the following list of trust properties to the identified agency:

(a) Iron Horse/Bandera, King county, to the state parks and recreation commission;

(b) Kitsap Forest, Kitsap county, to the department of natural resources for natural area preserve purposes;

(c) Upper Sultan Basin, Snohomish county, to the department of natural resources for natural resource conservation area purposes;

(d) West Tiger Mountain, King county, to the department of natural resources for natural resource conservation area purposes.

The department shall transfer the first trust property and then allocate the remaining funds to the remaining properties in roughly equal shares.

(3) Land and timber transferred under this section shall be appraised and transferred at full market value. The department of natural resources shall attempt to maintain a minimum aggregate ratio of 85:15 timber-to-land value in these transactions. The value of the timber transferred shall be deposited by the department of natural resources in the same manner as timber revenues from other common school trust lands, except that no deduction shall be made for the resource management cost account. The value of the land transferred, not to exceed \$3,000,000, shall be deposited in the natural resources real property replacement account to be used for the acquisition of replacement timber lands solely to benefit the common school trust.

(4) All reasonable costs incurred by the department of natural resources to implement this section may be paid out of this appropriation, except that the costs of acquiring replacement timber lands shall be paid out of appropriations from the natural resources real property replacement account.

(5) The department shall use intergrant exchanges between common school and other trust lands of equal value to effect the purposes of this section if the exchange is in the interest of each trust, as determined by the board of natural resources.

(6) The department of natural resources and receiving agencies shall work in good faith to carry out the intent of this section. However, the board of natural resources or a receiving agency may reject a transfer of property if it is determined that the transfer is not in the interest of either the common school trust or the receiving agency.

(7) On June 30, 1999, the state treasurer shall transfer all remaining uncommitted funds from this appropriation to the common school construction fund and the appropriation in this section shall be reduced by an equivalent amount.

Appropriation:

St Bldg Constr Acct	\$ 34,500,000
Prior Biennia (Expenditures)	\$ 0
Future Biennia (Projected Costs)	\$ 132,000,000
TOTAL	\$ 166,500,000

NEW SECTION. Sec. 393. FOR THE DEPARTMENT OF NATURAL RESOURCES

Jobs for the Environment (98-2-009)

The appropriations in this section are subject to the following conditions and limitations:

(1) The appropriations shall be used solely for the jobs for the environment program to achieve the following goals:

(a) Restore and protect watersheds to benefit anadromous fish stocks, including critical or depressed stocks as determined by the department of fish and wildlife;

(b) Conduct watershed restoration and protection projects primarily on state lands in coordination with federal, local, tribal, and private sector efforts; and

(c) Create market wage jobs with benefits in environmental restoration for displaced workers in rural natural resource impact areas, as defined under RCW 43.31.601(2).

(2) Except as provided in subsection (5) of this section, the appropriations are solely for projects selected by the department of natural resources, in consultation with an interagency task force consisting of the department of fish and wildlife, other appropriate state agencies, tribal governments, local governments, the federal government, labor and other interested stakeholders. In recommending projects for funding the task force shall use the following criteria:

(a) The extent to which the project, using best available science, addresses habitat factors limiting fish and wildlife populations;

(b) The number, duration and quality of jobs to be created or retained by the project for displaced workers in natural resource impact areas;

(c) The extent to which the project will help avoid the listing of threatened or endangered species or provides for the recovery of species already listed;

(d) The extent to which the project will augment existing federal, state, tribal or local watershed planning efforts or completed watershed restoration and conservation plans;

(e) The cost effectiveness of the project;

(f) The availability of matching funds; and

(g) The demonstrated ability of the project sponsors to administer the project.

(3) Funds expended shall be used for specific projects and not for ongoing operational costs. Eligible projects include, but are not limited to, closure or improvement of forest roads, repair of culverts, cleanup of stream beds, removal of fish barriers, installation of fish screens, fencing of streams, and construction and planting of fish cover. Funds may also be expended for planning, design, engineering, and monitoring of eligible projects.

(4) The department of natural resources and the department of fish and wildlife, in consultation with the office of financial management and other appropriate agencies, shall report to the appropriate committees of the legislature by January 1, 1998, and January 1, 1999, on the results of expenditures from the appropriations.

(5) \$800,000 of the appropriations in this section is provided solely for watershed restoration programs to be completed by the department of ecology's Washington conservation corps crews.

(6) All projects funded under this section shall be consistent with any development regulations or comprehensive plans adopted under the growth

management act for the project areas. No funds may be expended to acquire land through condemnation.

(7) Projects under contract as of June 1, 1997, shall be given first priority for funding under the appropriations in this section.

Appropriation:

For Dev Acct—State	\$	500,000
Resource Management Cost		
Account—State	\$	1,500,000
Water Quality Account—State	\$	<u>7,133,000</u>
Subtotal Appropriation	\$	9,133,000
Prior Biennia (Expenditures)	\$	23,067,000
Future Biennia (Projected Costs)	\$	<u>40,000,000</u>
TOTAL	\$	72,200,000

PART 4

TRANSPORTATION

NEW SECTION. Sec. 401. FOR THE WASHINGTON STATE PATROL

Fire Training Academy: Minor works (98-1-022)

Appropriation:

St Bldg Constr Acct—State	\$	220,000
Prior Biennia (Expenditures)	\$	0
Future Biennia (Projected Costs)	\$	<u>600,000</u>
TOTAL	\$	820,000

NEW SECTION. Sec. 402. FOR THE WASHINGTON STATE PATROL

Fire Training Academy: Repair Burn Building (98-1-024)

Appropriation:

St Bidg Constr Acct—State	\$	465,000
Prior Biennia (Expenditures)	\$	0
Future Biennia (Projected Costs)	\$	<u>0</u>
TOTAL	\$	465,000

NEW SECTION. Sec. 403. FOR THE WASHINGTON STATE PATROL

Scattle Crime Laboratory: Needs analysis, predesign, and design (98-2-013)

The Washington state patrol shall complete a predesign for approval by the office of financial management prior to release of design funding. The predesign must be consistent with results of the state-wide crime laboratory needs analysis study funded from the county criminal justice assistance account and the municipal

criminal justice assistance account under this appropriation. Emphasis shall be placed on sharing facilities with other local law enforcement and justice agencies where it is economically and programmatically justified.

Appropriation:

County Criminal Justice Assistance	
Account—State	\$ 71,300
Municipal Criminal Justice Assistance	
Account—State	\$ 28,700
St Bldg Constr Acct—State	\$ <u>1,000,000</u>
Subtotal Appropriation	\$ 1,100,000
Prior Biennia (Expenditures)	\$ 0
Future Biennia (Projected Costs)	\$ <u>7,300,000</u>
TOTAL	\$ 8,400,000

**NEW SECTION. Sec. 404. FOR THE WASHINGTON STATE PATROL
Fire Training Academy: New hazardous materlal prop (98-2-023)**

Appropriation:

St Bldg Constr Acct—State	\$ 500,000
Prior Biennia (Expenditures)	\$ 0
Future Biennia (Projected Costs)	\$ <u>0</u>
TOTAL	\$ 500,000

**NEW SECTION. Sec. 405. FOR THE WASHINGTON STATE PATROL
Fire Training Academy: Classroom building (98-2-025)**

Appropriation:

St Bldg Constr Acct—State	\$ 200,000
Prior Biennia (Expenditures)	\$ 0
Future Biennia (Projected Costs)	\$ <u>1,000,000</u>
TOTAL	\$ 1,200,000

**NEW SECTION. Sec. 406. FOR THE WASHINGTON STATE PATROL
Fire Training Academy: Design and construct dormltry (99-2-021)**

Appropriation:

St Bldg Constr Acct—State	\$ 200,000
Prior Biennia (Expenditures)	\$ 0
Future Biennia (Projected Costs)	\$ <u>1,200,000</u>
TOTAL	\$ 1,400,000

**PART 5
EDUCATION**

**NEW SECTION. Sec. 501. FOR THE STATE BOARD OF
EDUCATION**

Public school building construction (98-2-001)

The appropriations in this section are subject to the following conditions and limitations:

(1) From the appropriation in this section the state board shall fund one hundred percent of the cost for a required standard value engineering study on all projects exceeding 50,000 gross square feet in size. On an annual basis, the board shall report to the legislative fiscal committees and the office of financial management the results of these studies including but not limited to the amounts of each study and the accepted savings achieved due to the studies.

(2) No more than \$138,000,000 of this appropriation, excluding reappropriations, may be obligated in fiscal year 1998 for school district project design and construction.

(3) Total cash disbursed from the common school construction fund may not exceed the available cash balance.

(4) The reappropriation from the state building construction account shall serve as full compensation to the common school trust for the transfer of land to the Washington State University Lind Dryland Research Unit under Substitute House Bill No. 1016 or Senate Bill No. 5174.

(5) No more than \$7,110,000 of this appropriation may be allocated by the state board to provide up to ninety percent of the total project cost for the renovation of facilities operating as interdistrict cooperative centers providing vocational skill programs. The remaining portion of the project cost shall be a match from local sources. As a condition to receiving an allocation from this appropriation or any other appropriation for a vocational skill center provided after calendar year 1996, the recipient facility must maintain a separate capital account, into which the participating districts make deposits, to pay for all future minor repair and renovation costs for the vocational skill center. For purposes of this subsection, a future minor repair and renovation cost is a capital project costing less than forty percent of the value of the building.

Reappropriation:

St Bldg Constr Acct—State	\$ 18,329,671
Common School Constr Fund—State	\$ <u>109,115,719</u>
Subtotal Reappropriation	\$ 127,445,390

Appropriation:

Common School Constr Fund—State	\$ 275,798,712
Prior Biennia (Expenditures)	\$ 302,821,218
Future Biennia (Projected Costs)	\$ 801,600,000

TOTAL \$ 1,507,665,320

NEW SECTION. Sec. 502. FOR THE SUPERINTENDENT OF PUBLIC INSTRUCTION

Project management: To fund the direct cost of state administration of school construction (98-1-001)

The appropriation in this section is subject to the following conditions and limitations:

A maximum of \$628,400 is provided solely for three full-time equivalent regional coordinators. The coordinators shall have direct construction or architectural training and experience and be strategically located across the state. The coordinators shall assist local school districts with: State board of education rules and regulations relating to school construction and modernization projects, building condition analysis, development of state studies and surveys, value engineering studies during design, construction administration, maintenance issues, and data verification to allow equitable administration of the state board priority system.

Appropriation:

Common School Constr Fund—State	\$	1,778,721
Prior Biennia (Expenditures)	\$	0
Future Biennia (Projected Costs)	\$	7,800,000
TOTAL	\$	9,578,721

**NEW SECTION. Sec. 503. THE STATE SCHOOL FOR THE BLIND
Selsmic stabilization and preservation (98-1-001)**

Appropriation:

St Bldg Constr Acct—State	\$	1,700,000
Prior Biennia (Expenditures)	\$	0
Future Biennia (Projected Costs)	\$	0
TOTAL	\$	1,700,000

NEW SECTION. Sec. 504. FOR THE STATE SCHOOL FOR THE BLIND

Minor works: Preservation (98-1-002)

The appropriation in this section is subject to the following conditions and limitations:

The appropriation shall support the detailed list of projects maintained by the office of financial management.

Appropriation:

St Bldg Constr Acct—State	\$	500,000
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Prior Biennia (Expenditures)	\$	0
Future Biennia (Projected Costs)	\$	<u>2,000,000</u>
TOTAL	\$	2,500,000

NEW SECTION. Sec. 505. FOR THE STATE SCHOOL FOR THE DEAF

Minor works: Preservation (98-1-003)

The appropriation in this section is subject to the following conditions and limitations:

The appropriation shall support the detailed list of projects maintained by the office of financial management.

Appropriation:

St Bldg Constr Acct—State	\$	1,000,000
Prior Biennia (Expenditures)	\$	0
Future Biennia (Projected Costs)	\$	<u>2,000,000</u>
TOTAL	\$	3,000,000

NEW SECTION. Sec. 506. FOR THE STATE SCHOOL FOR THE DEAF

New cottages: Design and construction (98-2-001)

Appropriation:

St Bldg Constr Acct—State	\$	4,606,600
Prior Biennia (Expenditures)	\$	0
Future Biennia (Projected Costs)	\$	<u>0</u>
TOTAL	\$	4,606,600

NEW SECTION. Sec. 507. FOR THE HIGHER EDUCATION COORDINATING BOARD

North Snohomish, Island, and Skagit Counties Higher Education Consortium facility predesign: This appropriation is to prepare a functional space program, master plan, and predesign for the Consortium's initial facility, conduct a comparative site evaluation study for the initial facility, and develop a schedule and budget for the use of facilities at Everett, Edmonds, and Skagit Valley Community Colleges. (98-2-001)

Appropriation:

St Bldg Constr Acct—State	\$	376,000
Prior Biennia (Expenditures)	\$	0
Future Biennia (Projected Costs)	\$	<u>0</u>
TOTAL	\$	376,000

NEW SECTION. Sec. 508. FOR THE UNIVERSITY OF WASHINGTON

Power Plant boiler (88-2-022)

The reappropriation in this section is subject to the review and allotment procedures under section 712 of this act.

Reappropriation:

St Bldg Constr Acct—State	\$	3,427,749
Prior Biennia (Expenditures)	\$	17,007,796
Future Biennia (Projected Costs)	\$	0
TOTAL	\$	20,435,545

NEW SECTION. Sec. 509. FOR THE UNIVERSITY OF WASHINGTON

Electrical Engineering and Computer Science Engineering Building: Construction (90-2-013)

The reappropriation in this section is subject to the review and allotment procedures under section 712 of this act.

Reappropriation:

St Bldg Constr Acct—State	\$	31,579,764
Prior Biennia (Expenditures)	\$	64,211,236
Future Biennia (Projected Costs)	\$	0
TOTAL	\$	95,791,000

NEW SECTION. Sec. 510. FOR THE UNIVERSITY OF WASHINGTON

Old Physics Hall (Mary Gates Hall): Design and construction (92-2-008)

The reappropriation in this section is subject to the review and allotment procedures under section 712 of this act.

Reappropriation:

St Bldg Constr Acct—State	\$	30,028,248
UW Bldg Acct—State	\$	305,891
Subtotal Reappropriation	\$	30,334,139
Prior Biennia (Expenditures)	\$	4,772,861
Future Biennia (Projected Costs)	\$	0
TOTAL	\$	35,107,000

NEW SECTION. Sec. 511. FOR THE UNIVERSITY OF WASHINGTON

Physics/Astronomy building construction (90-2-009)

Reappropriation:

Higher Education Reimbursable

Construction Account—State	\$	800,000
Prior Biennia (Expenditures)	\$	71,764,000
Future Biennia (Projected Costs)	\$	0
TOTAL	\$	72,564,000

NEW SECTION. Sec. 512. FOR THE UNIVERSITY OF WASHINGTON

Burke Museum: To study the museum's space needs, long-term physical facilities needs, and options for future expansion (93-2-002) and for exhibit renovation (94-1-002)

\$1,846,500 of the reappropriation in this section is for the exhibit renovation and shall be matched by at least \$615,000 from other sources for the same purpose.

Reappropriation:

St Bidg Constr Acct—State	\$	1,650,000
Prior Biennia (Expenditures)	\$	749,997
Future Biennia (Projected Costs)	\$	0
TOTAL	\$	2,399,997

NEW SECTION. Sec. 513. FOR THE UNIVERSITY OF WASHINGTON

Business Administration: Expansion (93-2-006)

The reappropriation in this section is subject to the following conditions and limitations:

(1) The reappropriation in this section is subject to the review and allotment procedures under section 712 of this act.

(2) The reappropriation in this section shall be matched by at least \$7,500,000 in cash provided from nonstate sources.

Reappropriation:

St Bidg Constr Acct—State	\$	1,273,373
Prior Biennia (Expenditures)	\$	6,226,627
Future Biennia (Projected Costs)	\$	0
TOTAL	\$	7,500,000

NEW SECTION. Sec. 514. FOR THE UNIVERSITY OF WASHINGTON

Minor repairs: Preservation (94-1-003)

The reappropriation in this section is subject to the following conditions and limitations:

The reappropriation shall support the detailed list of projects maintained by the office of financial management.

Reappropriation:

St Bldg Constr Acct—State	\$	4,309,588
UW Bldg Acct—State	\$	<u>231,509</u>
Subtotal Reappropriation	\$	4,541,097
Prior Biennia (Expenditures)	\$	6,444,102
Future Biennia (Projected Costs)	\$	<u>0</u>
TOTAL	\$	10,985,199

NEW SECTION. Sec. 515. FOR THE UNIVERSITY OF WASHINGTON

Minor repairs (96-1-002)

The reappropriation in this section is subject to the following conditions and limitations:

The reappropriation shall support the detailed list of projects maintained by the office of financial management.

Reappropriation:

UW Bldg Acct—State	\$	5,200,000
Prior Biennia (Expenditures)	\$	3,847,000
Future Biennia (Projected Costs)	\$	<u>0</u>
TOTAL	\$	9,047,000

NEW SECTION. Sec. 516. FOR THE UNIVERSITY OF WASHINGTON

Suzzallo Library renovation—Phase I design and construction: To design the phase I remodeling of the 1925, 1935, and 1963 building and additions to address structural, mechanical, electrical, and life safety deficiencies (94-1-015)

The reappropriation in this section shall not be expended until the documents described in the capital project review requirements process and procedures prescribed by the office of financial management have been complied with under section 712 of this act.

Reappropriation:

St Bldg Constr Acct—State	\$	1,162,918
UW Bldg Acct—State	\$	<u>646,996</u>
Subtotal Reappropriation	\$	1,809,914
Prior Biennia (Expenditures)	\$	1,245,960
Future Biennia (Projected Costs)	\$	<u>33,044,126</u>
TOTAL	\$	36,100,000

NEW SECTION. Sec. 517. FOR THE UNIVERSITY OF WASHINGTON

Infrastructure projects: Savings (94-1-999)

Projects that are completed in accordance with section 711 of this act that have been reviewed by the office of financial management may have their remaining funds transferred to this project for the following purposes: (1) Road and sidewalk repair; (2) roof repair; (3) electrical system repair; (4) steam and utility distribution system repair; (5) plumbing system repair; (6) heating, ventilation, and air conditioning repairs; and (7) emergency repairs due to natural disasters or accidents.

A report of any transfer effected under this section shall be filed with the legislative fiscal committees of the senate and house of representatives by the office of financial management.

Reappropriation:

St Bldg Constr Acct—State	\$	1
Prior Biennia (Expenditures)	\$	0
Future Biennia (Projected Costs)	\$	0
TOTAL	\$	1

NEW SECTION. Sec. 518. FOR THE UNIVERSITY OF WASHINGTON

Harborview Research and Training Facility: Construction (\$4-2-013)

The appropriation in this section is subject to the following conditions and limitations:

(1) The reappropriation and new appropriation in this section are provided solely for design and construction of the Harborview research and training facility. The appropriation represents the total state contribution for all costs for design, construction, and equipping of a 179,000 gross square foot facility.

(2) The reappropriation and new appropriation in this section are subject to the review and allotment procedures under section 712 of this act.

(3) The provisions of section 708 of this act do not apply to this section and the appropriation from the state building construction account may be expended before the higher education construction account is expended for this project.

Reappropriation:

H Ed Constr Acct—State	\$	10,000,000
St Bldg Constr Acct—State	\$	9,698,846
Subtotal Reappropriation	\$	19,698,846

Appropriation:

H Ed Constr Acct—State	\$	11,800,000
UW Bldg Acct—State	\$	283,375

St Bldg Constr Acct—State	\$	<u>41,857,625</u>
Subtotal Appropriation	\$	53,941,000
Prior Biennia (Expenditures)	\$	5,121,154
Future Biennia (Projected Costs)	\$	<u>0</u>
TOTAL	\$	78,761,000

NEW SECTION. Sec. 519. FOR THE UNIVERSITY OF WASHINGTON

Law School Building: Design (94-2-017)

In addition to any state appropriation for this project, at least one-third of all the costs of this project (\$18,000,000), including the costs of design and consulting services, construction, and equipment, shall be derived from private matching funds.

The appropriation in this section is subject to the review and allotment procedures under section 712 of this act.

Reappropriation:

UW Bldg Acct—State	\$	1,140,000
Prior Biennia (Expenditures)	\$	128,000
Future Biennia (Projected Costs)	\$	<u>35,000,000</u>
TOTAL	\$	36,268,000

NEW SECTION. Sec. 520. FOR THE UNIVERSITY OF WASHINGTON

Tacoma Branch Campus: To complete phase Ib, conduct predesign of phase II, design of phase II, to acquire property, and to remediate unknown site conditions (94-2-500)

The appropriation in this section is subject to the following conditions and limitations:

(1) No money from this appropriation may be expended that would be inconsistent with the recommendations of the higher education coordinating board.

(2) The appropriation in this section is subject to the review and allotment procedures under sections 712 and 714 of this act.

(3) The predesign for phase II to serve at least 1,200 additional student full-time equivalents shall be conducted in accordance with the predesign manual published by the office of financial management. Design of phase IIA to serve at least 600 student full-time equivalents shall not proceed until the completed predesign requirements have been reviewed and approved by the office of financial management.

(4) \$5,700,000 of the appropriation in this section is a reappropriation of the unexpended balance of the appropriation in section 533, chapter 16, Laws of 1995 2nd sp. sess. to correspond to the revised legislative intent that the \$5,700,000 for

phase 1b be expended for site improvements, design, and construction of facilities to accommodate at least 122 additional student full-time equivalents at the Tacoma branch campus. The office of financial management shall reduce the appropriation by an amount equal to the amount expended prior to July 1, 1997, under section 533, chapter 16, Laws of 1995 2nd sp. sess.

Reappropriation:

St Bldg Constr Acct—State \$ 12,636,619

Appropriation:

St Bldg Constr Acct—State \$ 19,700,000

Prior Biennia (Expenditures) \$ 20,255,468

Future Biennia (Projected Costs) \$ 204,000,000

TOTAL \$ 256,592,087

NEW SECTION. Sec. 521. FOR THE UNIVERSITY OF WASHINGTON

Minor works: Utility infrastructure (96-1-004)

Reappropriation:

St Bldg Constr Acct—State \$ 4,800,000

Prior Biennia (Expenditures) \$ 1,100,000

Future Biennia (Projected Costs) \$ 0

TOTAL \$ 5,900,000

NEW SECTION. Sec. 522. FOR THE UNIVERSITY OF WASHINGTON

Minor safety repairs: Preservation (96-1-001)

The reappropriation in this section is for underground storage tanks.

Reappropriation:

St Bldg Constr Acct—State \$ 201,000

Prior Biennia (Expenditures) \$ 18,000

Future Biennia (Projected Costs) \$ 0

TOTAL \$ 219,000

NEW SECTION. Sec. 523. FOR THE UNIVERSITY OF WASHINGTON

Health Sciences Center BB Tower Elevators—Design and construction:

To design and construct the addition of one elevator and upgrading of the existing elevators in the health sciences center BB-wing and tower (96-1-007)

The reappropriation in this section is subject to the review and allotment procedures under section 712 of this act.

Reappropriation:

St Bldg Constr Acct—State	\$	4,961,992
UW Bldg Acct—State	\$	<u>208,546</u>
Subtotal Reappropriation	\$	5,170,538
Prior Biennia (Expenditures)	\$	22,061
Future Biennia (Projected Costs)	\$	<u>0</u>
TOTAL	\$	5,192,599

NEW SECTION. Sec. 524. FOR THE UNIVERSITY OF WASHINGTON

Health Sciences Center D-Wing Dental Student Laboratory: Design and construction (96-1-016)

Reappropriation:

St Bldg Constr Acct—State	\$	2,134,433
UW Bldg Acct—State	\$	<u>109,094</u>
Subtotal Reappropriation	\$	2,243,527
Prior Biennia (Expenditures)	\$	773,573
Future Biennia (Projected Costs)	\$	<u>0</u>
TOTAL	\$	3,017,100

NEW SECTION. Sec. 525. FOR THE UNIVERSITY OF WASHINGTON

Hogness/Health Sciences Center lobby: Americans with Disabilities Act improvements (96-1-022)

Reappropriation:

St Bldg Constr Acct—State	\$	1,253,070
Prior Biennia (Expenditures)	\$	46,930
Future Biennia (Projected Costs)	\$	<u>0</u>
TOTAL	\$	1,300,000

NEW SECTION. Sec. 526. FOR THE UNIVERSITY OF WASHINGTON

Fisheries Science-Oceanography Science Building: Construction (96-2-006)

The appropriations in this section are subject to the following conditions and limitations:

(1) The appropriation in this section is subject to the review and allotment procedures under section 712 of this act.

(2) The department of general administration is directed, in keeping with section 152 of this act, to sell the Wellington Hills property as a means of partially

offsetting the cost of this project with the proceeds of such sale being deposited into the state building and construction account.

Reappropriation:

St Bldg Constr Acct—State	\$	3,449,850
UW Bldg Acct—State	\$	<u>1,548,150</u>
Subtotal Reappropriation	\$	4,998,000

Appropriation:

St Bldg Constr Acct—State	\$	33,590,000
H Ed Constr Acct—State	\$	32,507,000
UW Bldg Acct—State	\$	<u>2,834,154</u>
Subtotal Appropriation	\$	68,931,154
Prior Biennia (Expenditures)	\$	3,865,597
Future Biennia (Projected Costs)	\$	<u>0</u>
TOTAL	\$	77,794,751

NEW SECTION. Sec. 527. FOR THE UNIVERSITY OF WASHINGTON

Social Work third floor addition—Design and construction: To design and construct a 12,000 gross square foot partial third floor addition to the Social Work and Speech and Hearing Sciences Building (96-2-010)

Reappropriation:

St Bldg Constr Acct—State	\$	2,708,800
UW Bldg Acct—State	\$	<u>126,400</u>
Subtotal Reappropriation	\$	2,835,200
Prior Biennia (Expenditures)	\$	80,400
Future Biennia (Projected Costs)	\$	<u>0</u>
TOTAL	\$	2,915,600

NEW SECTION. Sec. 528. FOR THE UNIVERSITY OF WASHINGTON

West Electrical Power Station: To design and construct the installation of new transformers, switch gear facilities, and primary distribution feeders at the west receiving station (96-2-011)

The reappropriation in this section is subject to the following conditions and limitations:

The reappropriation in this section is subject to the review and allotment procedures under section 712 of this act.

Reappropriation:

St Bldg Constr Acct—State	\$	6,358,455
UW Bldg Acct—State	\$	203,989

Subtotal Reappropriation	\$	6,562,444
Prior Biennia (Expenditures)	\$	241,556
Future Biennia (Projected Costs)	\$	0
TOTAL	\$	6,804,000

NEW SECTION. Sec. 529. FOR THE UNIVERSITY OF WASHINGTON

Power Plant Boiler #7—Design and construction: To design and construct an addition to the south end of the power plant to house a new boiler #7 (96-2-020)

The reappropriation in this section is subject to the review and allotment procedures under section 712 of this act.

Reappropriation:

St Bldg Constr Acct—State	\$	9,465,544
UW Bldg Acct—State	\$	288,703
Subtotal Reappropriation	\$	9,754,247
Prior Biennia (Expenditures)	\$	157,753
Future Biennia (Projected Costs)	\$	0
TOTAL	\$	9,912,000

NEW SECTION. Sec. 530. FOR THE UNIVERSITY OF WASHINGTON

Southwest Campus utilities phase I—Design and construction: To design and construct the extension of utilities to serve the southwest campus development (96-2-027)

The reappropriation in this section is subject to the review and allotment procedures under section 712 of this act.

Reappropriation:

St Bldg Constr Acct—State	\$	8,166,084
UW Bldg Acct—State	\$	284,062
Subtotal Reappropriation	\$	8,450,146
Prior Biennia (Expenditures)	\$	859,354
Future Biennia (Projected Costs)	\$	0
TOTAL	\$	9,309,500

NEW SECTION. Sec. 531. FOR THE UNIVERSITY OF WASHINGTON

Americans with Disabilities Act Improvements (96-2-028)

Reappropriation:

St Bldg Constr Acct—State	\$	338,771
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Prior Biennia (Expenditures)	\$	38,229
Future Biennia (Projected Costs)	\$	0
TOTAL	\$	377,000

NEW SECTION. Sec. 532. FOR THE UNIVERSITY OF WASHINGTON

Nonstructural seismic corrections (96-2-031)

Reappropriation:

General Fund—Federal	\$	194,550
Prior Biennia (Expenditures)	\$	0
Future Biennia (Projected Costs)	\$	0
TOTAL	\$	194,550

NEW SECTION. Sec. 533. FOR THE UNIVERSITY OF WASHINGTON

Minor works: Safety (98-1-001)

The appropriation in this section shall support the detailed list of projects maintained by the office of financial management.

Appropriation:

UW Bldg Acct—State	\$	3,700,000
Prior Biennia (Expenditures)	\$	0
Future Biennia (Projected Costs)	\$	12,000,000
TOTAL	\$	15,700,000

NEW SECTION. Sec. 534. FOR THE UNIVERSITY OF WASHINGTON

Minor works: Preservation (98-1-002)

The appropriation in this section shall support the detailed list of projects maintained by the office of financial management.

Appropriation:

UW Bldg Acct—State	\$	5,346,075
Prior Biennia (Expenditures)	\$	0
Future Biennia (Projected Costs)	\$	26,000,000
TOTAL	\$	31,346,075

NEW SECTION. Sec. 535. FOR THE UNIVERSITY OF WASHINGTON

Utility and data communications projects: Preservation (98-1-004)

Appropriation:

St Bldg Constr Acct—State	\$	3,000,000
Prior Biennia (Expenditures)	\$	0
Future Biennia (Projected Costs)	\$	<u>24,000,000</u>
TOTAL	\$	27,000,000

NEW SECTION. Sec. 536. FOR THE UNIVERSITY OF WASHINGTON

Minor works: Program (98-2-003)

The appropriation in this section shall support the detailed list of projects maintained by the office of financial management.

Appropriation:

UW Bldg Acct—State	\$	2,000,000
Prior Biennia (Expenditures)	\$	0
Future Biennia (Projected Costs)	\$	<u>9,000,000</u>
TOTAL	\$	11,000,000

NEW SECTION. Sec. 537. FOR THE UNIVERSITY OF WASHINGTON

Building communications: Upgrade (98-2-009)

Appropriation:

UW Bldg Acct—State	\$	3,000,000
Prior Biennia (Expenditures)	\$	0
Future Biennia (Projected Costs)	\$	<u>29,500,000</u>
TOTAL	\$	32,500,000

NEW SECTION. Sec. 538. FOR THE UNIVERSITY OF WASHINGTON

University of Washington Bothell and Cascadia Community College phase I: Design and construction (98-2-899)

The appropriation in this section is subject to the following conditions and limitations:

(1) No money from this appropriation may be expended that would be inconsistent with the recommendations of the higher education coordinating board and the project design, scope, and schedule approved by the office of financial management.

(2) The appropriation in this section is subject to the review and allotment procedures under sections 712, 713, and 714 of this act.

(3) The appropriation in this section is to be combined with the appropriation shown in section 696 of this act to construct a campus to serve at least 2,000 student full-time equivalents, with approximately 1,200 for the University of

Washington and 800 for Cascadia Community College. The appropriation shall be managed by the University of Washington.

Reappropriation:

St Bldg Constr Acct—State \$ 5,000,000

Appropriation:

St Bldg Constr Acct—State \$ 42,970,000

Prior Biennia (Expenditures) \$ 0

Future Biennia (Projected Costs) \$ 0

TOTAL \$ 47,970,000

NEW SECTION. Sec. 539. FOR THE UNIVERSITY OF WASHINGTON

University of Washington Bothell and Cascadia Community College future phases: To complete predesign and design of phase II (98-2-999)

The appropriation in this section is subject to the following conditions and limitations:

(1) No money from this appropriation may be expended that would be inconsistent with the recommendations of the higher education coordinating board and the project design, scope, and schedule approved by the office of financial management.

(2) The appropriation in this section is subject to the review and allotment procedures under sections 712, 713, and 714 of this act.

(3) The appropriation in this section is to be combined with the appropriation shown in section 696 of this act and shall be managed by the University of Washington.

(4) The predesign for phase II to serve at least 2,000 additional University of Washington and community college student full-time equivalents included in this appropriation shall be conducted in accordance with the predesign manual published by the office of financial management.

(5) Design of phase IIA to serve at least 1,000 total University of Washington and community college student full-time equivalents shall not proceed until the completed predesign requirements in subsection (4) of this section have been reviewed and approved by the office of financial management.

Appropriation:

St Bldg Constr Acct—State \$ 3,000,000

Prior Biennia (Expenditures) \$ 0

Future Biennia (Projected Costs) \$ 79,000,000

TOTAL \$ 82,000,000

NEW SECTION. Sec. 540. FOR WASHINGTON STATE UNIVERSITY

Hazardous, pathological, and radioactive waste handling facilities: To provide centralized facilities to prepare, package, and ship biomedical, pathological, hazardous, low-level, and nonradioactive waste (92-1-019)

Reappropriation:

St Bldg Constr Acct—State	\$	735,425
Prior Biennia (Expenditures)	\$	453,929
Future Biennia (Projected Costs)	\$	0
TOTAL	\$	1,189,354

NEW SECTION. Sec. 541. FOR WASHINGTON STATE UNIVERSITY

Todd Hall renovation: To renovate the entire building, including upgrading electrical and other building-wide systems, modernizing and refurbishing of classrooms and offices (92-1-021)

The reappropriation in this section is subject to the review and allotment procedures under section 712 of this act.

Reappropriation:

St Bldg Constr Acct—State	\$	179,412
WSU Bldg Acct—State	\$	303,806
Subtotal Reappropriation	\$	483,218
Prior Biennia (Expenditures)	\$	14,198,291
Future Biennia (Projected Costs)	\$	0
TOTAL	\$	14,681,509

NEW SECTION. Sec. 542. FOR WASHINGTON STATE UNIVERSITY

Veterinary Teaching Hospital—Construction: To construct, equip, and furnish a new teaching hospital for the department of veterinary medicine and surgery (92-2-013)

The reappropriation in this section is subject to the review and allotment procedures under section 712 of this act.

Reappropriation:

St Bldg Constr Acct—State	\$	77,884
H ED Constr Acct—State	\$	239,098
Subtotal Reappropriation	\$	316,982
Prior Biennia (Expenditures)	\$	33,628,518
Future Biennia (Projected Costs)	\$	0
TOTAL	\$	33,945,500

NEW SECTION. Sec. 543. FOR WASHINGTON STATE UNIVERSITY

Fulmer Hall—Fulmer Annex renovation: To renovate Fulmer Hall Annex to meet fire, safety, and handicap access code requirements and to make changes in functional use of space (92-2-023)

The reappropriation in this section is subject to the review and allotment procedures under section 712 of this act.

Reappropriation:

St Bldg Constr Acct—State	\$	2,013,357
Prior Biennia (Expenditures)	\$	10,496,143
Future Biennia (Projected Costs)	\$	0
TOTAL	\$	12,509,500

NEW SECTION, Sec. 544. FOR WASHINGTON STATE UNIVERSITY

Student services addition: To design and construct a building for consolidated student service functions (92-2-027)

The reappropriation in this section is subject to the review and allotment procedures under section 712 of this act.

Reappropriation:

St Bldg Constr Acct—State	\$	171,767
Prior Biennia (Expenditures)	\$	14,672,650
Future Biennia (Projected Costs)	\$	0
TOTAL	\$	14,844,417

NEW SECTION, Sec. 545. FOR WASHINGTON STATE UNIVERSITY

Bohler Gym renovation: Construction (94-1-010)

The reappropriation in this section is subject to the review and allotment procedures under section 712 of this act.

Reappropriation:

St Bldg Constr Acct—State	\$	1,149,554
WSU Bldg Acct—State	\$	391,500
Subtotal Reappropriation	\$	1,541,054

Appropriation:

St Bldg Constr Acct—State	\$	16,778,275
WSU Bldg Acct—State	\$	297,925
Subtotal Appropriation	\$	17,076,200
Prior Biennia (Expenditures)	\$	396,046
Future Biennia (Projected Costs)	\$	0
TOTAL	\$	19,013,300

NEW SECTION, Sec. 546. FOR WASHINGTON STATE UNIVERSITY

Thompson Hall renovation: Construction (94-1-024)

The appropriation in this section is subject to the review and allotment procedures under section 712 of this act.

Appropriation:

St Bldg Constr Acct—State	\$	10,818,075
WSU Bldg Acct—State	\$	<u>101,325</u>
Subtotal Appropriation	\$	10,919,400
Prior Biennia (Expenditures)	\$	777,000
Future Biennia (Projected Costs)	\$	<u>0</u>
TOTAL	\$	11,696,400

NEW SECTION. Sec. 547. FOR WASHINGTON STATE UNIVERSITY

Infrastructure project: Savings (94-1-999)

Projects that are completed in accordance with section 711 of this act that have been reviewed by the office of financial management may have their remaining funds transferred to this project for the following purposes: (1) Road and sidewalk repair; (2) roof repair; (3) electrical system repair; (4) steam and utility distribution system repair; (5) plumbing system repair; (6) heating, ventilation, and air conditioning repairs; and (7) emergency repairs due to natural disasters or accidents.

A report of any transfer effected under this section shall be filed with the legislative fiscal committees of the senate and house of representatives by the office of financial management.

Reappropriation:

St Bldg Constr Acct—State	\$	1
Prior Biennia (Expenditures)	\$	0
Future Biennia (Projected Costs)	\$	<u>0</u>
TOTAL	\$	1

NEW SECTION. Sec. 548. FOR WASHINGTON STATE UNIVERSITY

Hazardous waste facilities: Construction (94-2-006)

The reappropriation in this section is subject to the review and allotment procedures under section 712 of this act.

Reappropriation:

WSU Bldg Acct—State	\$	1,251,201
Prior Biennia (Expenditures)	\$	459,799
Future Biennia (Projected Costs)	\$	<u>15,000,000</u>
TOTAL	\$	16,711,000

NEW SECTION. Sec. 549. FOR WASHINGTON STATE UNIVERSITY

Pathological and Biomedical Incinerator: Design and construction (94-2-012)

Reappropriation:

St Bldg Constr Acct—State	\$	3,277,809
Prior Biennia (Expenditures)	\$	165,191
Future Biennia (Projected Costs)	\$	<u>0</u>
TOTAL	\$	3,443,000

NEW SECTION. Sec. 550. FOR WASHINGTON STATE UNIVERSITY

Communications infrastructure: Renewal (94-2-013)

The reappropriation in this section is subject to the review and allotment procedures under section 712 of this act.

Reappropriation:

St Bldg Constr Acct—State	\$	2,049,697
WSU Bldg Acct—State	\$	<u>773,167</u>
Subtotal Reappropriation	\$	2,822,864
Prior Biennia (Expenditures)	\$	13,336,761
Future Biennia (Projected Costs)	\$	<u>0</u>
TOTAL	\$	16,159,625

NEW SECTION. Sec. 551. FOR WASHINGTON STATE UNIVERSITY

Engineering Teaching and Research Laboratory Building: Construction (94-2-014)

The reappropriation in this section is subject to the review and allotment procedures under section 712 of this act.

Reappropriation:

St Bldg Constr Acct—State	\$	9,338,821
Prior Biennia (Expenditures)	\$	7,801,479
Future Biennia (Projected Costs)	\$	<u>0</u>
TOTAL	\$	17,140,300

NEW SECTION. Sec. 552. FOR WASHINGTON STATE UNIVERSITY

Chemical waste collection facilities: Design and construction (94-2-016)

Reappropriation:

WSU Bldg Acct—State	\$	913,967
Prior Biennia (Expenditures)	\$	2,423,033
Future Biennia (Projected Costs)	\$	<u>0</u>
TOTAL	\$	3,337,000

NEW SECTION. Sec. 553. FOR WASHINGTON STATE UNIVERSITY

Bohler Gym addition: To construct a 45,800 gross square foot addition to Bohler Gym (94-2-017)

The reappropriation in this section is subject to the review and allotment procedures under section 712 of this act.

Reappropriation:

St Bldg Constr Acct—State	\$	3,318,695
WSU Bldg Acct—State	\$	<u>399,800</u>
Subtotal Reappropriation	\$	3,718,495
Prior Biennia (Expenditures)	\$	6,635,705
Future Biennia (Projected Costs)	\$	<u>0</u>
TOTAL	\$	10,354,200

NEW SECTION. Sec. 554. FOR WASHINGTON STATE UNIVERSITY

Kimbrough Hall addition and remodeling: To design a 32,000 gross square foot addition and remodel the existing Kimbrough Hall (94-2-019)

The appropriation in this section is subject to the review and allotment procedures under section 712 of this act.

Reappropriation:

St Bldg Constr Acct—State	\$	329,437
WSU Bldg Acct—State	\$	<u>238,425</u>
Subtotal Reappropriation	\$	567,862

Appropriation:

St Bldg Constr Acct—State	\$	10,327,000
WSU Bldg Acct—State	\$	<u>121,875</u>
Subtotal Appropriation	\$	10,448,875
Prior Biennia (Expenditures)	\$	716,263
Future Biennia (Projected Costs)	\$	<u>0</u>
TOTAL	\$	11,733,000

NEW SECTION. Sec. 555. FOR WASHINGTON STATE UNIVERSITY

Puyaliup: Greenhouse replacements (94-2-027)

Reappropriation:

St Bldg Constr Acct—State	\$	770,866
Prior Biennia (Expenditures)	\$	1,273,153
Future Biennia (Projected Costs)	\$	<u>0</u>
TOTAL	\$	2,044,019

NEW SECTION. Sec. 556. FOR WASHINGTON STATE UNIVERSITY

Washington State University Vancouver: Campus construction (94-2-902)

The reappropriation in this section is subject to the review and allotment procedures under sections 712 and 714 of this act.

Reappropriation:

St Bldg Constr Acct—State	\$	9,407,417
Prior Biennia (Expenditures)	\$	29,315,045
Future Biennia (Projected Costs)	\$	0
TOTAL	\$	38,722,462

NEW SECTION, Sec. 557. FOR WASHINGTON STATE UNIVERSITY

Washington State University Tri-Cities: Consolidated Information Center (94-2-905)

The reappropriation in this section is subject to the review and allotment procedures under section 712 of this act.

Reappropriation:

St Bldg Constr Acct—State	\$	202,827
Prior Biennia (Expenditures)	\$	10,916,173
Future Biennia (Projected Costs)	\$	0
TOTAL	\$	11,119,000

NEW SECTION, Sec. 558. FOR WASHINGTON STATE UNIVERSITY

Animal Science Laboratory Building—Design and Construction: To construct a 20,200 gross square foot animal science lab (94-4-018)

The reappropriation in this section is subject to the review and allotment procedures under section 712 of this act.

Reappropriation:

St Bldg Constr Acct—State	\$	249,908
Prior Biennia (Expenditures)	\$	7,011,450
Future Biennia (Projected Costs)	\$	0
TOTAL	\$	7,261,358

NEW SECTION, Sec. 559. FOR WASHINGTON STATE UNIVERSITY

Underground storage tank remediation and removal (96-1-001)

Reappropriation:

St Bldg Constr Acct—State	\$	232,869
Prior Biennia (Expenditures)	\$	49,131
Future Biennia (Projected Costs)	\$	0
TOTAL	\$	282,000

NEW SECTION. Sec. 560. FOR WASHINGTON STATE UNIVERSITY

Asbestos pool reserve (96-1-002)

Reappropriation:

St Bldg Constr Acct—State	\$	70,265
Prior Biennia (Expenditures)	\$	75,185
Future Biennia (Projected Costs)	\$	0
TOTAL	\$	145,450

NEW SECTION. Sec. 561. FOR WASHINGTON STATE UNIVERSITY

Americans with Disabilities Act pool reserve (96-1-003)

Reappropriation:

St Bldg Constr Acct—State	\$	365,872
Prior Biennia (Expenditures)	\$	36,354
Future Biennia (Projected Costs)	\$	0
TOTAL	\$	402,226

NEW SECTION. Sec. 562. FOR WASHINGTON STATE UNIVERSITY

Minor works: Preservation (96-1-004)

The reappropriation in this section shall support the detailed list of projects maintained by the office of financial management.

Reappropriation:

St Bldg Constr Acct—State	\$	3,002,694
WSU Bldg Acct—State	\$	165,877
Subtotal Reappropriation	\$	3,168,571
Prior Biennia (Expenditures)	\$	2,983,429
Future Biennia (Projected Costs)	\$	0
TOTAL	\$	6,152,000

NEW SECTION. Sec. 563. FOR WASHINGTON STATE UNIVERSITY

Minor works: Safety and environment (96-2-001)

The reappropriation in this section shall support the detailed list of projects maintained by the office of financial management.

Reappropriation:

St Bldg Constr Acct—State	\$	943,348
WSU Bldg Acct—State	\$	907,315
Subtotal Reappropriation	\$	1,850,663
Prior Biennia (Expenditures)	\$	749,337
Future Biennia (Projected Costs)	\$	0

TOTAL \$ 2,600,000

NEW SECTION. Sec. 564. FOR WASHINGTON STATE UNIVERSITY

Minor works: Program (96-2-002)

The reappropriation in this section shall support the detailed list of projects maintained by the office of financial management.

Reappropriation:

WSU Bldg Acct—State	\$	3,055,990
Prior Biennia (Expenditures)	\$	2,094,010
Future Biennia (Projected Costs)	\$	0
TOTAL	\$	5,150,000

NEW SECTION. Sec. 565. FOR WASHINGTON STATE UNIVERSITY

Plant growth: Wheat research center (96-2-047)

The reappropriation in this section is subject to the review and allotment procedures under section 712 of this act and shall not be expended until the university has received the federal money or an equivalent amount from other sources.

Reappropriation:

St Bldg Constr Acct—State	\$	1,553,154
Prior Biennia (Expenditures)	\$	2,446,846
Future Biennia (Projected Costs)	\$	0
TOTAL	\$	4,000,000

NEW SECTION. Sec. 566. FOR WASHINGTON STATE UNIVERSITY

Intercollegiate Center for Nursing Education: Telecommunications (96-2-915)

Reappropriation:

St Bldg Constr Acct—State	\$	524,386
Prior Biennia (Expenditures)	\$	975,614
Future Biennia (Projected Costs)	\$	0
TOTAL	\$	1,500,000

NEW SECTION. Sec. 567. FOR WASHINGTON STATE UNIVERSITY

Minor works: Preservation (98-1-004)

The appropriation in this section is subject to the following conditions and limitations:

The appropriation shall support the detailed list of projects maintained by the office of financial management.

Appropriation:

WSU Bldg Acct—State	\$ 5,553,000
Prior Biennia (Expenditures)	\$ 0
Future Biennia (Projected Costs)	\$ 24,000,000
TOTAL	\$ 29,553,000

**NEW SECTION. Sec. 568. FOR WASHINGTON STATE UNIVERSITY
Campus infrastructure and road improvements (98-1-073)**

The appropriation in this section is subject to the following conditions and limitations:

The appropriation shall support the detailed list of projects maintained by the office of financial management.

Appropriation:

St Bldg Constr Acct—State	\$ 8,292,000
Prior Biennia (Expenditures)	\$ 0
Future Biennia (Projected Costs)	\$ 4,000,000
TOTAL	\$ 12,292,000

**NEW SECTION. Sec. 569. FOR WASHINGTON STATE UNIVERSITY
Minor works: Safety and environmental (98-2-001)**

The appropriation in this section is subject to the following conditions and limitations:

The appropriation shall support the detailed list of projects maintained by the office of financial management.

Appropriation:

St Bidg Constr Acct—State	\$ 1,600,000
WSU Bidg Acct—State	\$ 1,807,800
Subtotal Appropriation	\$ 3,407,800
Prior Biennia (Expenditures)	\$ 0
Future Biennia (Projected Costs)	\$ 12,600,000
TOTAL	\$ 16,007,800

**NEW SECTION. Sec. 570. FOR WASHINGTON STATE UNIVERSITY
Minor works: Program (98-2-002)**

The appropriation in this section is subject to the following conditions and limitations:

The appropriation shall support the detailed list of projects maintained by the office of financial management.

Appropriation:

WSU Bldg Acct—State	\$	6,000,000
Prior Biennia (Expenditures)	\$	0
Future Biennia (Projected Costs)	\$	33,000,000
TOTAL	\$	39,000,000

NEW SECTION. Sec. 571. FOR WASHINGTON STATE UNIVERSITY

Major equipment: Acquisition (98-2-003)

The appropriation in this section is subject to the following conditions and limitations:

The state building construction account appropriation is provided solely for agricultural equipment including \$1,500,000 for the agricultural research center and \$500,000 for teaching and extension equipment.

Appropriation:

St Bldg Constr Acct—State	\$	2,000,000
WSU Bldg Acct—State	\$	3,000,000
Subtotal Appropriation	\$	5,000,000
Prior Biennia (Expenditures)	\$	0
Future Biennia (Projected Costs)	\$	15,000,000
TOTAL	\$	20,000,000

NEW SECTION. Sec. 572. FOR WASHINGTON STATE UNIVERSITY

Murrow Hall: Renovation and addition (98-2-008)

To conduct a predesign of the project described in this section in accordance with the predesign manual published by the office of financial management. Future appropriations for this project are subject to the submittal of completed predesign requirements on or before July 1, 1998.

Appropriation:

WSU Bldg Acct—State	\$	105,000
Prior Biennia (Expenditures)	\$	0
Future Biennia (Projected Costs)	\$	11,625,100
TOTAL	\$	11,730,100

NEW SECTION. Sec. 573. FOR WASHINGTON STATE UNIVERSITY

Cleveland Hall: Renovation and addition (98-2-032)

To conduct a predesign of the project described in this section in accordance with the predesign manual published by the office of financial management. Future appropriations for this project are subject to the submittal of completed predesign requirements on or before July 1, 1998.

Appropriation:

WSU Bldg Acct—State	\$	140,000
Prior Biennia (Expenditures)	\$	0
Future Biennia (Projected Costs)	\$	9,435,100
TOTAL	\$	9,575,100

NEW SECTION. Sec. 574. FOR WASHINGTON STATE UNIVERSITY
South Campus electrical service: Design and construction (98-2-044)

Appropriation:

St Bldg Constr Acct—State	\$	2,900,000
Prior Biennia (Expenditures)	\$	0
Future Biennia (Projected Costs)	\$	0
TOTAL	\$	2,900,000

NEW SECTION. Sec. 575. FOR WASHINGTON STATE UNIVERSITY
Teaching and Learning Center: Design and construction (98-2-062)

The appropriation in this section is subject to the review and allotment procedures under section 712 of this act.

Appropriation:

St Bldg Constr Acct—State	\$	1,970,175
WSU Bldg Acct—State	\$	624,325
Subtotal Appropriation	\$	2,594,500
Prior Biennia (Expenditures)	\$	80,000
Future Biennia (Projected Costs)	\$	25,101,805
TOTAL	\$	27,776,305

NEW SECTION. Sec. 576. FOR WASHINGTON STATE UNIVERSITY
Apparel, Merchandising, and Interior Design and Landscape Architecture Building: Predesign (98-01-000)

Appropriation:

WSU Bldg Acct—State	\$	98,000
Prior Biennia (Expenditures)	\$	0
Future Biennia (Projected Costs)	\$	28,800,000
TOTAL	\$	28,898,000

NEW SECTION. Sec. 577. FOR WASHINGTON STATE UNIVERSITY
WSUnet: Infrastructure (98-2-074)

Appropriation:

WSU Bldg Acct—State	\$	4,075,000
Prior Biennia (Expenditures)	\$	0

Future Biennia (Projected Costs)	\$	<u>5,000,000</u>
TOTAL	\$	9,075,000

NEW SECTION. Sec. 578. FOR WASHINGTON STATE UNIVERSITY

Washington State University Tri-Cities: Predesign Science Education Center (98-2-905)

To conduct a predesign of the project described in this section in accordance with the predesign manual published by the office of financial management. Future appropriations for this project are subject to the submittal of completed predesign requirements on or before July 1, 1998. The project shall serve at least 910 additional student full-time equivalents on the Tri-Cities campus.

Appropriation:

St Bldg Constr Acct—State	\$	140,000
Prior Biennia (Expenditures)	\$	0
Future Biennia (Projected Costs)	\$	<u>21,435,800</u>
TOTAL	\$	21,575,800

NEW SECTION. Sec. 579. FOR WASHINGTON STATE UNIVERSITY

Washington State University Vancouver: Phase II (98-2-911)

The appropriation in this section is subject to the following conditions and limitations:

- (1) No money from this appropriation may be expended that would be inconsistent with the recommendations of the higher education coordinating board.
- (2) The appropriation in this section is subject to the review and allotment procedures under section 712 of this act.
- (3) The engineering and multimedia buildings to be designed under this appropriation shall serve at least 950 additional student full-time equivalents. Funding is also provided to construct campus infrastructure and physical plant shops.

Appropriation:

St Bldg Constr Acct—State	\$	13,500,000
Prior Biennia (Expenditures)	\$	0
Future Biennia (Projected Costs)	\$	<u>123,000,000</u>
TOTAL	\$	136,500,000

NEW SECTION. Sec. 580. FOR EASTERN WASHINGTON UNIVERSITY

Telecommunications network and cable: Replacement (90-2-004)

Appropriation:

St Bldg Constr Acct—State	\$	1,000,000
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Prior Biennia (Expenditures)	\$ 5,655,918
Future Biennia (Projected Costs)	\$ <u>4,000,000</u>
TOTAL	\$ 10,655,918

NEW SECTION. Sec. 581. FOR EASTERN WASHINGTON UNIVERSITY

JFK Library addition and remodel—Construction: To construct the 73,500 gross square foot addition and remodeling of the JFK Library (90-5-003)

The reappropriation in this section is subject to the review and allotment procedures under section 712 of this act.

Reappropriation:

St Bldg Constr Acct—State	\$ 12,056,403
EWU Cap Proj Acct—State	\$ <u>73,006</u>
Subtotal Reappropriation	\$ 12,129,409
Prior Biennia (Expenditures)	\$ 9,929,895
Future Biennia (Projected Costs)	\$ <u>0</u>
TOTAL	\$ 22,059,304

NEW SECTION. Sec. 582. FOR EASTERN WASHINGTON UNIVERSITY

Chillers, heating, ventilation, and air conditioning (94-1-003)

Reappropriation:

St Bldg Constr Acct—State	\$ 4,872,049
EWU Cap Proj Acct—State	\$ <u>637,643</u>
Subtotal Reappropriation	\$ 5,509,692
Prior Biennia (Expenditures)	\$ 792,892
Future Biennia (Projected Costs)	\$ <u>0</u>
TOTAL	\$ 6,302,584

NEW SECTION. Sec. 583. FOR EASTERN WASHINGTON UNIVERSITY

Minor works—Preservation, repair, and remodel (94-1-015)

Reappropriation:

St Bldg Constr Acct—State	\$ 533,002
EWU Cap Proj Acct—State	\$ <u>1,660,253</u>
Subtotal Reappropriation	\$ 2,193,255
Prior Biennia (Expenditures)	\$ 7,761,057
Future Biennia (Projected Costs)	\$ <u>0</u>
TOTAL	\$ 9,954,312

NEW SECTION. Sec. 584. FOR EASTERN WASHINGTON UNIVERSITY

Infrastructure project: Savings (94-1-999)

Projects that are completed in accordance with section 711 of this act that have been reviewed by the office of financial management may have their remaining funds transferred to this project for the following purposes: (1) Road and sidewalk repair; (2) roof repair; (3) electrical system repair; (4) steam and utility distribution system repair; (5) plumbing system repair; (6) heating, ventilation, and air conditioning repairs; and (7) emergency repairs due to natural disasters or accidents.

A report of any transfer effected under this section shall be filed with the legislative fiscal committees of the senate and house of representatives by the office of financial management.

Reappropriation:

St Bldg Constr Acct—State	\$	1
Prior Biennia (Expenditures)	\$	0
Future Biennia (Projected Costs)	\$	0
TOTAL	\$	1

NEW SECTION. Sec. 585. FOR EASTERN WASHINGTON UNIVERSITY

Monroe Hall Renovation (96-1-002)

The appropriation in this section is subject to the review and allotment procedures under section 712 of this act.

Appropriation:

St Bldg Constr Acct—State	\$	924,000
Prior Biennia (Expenditures)	\$	100,000
Future Biennia (Projected Costs)	\$	9,950,000
TOTAL	\$	10,974,000

NEW SECTION. Sec. 586. FOR EASTERN WASHINGTON UNIVERSITY

Campus classrooms—Renewal: To renovate and upgrade classrooms and lab in various buildings on campus (96-2-001)

The appropriation in this section shall support the detailed list of projects maintained by the office of financial management.

Appropriation:

St Bldg Constr Acct—State	\$	1,000,000
EWU Cap Proj Acct—State	\$	500,000

Subtotal Appropriation	\$ 1,500,000
Prior Biennia (Expenditures)	\$ 3,650,000
Future Biennia (Projected Costs)	\$ <u>14,000,000</u>
TOTAL	\$ 19,150,000

NEW SECTION. Sec. 587. FOR EASTERN WASHINGTON UNIVERSITY

Water systems: Preservation and expansion (98-1-002)

Appropriation:

St Bidg Constr Acct—State	\$ 500,000
Prior Biennia (Expenditures)	\$ 0
Future Biennia (Projected Costs)	\$ <u>2,250,000</u>
TOTAL	\$ 2,750,000

NEW SECTION. Sec. 588. FOR EASTERN WASHINGTON UNIVERSITY

Minor works: Preservation (98-1-003)

The appropriation in this section is subject to the following conditions and limitations:

The appropriation shall support the detailed list of projects maintained by the office of financial management.

Appropriation:

St Bidg Constr Acct—State	\$ 619,500
EWU Cap Proj Acct—State	\$ <u>4,730,500</u>
Subtotal Appropriation	\$ 5,350,000
Prior Biennia (Expenditures)	\$ 0
Future Biennia (Projected Costs)	\$ <u>6,000,000</u>
TOTAL	\$ 11,350,000

NEW SECTION. Sec. 589. FOR EASTERN WASHINGTON UNIVERSITY

Electrical substations: Preservation (98-1-004)

Appropriation:

St Bidg Constr Acct—State	\$ 3,000,000
Prior Biennia (Expenditures)	\$ 0
Future Biennia (Projected Costs)	\$ <u>1,500,000</u>
TOTAL	\$ 4,500,000

NEW SECTION. Sec. 590. FOR EASTERN WASHINGTON UNIVERSITY

Roof replacements (98-1-006)

Appropriation:

St Bldg Constr Acct—State	\$	2,755,000
Prior Biennia (Expenditures)	\$	0
Future Biennia (Projected Costs)	\$	<u>0</u>
TOTAL	\$	2,755,000

NEW SECTION. Sec. 591. FOR EASTERN WASHINGTON UNIVERSITY

Infrastructure: Preservation (98-1-007)

The appropriation in this section is subject to the following conditions and limitations:

The appropriation shall support the detailed list of projects maintained by the office of financial management.

Appropriation:

St Bldg Constr Acct—State	\$	4,000,000
Prior Biennia (Expenditures)	\$	0
Future Biennia (Projected Costs)	\$	<u>7,000,000</u>
TOTAL	\$	11,000,000

NEW SECTION. Sec. 592. FOR EASTERN WASHINGTON UNIVERSITY

Heating, ventilation, and air conditioning systems: Preservation (98-1-008)

Appropriation:

St Bldg Constr Acct—State	\$	1,000,000
Prior Biennia (Expenditures)	\$	0
Future Biennia (Projected Costs)	\$	<u>1,000,000</u>
TOTAL	\$	2,000,000

NEW SECTION. Sec. 593. FOR EASTERN WASHINGTON UNIVERSITY

Boiler Plant: Expansion and upgrade (98-1-011)

Appropriation:

St Bldg Constr Acct—State	\$	618,100
EWU Cap Proj Acct—State	\$	<u>135,525</u>
Subtotal Appropriation	\$	753,625
Prior Biennia (Expenditures)	\$	0
Future Biennia (Projected Costs)	\$	5,615,175

TOTAL \$ 6,368,800

NEW SECTION. Sec. 594. FOR EASTERN WASHINGTON UNIVERSITY

Minor works: Program (98-2-001)

The appropriation in this section is subject to the following conditions and limitations:

The appropriation shall support the detailed list of projects maintained by the office of financial management.

Appropriation:

St Bldg Constr Acct—State	\$	500,000
EWU Cap Proj Acct—State	\$	<u>1,200,000</u>
Subtotal Appropriation	\$	1,700,000
Prior Biennia (Expenditures)	\$	0
Future Biennia (Projected Costs)	\$	<u>10,018,000</u>
TOTAL	\$	11,718,000

NEW SECTION. Sec. 595. FOR CENTRAL WASHINGTON UNIVERSITY

Shaw/Smyser Hall renovation (90-2-005)

Reappropriation:

H Ed Constr Acct—State	\$	70,578
Prior Biennia (Expenditures)	\$	13,214,424
Future Biennia (Projected Costs)	\$	<u>0</u>
TOTAL	\$	13,285,002

NEW SECTION. Sec. 596. FOR CENTRAL WASHINGTON UNIVERSITY

Minor works: Preservation (94-1-005)

Reappropriation:

CWU Cap Proj Acct—State	\$	859,679
Prior Biennia (Expenditures)	\$	2,702,321
Future Biennia (Projected Costs)	\$	<u>0</u>
TOTAL	\$	3,562,000

NEW SECTION. Sec. 597. FOR CENTRAL WASHINGTON UNIVERSITY

Science facility: Design and construction (94-2-002)

The reappropriation in this section is subject to the review and allotment procedures under section 712 of this act.

Reappropriation:

St Bldg Constr Acct—State	\$ 45,047,550
CWU Cap Proj Acct—State	\$ 4,000,000
Subtotal Reappropriation	\$ 49,047,550

Appropriation:

CWU Cap Proj Acct—State	\$ 510,000
Prior Biennia (Expenditures)	\$ 9,152,450
Future Biennia (Projected Costs)	\$ 0
TOTAL	\$ 58,710,000

NEW SECTION. Sec. 598. FOR CENTRAL WASHINGTON UNIVERSITY

Minor works: Program (94-2-006)

Reappropriation:

CWU Cap Proj Acct—State	\$ 152,276
Prior Biennia (Expenditures)	\$ 2,354,724
Future Biennia (Projected Costs)	\$ 0
TOTAL	\$ 2,507,000

NEW SECTION. Sec. 599. FOR CENTRAL WASHINGTON UNIVERSITY

Black Hall—Design and construction: To design and construct a 66,200 gross square foot addition to and complete remodel of the Black Hall (94-2-010)

The reappropriation in this section is subject to the review and allotment procedures under section 712 of this act.

Reappropriation:

St Bldg Constr Acct—State	\$ 25,393,593
CWU Cap Proj Acct—State	\$ 575,000
Subtotal Reappropriation	\$ 25,968,593
Prior Biennia (Expenditures)	\$ 1,434,808
Future Biennia (Projected Costs)	\$ 0
TOTAL	\$ 27,403,401

NEW SECTION. Sec. 600. FOR CENTRAL WASHINGTON UNIVERSITY

Asbestos abatement, demolition, and steamline (96-1-002)

Reappropriation:

St Bldg Constr Acct—State	\$	94,768
Prior Biennia (Expenditures)	\$	36,932
Future Biennia (Projected Costs)	\$	0
TOTAL	\$	131,700

NEW SECTION. Sec. 601. FOR CENTRAL WASHINGTON UNIVERSITY

Minor works: Infrastructure preservation (96-1-040)

The reappropriation in this section is subject to the following conditions and limitations:

(1) The reappropriation shall support the detailed list of projects maintained by the office of financial management.

(2) No money from this reappropriation may be expended for remodeling or repairing the president's residence.

Reappropriation:

St Bldg Constr Acct—State	\$	1,156,975
CWU Cap Proj Acct—State	\$	530,000
Subtotal Reappropriation	\$	1,686,975
Prior Biennia (Expenditures)	\$	713,025
Future Biennia (Projected Costs)	\$	0
TOTAL	\$	2,400,000

NEW SECTION. Sec. 602. FOR CENTRAL WASHINGTON UNIVERSITY

Minor works: Preservation (96-1-120)

The reappropriation in this section is subject to the following conditions and limitations:

(1) The reappropriation shall support the detailed list of projects maintained by the office of financial management.

(2) A maximum of \$85,000 from this reappropriation may be expended for remodeling the president's residence.

Reappropriation:

CWU Cap Proj Acct—State	\$	2,200,000
Prior Biennia (Expenditures)	\$	1,344,822
Future Biennia (Projected Costs)	\$	0
TOTAL	\$	3,544,822

NEW SECTION. Sec. 603. FOR CENTRAL WASHINGTON UNIVERSITY

Infrastructure savings (96-1-999)

Projects that are completed in accordance with section 711 of this act that have been reviewed by the office of financial management may have their remaining funds transferred to this project for the following purposes: (1) Road and sidewalk repair; (2) roof repair; (3) electrical system repair; (4) steam and utility distribution system repair; (5) plumbing system repair; (6) heating, ventilation, and air conditioning repairs; and (7) emergency repairs due to natural disasters or accidents.

A report of any transfer effected under this section shall be filed with the legislative fiscal committees of the senate and house of representatives by the office of financial management.

Reappropriation:

St Bldg Constr Acct—State	\$	1
Prior Biennia (Expenditures)	\$	0
Future Biennia (Projected Costs)	\$	0
TOTAL	\$	1

NEW SECTION. Sec. 604. FOR CENTRAL WASHINGTON UNIVERSITY

Minor works: Program (96-2-130)

The reappropriation in this section is subject to the following conditions and limitations:

The reappropriation shall support the detailed list of projects maintained by the office of financial management.

Reappropriation:

CWU Cap Proj Acct—State	\$	1,000,000
Prior Biennia (Expenditures)	\$	1,500,000
Future Biennia (Projected Costs)	\$	0
TOTAL	\$	2,500,000

NEW SECTION. Sec. 605. FOR CENTRAL WASHINGTON UNIVERSITY

Chilled water systems: Improvements (98-1-020)

Appropriation:

St Bldg Constr Acct—State	\$	1,000,000
Prior Biennia (Expenditures)	\$	0
Future Biennia (Projected Costs)	\$	770,000
TOTAL	\$	1,770,000

NEW SECTION. Sec. 606. FOR CENTRAL WASHINGTON UNIVERSITY

Boiler Plant: Expansion (98-1-030)

Appropriation:

St Bldg Constr Acct—State	\$	1,450,000
Prior Biennia (Expenditures)	\$	0
Future Biennia (Projected Costs)	\$	0
TOTAL	\$	1,450,000

NEW SECTION. Sec. 607. FOR CENTRAL WASHINGTON UNIVERSITY

Electrical utility: Upgrades (98-1-110)

Appropriation:

St Bldg Constr Acct—State	\$	2,500,000
Prior Biennia (Expenditures)	\$	0
Future Biennia (Projected Costs)	\$	4,600,000
TOTAL	\$	7,100,000

NEW SECTION. Sec. 608. FOR CENTRAL WASHINGTON UNIVERSITY

Steamline replacement (98-1-120)

Appropriation:

St Bldg Constr Acct—State	\$	340,000
CWU Cap Proj Acct—State	\$	1,110,000
Subtotal Appropriation	\$	1,450,000
Prior Biennia (Expenditures)	\$	0
Future Biennia (Projected Costs)	\$	7,320,000
TOTAL	\$	8,770,000

NEW SECTION. Sec. 609. FOR CENTRAL WASHINGTON UNIVERSITY

Minor works: Preservation (98-1-130)

The appropriation in this section is subject to the following conditions and limitations:

The appropriation shall support the detailed list of projects maintained by the office of financial management.

Appropriation:

CWU Cap Proj Acct—State	\$	3,163,000
Prior Biennia (Expenditures)	\$	0
Future Biennia (Projected Costs)	\$	14,100,000
TOTAL	\$	17,263,000

NEW SECTION. Sec. 610. FOR CENTRAL WASHINGTON UNIVERSITY

Building indoor air quality: Improvements (98-1-170)

Appropriation:

CWU Cap Proj Acct—State	\$	429,000
Prior Biennia (Expenditures)	\$	0
Future Biennia (Projected Costs)	\$	<u>2,000,000</u>
TOTAL	\$	2,429,000

NEW SECTION. Sec. 611. FOR CENTRAL WASHINGTON UNIVERSITY

SeaTac Center Building: Renovation (98-2-010)

Appropriation:

St Bldg Constr Acct—State	\$	662,500
Prior Biennia (Expenditures)	\$	0
Future Biennia (Projected Costs)	\$	<u>0</u>
TOTAL	\$	662,500

NEW SECTION. Sec. 612. FOR CENTRAL WASHINGTON UNIVERSITY

Lynnwood Extended Degree Center: Facility improvements (98-2-080)

Appropriation:

St Bldg Constr Acct—State	\$	1,000,000
Prior Biennia (Expenditures)	\$	0
Future Biennia (Projected Costs)	\$	<u>0</u>
TOTAL	\$	1,000,000

NEW SECTION. Sec. 613. FOR CENTRAL WASHINGTON UNIVERSITY

Extended Degree Centers: Design and construction (98-2-090)

To conduct a predesign of the project described in this section in accordance with the predesign manual published by the office of financial management. Future appropriations for this project are subject to the submittal of completed predesign requirements on or before July 1, 1998.

Appropriation:

CWU Cap Proj Acct—State	\$	150,000
Prior Biennia (Expenditures)	\$	0
Future Biennia (Projected Costs)	\$	<u>2,000,000</u>
TOTAL	\$	2,150,000

NEW SECTION. Sec. 614. FOR CENTRAL WASHINGTON UNIVERSITY

Minor works: Program (98-2-135)

The appropriation in this section is subject to the following conditions and limitations:

The appropriation shall support the detailed list of projects maintained by the office of financial management.

Appropriation:

CWU Cap Proj Acct—State	\$	2,382,000
Prior Biennia (Expenditures)	\$	0
Future Biennia (Projected Costs)	\$	<u>11,200,000</u>
TOTAL	\$	13,582,000

NEW SECTION. Sec. 615. FOR THE EVERGREEN STATE COLLEGE

Minor works: Preservation (96-1-002)

Reappropriation:

TESC Cap Proj Acct—State	\$	160,000
St Bldg Constr Acct—State	\$	<u>175,000</u>
Subtotal Reappropriation	\$	335,000
Prior Biennia (Expenditures)	\$	2,790,121
Future Biennia (Projected Costs)	\$	<u>0</u>
TOTAL	\$	3,125,121

NEW SECTION. Sec. 616. FOR THE EVERGREEN STATE COLLEGE

Minor works: Safety and code (98-1-001)

The appropriation in this section is subject to the following conditions and limitations:

The appropriation shall support the detailed list of projects maintained by the office of financial management.

Appropriation:

St Bldg Constr Acct—State	\$	2,450,000
Prior Biennia (Expenditures)	\$	0
Future Biennia (Projected Costs)	\$	<u>16,705,000</u>
TOTAL	\$	19,155,000

NEW SECTION. Sec. 617. FOR THE EVERGREEN STATE COLLEGE

Minor works: Preservation (98-1-002)

The appropriation in this section is subject to the following conditions and limitations:

The appropriation shall support the detailed list of projects maintained by the office of financial management.

Appropriation:

St Bldg Constr Acct—State	\$ 2,000,000
TESC Cap Proj Acct—State	\$ <u>624,439</u>
Subtotal Appropriation	\$ 2,624,439
Prior Biennia (Expenditures)	\$ 0
Future Biennia (Projected Costs)	\$ <u>22,400,000</u>
TOTAL	\$ 25,024,439

**NEW SECTION. Sec. 618. FOR THE EVERGREEN STATE COLLEGE
Emergency repairs (98-1-003)**

Appropriation:

TESC Cap Proj Acct—State	\$ 559,312
Prior Biennia (Expenditures)	\$ 0
Future Biennia (Projected Costs)	\$ <u>2,240,000</u>
TOTAL	\$ 2,799,312

**NEW SECTION. Sec. 619. FOR THE EVERGREEN STATE COLLEGE
Seminar phase II: Predesign (98-2-004)**

Appropriation:

TESC Cap Proj Acct—State	\$ 140,000
Prior Biennia (Expenditures)	\$ 0
Future Biennia (Projected Costs)	\$ <u>16,788,775</u>
TOTAL	\$ 16,928,775

**NEW SECTION. Sec. 620. FOR THE EVERGREEN STATE COLLEGE
Lecture Hall: Improvements (98-2-005)**

Appropriation:

St Bldg Constr Acct—State	\$ 1,325,423
Prior Biennia (Expenditures)	\$ 0
Future Biennia (Projected Costs)	\$ <u>0</u>
TOTAL	\$ 1,325,423

**NEW SECTION. Sec. 621. FOR THE EVERGREEN STATE COLLEGE
Minor works: Program (98-2-006)**

The appropriation in this section is subject to the following conditions and limitations:

The appropriation shall support the detailed list of projects maintained by the office of financial management.

Appropriation:

TESC Cap Proj Acct—State	\$	1,800,000
Prior Biennia (Expenditures)	\$	0
Future Biennia (Projected Costs)	\$	<u>23,270,000</u>
TOTAL	\$	25,070,000

NEW SECTION. Sec. 622. FOR THE JOINT CENTER FOR HIGHER EDUCATION

Riverpoint Campus phase II (96-2-001)

Reappropriation:

St Bldg Constr Acct—State	\$	1,430,104
Prior Biennia (Expenditures)	\$	569,896
Future Biennia (Projected Costs)	\$	<u>0</u>
TOTAL	\$	2,000,000

NEW SECTION. Sec. 623. FOR THE JOINT CENTER FOR HIGHER EDUCATION

Infrastructure projects: Savings (98-1-003)

Projects that are completed in accordance with section 711 of this act that have been reviewed by the office of financial management may have their remaining funds transferred to this project for the following purposes: (1) Road and sidewalk repair; (2) roof repair; (3) electrical system repair; (4) steam and utility distribution system repair; (5) plumbing system repair; (6) heating, ventilating, and air conditioning repairs; and (7) emergency repairs due to natural disasters or accidents.

A report of any transfer effected under this section shall be filed with the legislative fiscal committees of the senate and house of representatives by the office of financial management.

Appropriation:

St Bldg Constr Acct—State	\$	1
Prior Biennia (Expenditures)	\$	0
Future Biennia (Projected Costs)	\$	<u>0</u>
TOTAL	\$	1

NEW SECTION. Sec. 624. FOR THE JOINT CENTER FOR HIGHER EDUCATION

Health Sciences Building: To design the complete (phase I and II) health science building. (98-2-001)

The appropriation in this section is subject to the following conditions and limitations:

(1) The appropriation in this section is subject to the review and allotment procedures under section 712 of this act.

(2) No money from this appropriation may be expended that would be inconsistent with the recommendations of the higher education coordinating board.

(3) Design of this building shall accommodate at least 240 additional student full-time equivalents on the Riverpoint campus.

(4) \$1,000,000 of the state building construction account appropriation shall be held in reserve until January 1, 1999.

(5) Design of this building, when used in conjunction with the building authorized in section 702(1)(b) of this act, shall accommodate all the academic programs offered by Eastern Washington University and Washington State University that are currently in leased space in the city of Spokane.

Reappropriation:

St Bldg Constr Acct—State \$ 1,310,000

Appropriation:

St Bldg Constr Acct—State \$ 1,375,375

Prior Biennia (Expenditures) \$ 0

Future Biennia (Projected Costs) \$ 29,219,025

TOTAL \$ 31,904,400

NEW SECTION. Sec. 625. FOR THE JOINT CENTER FOR HIGHER EDUCATION

Minor works: Program (98-2-002)

The appropriation in this section is subject to the following conditions and limitations:

The appropriation shall support the detailed list of projects maintained by the office of financial management.

Appropriation:

St Bldg Constr Acct—State \$ 161,500

Prior Biennia (Expenditures) \$ 0

Future Biennia (Projected Costs) \$ 400,000

TOTAL \$ 561,500

NEW SECTION. Sec. 626. FOR WESTERN WASHINGTON UNIVERSITY

Infrastructure projects: Savings (94-1-999)

Projects that are completed in accordance with section 711 of this act that have been reviewed by the office of financial management may have their remaining funds transferred to this project for the following purposes: (1) Road and sidewalk

repair; (2) roof repair; (3) electrical system repair; (4) steam and utility distribution system repair; (5) plumbing system repair; (6) heating, ventilation, and air conditioning repairs; and (7) emergency repairs due to natural disasters or accidents.

A report of any transfer effected under this section shall be filed with the legislative fiscal committees of the senate and house of representatives by the office of financial management.

Reappropriation:

St Bldg Constr Acct—State	\$	1
Prior Biennia (Expenditures)	\$	0
Future Biennia (Projected Costs)	\$	<u>0</u>
TOTAL	\$	1

NEW SECTION. Sec. 627. FOR WESTERN WASHINGTON UNIVERSITY

Science facility, phase III: Construction (94-2-014)

The reappropriation in this section is subject to the review and allotment procedures under section 712 of this act.

Reappropriation:

St Bldg Constr Acct—State	\$	1,265,000
Prior Biennia (Expenditures)	\$	11,387,938
Future Biennia (Projected Costs)	\$	<u>0</u>
TOTAL	\$	12,652,938

NEW SECTION. Sec. 628. FOR WESTERN WASHINGTON UNIVERSITY

Haggard Hall renovation and abatement: Construction (94-2-015)

The reappropriation in this section is subject to the review and allotment procedures under section 712 of this act.

Reappropriation:

St Bldg Constr Acct—State	\$	16,300,000
WWU Cap Proj Acct—State	\$	<u>3,150,000</u>
Subtotal Reappropriation	\$	19,450,000
Prior Biennia (Expenditures)	\$	2,754,404
Future Biennia (Projected Costs)	\$	<u>0</u>
TOTAL	\$	22,204,404

NEW SECTION. Sec. 529. FOR WESTERN WASHINGTON UNIVERSITY

Minor works: Preservation (96-1-030)

The reappropriation in this section shall support the detailed list of projects maintained by the office of financial management.

Reappropriation:

WWU Cap Proj Acct—State	\$	500,000
Prior Biennia (Expenditures)	\$	800,000
Future Biennia (Projected Costs)	\$	0
TOTAL	\$	1,300,000

NEW SECTION. Sec. 630. FOR WESTERN WASHINGTON UNIVERSITY

Minor works: Infrastructure preservation (96-1-061)

The reappropriation in this section shall support the detailed list of projects maintained by the office of financial management.

Reappropriation:

St Bldg Constr Acct—State	\$	820,000
Prior Biennia (Expenditures)	\$	830,000
Future Biennia (Projected Costs)	\$	0
TOTAL	\$	1,650,000

NEW SECTION. Sec. 631. FOR WESTERN WASHINGTON UNIVERSITY

Minor works: Program (96-2-028)

The reappropriation in this section shall support the detailed list of projects maintained by the office of financial management.

Reappropriation:

St Bldg Constr Acct—State	\$	1,445,000
WWU Cap Proj Acct—State	\$	1,200,000
Subtotal Reappropriation	\$	2,645,000
Prior Biennia (Expenditures)	\$	3,205,000
Future Biennia (Projected Costs)	\$	0
TOTAL	\$	5,850,000

NEW SECTION. Sec. 632. FOR WESTERN WASHINGTON UNIVERSITY

Recreation and physical education fields phase I (96-2-051)

Reappropriation:

St Bldg Constr Acct—State	\$	175,000
Prior Biennia (Expenditures)	\$	2,491,000
Future Biennia (Projected Costs)	\$	0

TOTAL \$ 2,666,000

NEW SECTION. Sec. 633. FOR WESTERN WASHINGTON UNIVERSITY

Integrated signal distribution—Construct: To construct a campus network system (96-2-056)

Reappropriation:

St Bldg Constr Acct—State \$ 250,000

Appropriation:

St Bldg Constr Acct—State \$ 8,262,500

Prior Biennia (Expenditures) \$ 965,400

Future Biennia (Projected Costs) \$ 5,000,000

TOTAL \$ 14,477,900

NEW SECTION. Sec. 634. FOR WESTERN WASHINGTON UNIVERSITY

Minor works: Preservation (98-1-064)

The appropriation in this section is subject to the following conditions and limitations:

The appropriation shall support the detailed list of projects maintained by the office of financial management.

Appropriation:

St Bldg Constr Acct—State \$ 4,700,000

WWU Cap Proj Acct—State \$ 2,000,000

Subtotal Appropriation \$ 6,700,000

Prior Biennia (Expenditures) \$ 0

Future Biennia (Projected Costs) \$ 24,000,000

TOTAL \$ 30,700,000

NEW SECTION. Sec. 635. FOR WESTERN WASHINGTON UNIVERSITY

Communications facility: Predesign (98-2-053)

To conduct a predesign of the project described in this section in accordance with the predesign manual published by the office of financial management. Future appropriations for this project are subject to the submittal of completed predesign requirements on or before July 1, 1998.

Appropriation:

St Bldg Constr Acct—State \$ 204,400

Prior Biennia (Expenditures) \$ 0

Future Biennia (Projected Costs) \$ 42,400,000

TOTAL \$ 42,604,400

NEW SECTION. Sec. 636. FOR WESTERN WASHINGTON UNIVERSITY

Minor works: Program (98-2-063)

The appropriation in this section is subject to the following conditions and limitations:

The appropriation shall support the detailed list of projects maintained by the office of financial management.

Appropriation:

WWU Cap Proj Acct—State	\$ 5,628,529
Prior Biennia (Expenditures)	\$ 0
Future Biennia (Projected Costs)	\$ 24,000,000
TOTAL	\$ 29,628,529

NEW SECTION. Sec. 637. FOR WESTERN WASHINGTON UNIVERSITY

Campus services facility: Design (96-2-025)

The appropriation in this section is subject to the following conditions and limitations:

(1) The appropriation is subject to the review and allotment procedures under section 712 of this act.

(2) The university shall comply with local comprehensive land use laws and regulations for this project.

(3) Funds provided in this section shall not be expended until the neighborhood impact analysis and transportation planning and review activities funded in section 639 of this act are substantially complete.

Appropriation:

St Bldg Constr Acct—State	\$ 987,050
WWU Cap Proj Acct—State	\$ 204,750
Subtotal Appropriation	\$ 1,191,800
Prior Biennia (Expenditures)	\$ 100,000
Future Biennia (Projected Costs)	\$ 8,564,700
TOTAL	\$ 9,856,500

NEW SECTION. Sec. 638. FOR WESTERN WASHINGTON UNIVERSITY

Facility and property acquisition: (98-2-023)

The appropriation in this section is subject to the following conditions and limitations:

The university shall comply with local comprehensive land use laws and regulations for this project.

Appropriation:

St Bldg Constr Acct—State	\$	4,000,000
Prior Biennia (Expenditures)	\$	0
Future Biennia (Projected Costs)	\$	4,000,000
TOTAL	\$	8,000,000

NEW SECTION. Sec. 639. FOR WESTERN WASHINGTON UNIVERSITY

Campus infrastructure: Development (98-2-024)

The appropriation in this section is subject to the following conditions and limitations:

The university shall comply with local comprehensive land use laws and regulations for this project.

Appropriation:

St Bldg Constr Acct—State	\$	450,000
Prior Biennia (Expenditures)	\$	0
Future Biennia (Projected Costs)	\$	9,986,000
TOTAL	\$	10,436,600

NEW SECTION. Sec. 640. FOR THE WASHINGTON STATE HISTORICAL SOCIETY

Stadium Way facility: Seismic and infrastructure repair (96-1-102)

The appropriation in this section is subject to the review and allotment procedures under section 712 of this act.

Reappropriation:

St Bldg Constr Acct—State	\$	196,463
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Appropriation:

St Bldg Constr Acct—State	\$	2,920,000
Prior Biennia (Expenditures)	\$	306,163
Future Biennia (Projected Costs)	\$	1,743,000
TOTAL	\$	5,165,626

NEW SECTION. Sec. 641. FOR THE WASHINGTON STATE HISTORICAL SOCIETY

State Capital Museum: Preservation (98-1-001)

The appropriation in this section is subject to the following conditions and limitations:

The appropriation shall support the detailed list of projects maintained by the office of financial management.

Appropriation:

St Bldg Constr Acct—State	\$	200,000
Prior Biennia (Expenditures)	\$	0
Future Biennia (Projected Costs)	\$	110,000
TOTAL	\$	310,000

NEW SECTION. Sec. 642. FOR THE WASHINGTON STATE HISTORICAL SOCIETY

Minor works (98-1-003)

The appropriation in this section is subject to the following conditions and limitations:

\$62,000 of the appropriation is provided solely for exhibits in the legislative building.

Appropriation:

St Bldg Constr Acct—State	\$	145,000
Prior Biennia (Expenditures)	\$	0
Future Biennia (Projected Costs)	\$	700,000
TOTAL	\$	845,000

NEW SECTION. Sec. 643. FOR THE WASHINGTON STATE HISTORICAL SOCIETY

Washington heritage projects: For grants to local heritage organizations for facility construction, improvements or additions, purchase, restoration and preservation of fixed historic assets, acquisition of equipment, property or sites, interior physical improvements, and design costs (98-2-004)

The appropriations in this section are subject to the following conditions and limitations:

(1) The appropriations are provided for the approved list of projects included in LEAP CAPITAL DOCUMENT NO. H-3 as developed on April 15, 1997, at 9:30 a.m.

(2) The state grant may provide no more than one-third of the actual total capital cost of the project, or the amount of state assistance listed in LEAP CAPITAL DOCUMENT NO. H-3, whichever is less. The remaining portions of project capital costs shall be a match from nonstate sources. The match may include cash, land value and documented in-kind gifts and support.

(3) By December 15, 1997, the society shall submit a report to the appropriate fiscal committees of the legislature and to the office of financial management on the progress of the heritage program, including a list of projects funded under this section.

Appropriation:

St Bldg Constr Acct—State	\$ 4,100,000
Prior Biennia (Expenditures)	\$ 0
Future Biennia (Projected Costs)	\$ 15,000,000
TOTAL	\$ 19,100,000

NEW SECTION. Sec. 644. FOR THE EASTERN WASHINGTON STATE HISTORICAL SOCIETY

Minor works: Preservation (98-1-004)

The appropriation in this section is subject to the following conditions and limitations:

The appropriation shall support the detailed list of projects maintained by the office of financial management.

Appropriation:

St Bldg Constr Acct—State	\$ 200,000
Prior Biennia (Expenditures)	\$ 0
Future Biennia (Projected Costs)	\$ 975,000
TOTAL	\$ 1,175,000

NEW SECTION. Sec. 645. FOR THE EASTERN WASHINGTON STATE HISTORICAL SOCIETY

Cheney Cowies Museum: Addition design (98-2-001)

The appropriation in this section is subject to the following conditions and limitations:

(1) The appropriation in this section is subject to the review and allotment procedures under section 712 of this act.

(2) The appropriation in this section shall be matched by at least 20 percent from nonstate sources.

Appropriation:

St Bldg Constr Acct—State	\$ 1,900,000
Prior Biennia (Expenditures)	\$ 0
Future Biennia (Projected Costs)	\$ 14,100,000
TOTAL	\$ 16,000,000

NEW SECTION. Sec. 646. FOR THE STATE BOARD FOR COMMUNITY AND TECHNICAL COLLEGES

Construct physical education facility: North Seattle Community College (90-5-011)

Reappropriation:

St Bldg Constr Acct—State	\$ 1,574,617
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Prior Biennia (Expenditures)	\$	6,974,234
Future Biennia (Projected Costs)	\$	<u>0</u>
TOTAL	\$	8,548,851

NEW SECTION. Sec. 647. FOR THE STATE BOARD FOR COMMUNITY AND TECHNICAL COLLEGES

Construct Student Center Building: South Seattle Community College (90-5-016)

Reappropriation:

St Bldg Constr Acct—State	\$	117,544
Prior Biennia (Expenditures)	\$	5,249,154
Future Biennia (Projected Costs)	\$	<u>0</u>
TOTAL	\$	5,366,698

NEW SECTION. Sec. 648. FOR THE STATE BOARD FOR COMMUNITY AND TECHNICAL COLLEGES

Repairs and minor improvements (94-1-001)

Reappropriation:

St Bldg Constr Acct—State	\$	3,073,389
Prior Biennia (Expenditures)	\$	35,333,569
Future Biennia (Projected Costs)	\$	<u>0</u>
TOTAL	\$	38,406,958

NEW SECTION. Sec. 649. FOR THE STATE BOARD FOR COMMUNITY AND TECHNICAL COLLEGES

Renovate Seattle Vocational Institute facility (94-1-733)

Reappropriation:

St Bldg Constr Acct—State	\$	74,617
Prior Biennia (Expenditures)	\$	7,482,587
Future Biennia (Projected Costs)	\$	<u>0</u>
TOTAL	\$	7,557,204

NEW SECTION. Sec. 650. FOR THE STATE BOARD FOR COMMUNITY AND TECHNICAL COLLEGES

Minor improvement projects (94-2-400)

Reappropriation:

St Bldg Constr Acct—State	\$	353,105
Prior Biennia (Expenditures)	\$	11,117,929

Future Biennia (Projected Costs)	\$	<u>0</u>
TOTAL	\$	11,471,034

NEW SECTION. Sec. 651. FOR THE STATE BOARD FOR COMMUNITY AND TECHNICAL COLLEGES

Puyallup phase II: Pierce College (94-2-601)

The reappropriation in this section is subject to the review and allotment procedures under section 712 of this act.

Reappropriation:

St Bldg Constr Acct—State	\$	1,677,483
Prior Biennia (Expenditures)	\$	12,091,600
Future Biennia (Projected Costs)	\$	<u>0</u>
TOTAL	\$	13,769,083

NEW SECTION. Sec. 652. FOR THE STATE BOARD FOR COMMUNITY AND TECHNICAL COLLEGES

Construct vocational building: Skagit Valley College (94-2-602)

The reappropriation in this section is subject to the review and allotment procedures under section 712 of this act.

Reappropriation:

St Bldg Constr Acct—State	\$	75,953
Prior Biennia (Expenditures)	\$	2,403,853
Future Biennia (Projected Costs)	\$	<u>0</u>
TOTAL	\$	2,479,806

NEW SECTION. Sec. 653. FOR THE STATE BOARD FOR COMMUNITY AND TECHNICAL COLLEGES

Construct Learning Resource Center, Fine Arts, Student Center: Whatcom Community College (94-2-603)

The reappropriation in this section is subject to the review and allotment procedures under section 712 of this act.

Reappropriation:

St Bldg Constr Acct—State	\$	660,564
Prior Biennia (Expenditures)	\$	7,804,180
Future Biennia (Projected Costs)	\$	<u>0</u>
TOTAL	\$	8,464,744

NEW SECTION. Sec. 654. FOR THE STATE BOARD FOR COMMUNITY AND TECHNICAL COLLEGES

Construct classroom and laboratory building: Edmonds Community College (94-2-604)

The reappropriation in this section is subject to the review and allotment procedures under section 712 of this act.

Reappropriation:

St Bldg Constr Acct—State	\$	7,533,832
Prior Biennia (Expenditures)	\$	5,563,460
Future Biennia (Projected Costs)	\$	0
TOTAL	\$	13,097,292

NEW SECTION. Sec. 655. FOR THE STATE BOARD FOR COMMUNITY AND TECHNICAL COLLEGES

Construct Technical Educational Building: South Puget Sound Community College (94-2-605)

The reappropriation in this section is subject to the review and allotment procedures under section 712 of this act.

Reappropriation:

St Bldg Constr Acct—State	\$	264,777
Prior Biennia (Expenditures)	\$	6,741,626
Future Biennia (Projected Costs)	\$	0
TOTAL	\$	7,006,403

NEW SECTION. Sec. 656. FOR THE STATE BOARD FOR COMMUNITY AND TECHNICAL COLLEGES

Construct Center for Information Technology: Green River Community College (94-2-606)

The reappropriation in this section is subject to the review and allotment procedures under section 712 of this act.

Reappropriation:

St Bldg Constr Acct—State	\$	7,610,438
Prior Biennia (Expenditures)	\$	10,476,468
Future Biennia (Projected Costs)	\$	0
TOTAL	\$	18,086,906

NEW SECTION. Sec. 657. FOR THE STATE BOARD FOR COMMUNITY AND TECHNICAL COLLEGES

Americans with Disabilities Act improvements (94-5-001)

Reappropriation:

St Bldg Constr Acct—State	\$	296,560
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Prior Biennia (Expenditures)	\$	3,344,818
Future Biennia (Projected Costs)	\$	<u>0</u>
TOTAL	\$	3,641,378

NEW SECTION. Sec. 658. FOR THE STATE BOARD FOR COMMUNITY AND TECHNICAL COLLEGES

Small repairs and improvements and underground storage tank removal (96-1-001)

Reappropriation:

St Bldg Constr Acct—State	\$	5,097,011
Prior Biennia (Expenditures)	\$	5,351,596
Future Biennia (Projected Costs)	\$	<u>0</u>
TOTAL	\$	10,448,607

NEW SECTION. Sec. 659. FOR THE STATE BOARD FOR COMMUNITY AND TECHNICAL COLLEGES

Asbestos abatement (96-1-002)

Reappropriation:

St Bldg Constr Acct—State	\$	484,317
Prior Biennia (Expenditures)	\$	1,142,040
Future Biennia (Projected Costs)	\$	<u>0</u>
TOTAL	\$	1,626,357

NEW SECTION. Sec. 660. FOR THE STATE BOARD FOR COMMUNITY AND TECHNICAL COLLEGES

Americans with Disabilities Act improvements (96-1-003)

Reappropriation:

St Bldg Constr Acct—State	\$	1,208,834
Prior Biennia (Expenditures)	\$	1,035,408
Future Biennia (Projected Costs)	\$	<u>0</u>
TOTAL	\$	2,244,242

NEW SECTION. Sec. 661. FOR THE STATE BOARD FOR COMMUNITY AND TECHNICAL COLLEGES

Roof repairs (96-1-010)

Reappropriation:

St Bldg Constr Acct—State	\$	1,824,529
Prior Biennia (Expenditures)	\$	3,581,471
Future Biennia (Projected Costs)	\$	<u>0</u>

TOTAL \$ 5,406,000

NEW SECTION. Sec. 662. FOR THE STATE BOARD FOR COMMUNITY AND TECHNICAL COLLEGES

Heating, ventilation, and air conditioning repairs (96-1-030)

Reappropriation:

St Bldg Constr Acct—State	\$ 1,203,772
Prior Biennia (Expenditures)	\$ 6,384,228
Future Biennia (Projected Costs)	\$ 0
TOTAL	\$ 7,588,000

NEW SECTION. Sec. 663. FOR THE STATE BOARD FOR COMMUNITY AND TECHNICAL COLLEGES

Mechanical repairs (96-1-060)

Reappropriation:

St Bidg Constr Acct—State	\$ 565,473
Prior Biennia (Expenditures)	\$ 696,527
Future Biennia (Projected Costs)	\$ 0
TOTAL	\$ 1,262,000

NEW SECTION. Sec. 664. FOR THE STATE BOARD FOR COMMUNITY AND TECHNICAL COLLEGES

Electrical repairs (96-1-080)

Reappropriation:

St Bldg Constr Acct—State	\$ 835,487
Prior Biennia (Expenditures)	\$ 1,356,513
Future Biennia (Projected Costs)	\$ 0
TOTAL	\$ 2,192,000

NEW SECTION. Sec. 665. FOR THE STATE BOARD FOR COMMUNITY AND TECHNICAL COLLEGES

Exterior repairs (96-1-100)

Reappropriation:

St Bldg Constr Acct—State	\$ 1,872,955
Prior Biennia (Expenditures)	\$ 546,045
Future Biennia (Projected Costs)	\$ 0
TOTAL	\$ 2,419,000

NEW SECTION. Sec. 666. FOR THE STATE BOARD FOR COMMUNITY AND TECHNICAL COLLEGES

Interior repairs (96-1-120)

Reappropriation:

St Bldg Constr Acct—State	\$	1,127,361
Prior Biennia (Expenditures)	\$	405,639
Future Biennia (Projected Costs)	\$	<u>0</u>
TOTAL	\$	1,533,000

NEW SECTION. Sec. 667. FOR THE STATE BOARD FOR COMMUNITY AND TECHNICAL COLLEGES

Site repairs (96-1-140)

Reappropriation:

St Bldg Constr Acct—State	\$	719,903
Prior Biennia (Expenditures)	\$	1,466,097
Future Biennia (Projected Costs)	\$	<u>0</u>
TOTAL	\$	2,186,000

NEW SECTION. Sec. 668. FOR THE STATE BOARD FOR COMMUNITY AND TECHNICAL COLLEGES

Infrastructure project savings (96-1-500)

Projects that are completed in accordance with section 711 of this act that have been reviewed by the office of financial management may have their remaining funds transferred to this project for the following purposes: (1) Road and sidewalk repair; (2) roof repair; (3) electrical system repair; (4) steam and utility distribution system repair; (5) plumbing system repair; (6) heating, ventilation, and air conditioning repairs; and (7) emergency repairs due to natural disasters or accidents.

A report of any transfer effected under this section shall be filed with the legislative fiscal committees of the senate and house of representatives by the office of financial management.

Reappropriation:

St Bldg Constr Acct—State	\$	1
Prior Biennia (Expenditures)	\$	0
Future Biennia (Projected Costs)	\$	<u>0</u>
TOTAL	\$	1

NEW SECTION. Sec. 669. FOR THE STATE BOARD FOR COMMUNITY AND TECHNICAL COLLEGES

Repair and minor improvement projects (96-2-199)

Reappropriation:

St Bldg Constr Acct—State	\$	4,096,160
Prior Biennia (Expenditures)	\$	9,195,966
Future Biennia (Projected Costs)	\$	0
TOTAL	\$	13,292,126

NEW SECTION. Sec. 670. FOR THE STATE BOARD FOR COMMUNITY AND TECHNICAL COLLEGES

Project artwork consolidation account (96-2-400)

Reappropriation:

St Bldg Constr Acct—State	\$	304,008
Prior Biennia (Expenditures)	\$	0
Future Biennia (Projected Costs)	\$	0
TOTAL	\$	304,008

NEW SECTION. 671. FOR THE STATE BOARD FOR COMMUNITY AND TECHNICAL COLLEGES

North Scattle Community College—Vocational and chlld care buildings: Construction (96-2-651)

The appropriation in this section is subject to the review and allotment procedures under section 712 of this act.

Reappropriation:

St Bldg Constr Acct—State	\$	512,251
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Appropriation:

St Bldg Constr Acct—State	\$	14,390,847
Prior Biennia (Expenditures)	\$	426,973
Future Biennia (Projected Costs)	\$	0
TOTAL	\$	15,330,071

NEW SECTION. Sec. 672. FOR THE STATE BOARD FOR COMMUNITY AND TECHNICAL COLLEGES

Everett Community College—Iustrctional Technology Center: Construction (96-2-652)

The appropriation in this section is subject to the review and allotment procedures under section 712 of this act.

Reappropriation:

St Bldg Constr Acct—State	\$	2,641,157
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Appropriation:

St Bldg Constr Acct—State	\$	16,421,773
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Prior Biennia (Expenditures)	\$	942,423
Future Biennia (Projected Costs)	\$	<u>0</u>
TOTAL	\$	20,005,353

NEW SECTION. Sec. 673. FOR THE STATE BOARD FOR COMMUNITY AND TECHNICAL COLLEGES

South Seattle Community College—Integrated learning assistance resource center: Construction (96-2-653)

The appropriation in this section is subject to the review and allotment procedures under section 712 of this act.

Reappropriation:		
St Bldg Constr Acct—State	\$	461,612
Appropriation:		
St Bldg Constr Acct—State	\$	8,255,584
Prior Biennia (Expenditures)	\$	152,120
Future Biennia (Projected Costs)	\$	<u>0</u>
TOTAL	\$	8,869,316

NEW SECTION. Sec. 674. FOR THE STATE BOARD FOR COMMUNITY AND TECHNICAL COLLEGES

Olympic College—Poulsho Center: Design (96-2-654)

The appropriation in this section is subject to the review and allotment procedures under section 712 of this act.

Reappropriation:		
St Bldg Constr Acct—State	\$	317,916
Prior Biennia (Expenditures)	\$	463,443
Future Biennia (Projected Costs)	\$	<u>11,215,466</u>
TOTAL	\$	11,996,825

NEW SECTION. Sec. 675. FOR THE STATE BOARD FOR COMMUNITY AND TECHNICAL COLLEGES

Bellevue Community College—Classrooms and Laboratories: Construction (96-2-655)

The appropriation in this section is subject to the review and allotment procedures under section 712 of this act.

Reappropriation:		
St Bldg Constr Acct—State	\$	53,961
Appropriation:		
St Bldg Constr Acct—State	\$	9,670,882
Prior Biennia (Expenditures)	\$	566,207

Future Biennia (Projected Costs)	\$	<u>0</u>
TOTAL	\$	10,291,050

NEW SECTION. Sec. 676. FOR THE STATE BOARD FOR COMMUNITY AND TECHNICAL COLLEGES

Clover Park Technical College—Aviation trades complex: Design (96-2-998)

The reappropriation in this section is subject to the review and allotment procedures under section 712 of this act.

Reappropriation:

St Bldg Constr Acct—State	\$	573,307
Prior Biennia (Expenditures)	\$	1,947,693
Future Biennia (Projected Costs)	\$	<u>8,866,700</u>
TOTAL	\$	11,387,700

NEW SECTION. Sec. 677. FOR THE STATE BOARD FOR COMMUNITY AND TECHNICAL COLLEGES

Olympic College Library replacement (98-2-500)

Reappropriation:

St Bldg Constr Acct—State	\$	1,669,563
General Fund—Federal	\$	<u>5,008,686</u>
Subtotal Reappropriation	\$	6,678,249
Prior Biennia (Expenditures)	\$	0
Future Biennia (Projected Costs)	\$	<u>0</u>
TOTAL	\$	6,678,249

NEW SECTION. Sec. 678. FOR THE STATE BOARD FOR COMMUNITY AND TECHNICAL COLLEGES

Yakima Valley College—Replace pedestrian street crossing (96-1-400)

The appropriation in this section is provided solely to use with other nonstate sources for the construction or installation of a pedestrian street crossing or other safety improvements in lieu of a street crossing. The college shall ensure that this appropriation is expended only for the direct cost of the construction or installation of the street crossing improvements.

Reappropriation:

St Bldg Constr Acct—State	\$	100,000
Prior Biennia (Expenditures)	\$	0
Future Biennia (Projected Costs)	\$	<u>0</u>
TOTAL	\$	100,000

NEW SECTION. Sec. 679. FOR THE STATE BOARD FOR COMMUNITY AND TECHNICAL COLLEGES

Olympic College—Cental heating repairs (98-1-043)

Reappropriation:

St Bldg Constr Acct—State	\$ 2,410,000
Prior Biennia (Expenditures)	\$ 0
Future Biennia (Projected Costs)	\$ <u>0</u>
TOTAL	\$ 2,410,000

NEW SECTION. Sec. 680. FOR THE STATE BOARD FOR COMMUNITY AND TECHNICAL COLLEGES

Repair and minor improvement (98-1-001)

Appropriation:

St Bldg Constr Acct—State	\$ 11,000,000
Prior Biennia (Expenditures)	\$ 10,000,000
Future Biennia (Projected Costs)	\$ <u>39,000,000</u>
TOTAL	\$ 60,000,000

NEW SECTION. Sec. 681. FOR THE STATE BOARD FOR COMMUNITY AND TECHNICAL COLLEGES

Roof repairs (98-1-010)

Appropriation:

St Bldg Constr Acct—State	\$ 11,580,400
Prior Biennia (Expenditures)	\$ 0
Future Biennia (Projected Costs)	\$ <u>41,000,000</u>
TOTAL	\$ 52,580,400

NEW SECTION. Sec. 682. FOR THE STATE BOARD FOR COMMUNITY AND TECHNICAL COLLEGES

Heating, ventilation, and air conditioning repairs (98-1-040)

Appropriation:

St Bldg Constr Acct—State	\$ 10,350,000
Prior Biennia (Expenditures)	\$ 0
Future Biennia (Projected Costs)	\$ <u>34,000,000</u>
TOTAL	\$ 44,350,000

NEW SECTION. Sec. 683. FOR THE STATE BOARD FOR COMMUNITY AND TECHNICAL COLLEGES

Mechanical repairs (98-1-070)

Appropriation:

St Bldg Constr Acct—State	\$ 2,632,300
Prior Biennia (Expenditures)	\$ 0
Future Biennia (Projected Costs)	\$ <u>8,000,000</u>
TOTAL	\$ 10,632,300

NEW SECTION. Sec. 684. FOR THE STATE BOARD FOR COMMUNITY AND TECHNICAL COLLEGES

Electrical repairs (98-1-090)

Appropriation:

St Bldg Constr Acct—State	\$ 4,049,400
Prior Biennia (Expenditures)	\$ 0
Future Biennia (Projected Costs)	\$ <u>10,000,000</u>
TOTAL	\$ 14,049,400

NEW SECTION. Sec. 685. FOR THE STATE BOARD FOR COMMUNITY AND TECHNICAL COLLEGES

Exterior repairs (98-1-110)

Appropriation:

St Bldg Constr Acct—State	\$ 4,124,200
Prior Biennia (Expenditures)	\$ 0
Future Biennia (Projected Costs)	\$ <u>12,000,000</u>
TOTAL	\$ 16,124,200

NEW SECTION. Sec. 686. FOR THE STATE BOARD FOR COMMUNITY AND TECHNICAL COLLEGES

Interior repairs (98-1-130)

Appropriation:

St Bldg Constr Acct—State	\$ 2,386,500
Prior Biennia (Expenditures)	\$ 0
Future Biennia (Projected Costs)	\$ <u>6,000,000</u>
TOTAL	\$ 8,386,500

NEW SECTION. Sec. 687. FOR THE STATE BOARD FOR COMMUNITY AND TECHNICAL COLLEGES

Site repalrs (98-1-150)

Appropriation:

St Bldg Constr Acct—State	\$ 1,175,400
Prior Biennia (Expenditures)	\$ 0

Future Biennia (Projected Costs)	\$ 2,000,000
TOTAL	\$ 3,175,400

NEW SECTION. Sec. 688. FOR THE STATE BOARD FOR COMMUNITY AND TECHNICAL COLLEGES

Minor improvements (98-2-200)

Appropriation:

St Bldg Constr Acct—State	\$ 12,918,900
Prior Biennia (Expenditures)	\$ 0
Future Biennia (Projected Costs)	\$ 40,000,000
TOTAL	\$ 52,918,900

NEW SECTION. Sec. 689. FOR THE STATE BOARD FOR COMMUNITY AND TECHNICAL COLLEGES

Bates Technical College: Renovation (98-1-190)

Appropriation:

St Bidg Constr Acct—State	\$ 4,813,100
Prior Biennia (Expenditures)	\$ 0
Future Biennia (Projected Costs)	\$ 0
TOTAL	\$ 4,813,100

NEW SECTION. Sec. 690. FOR THE STATE BOARD FOR COMMUNITY AND TECHNICAL COLLEGES

Bellingham Technical College: Renovation (98-1-191)

Appropriation:

St Bldg Constr Acct—State	\$ 1,398,000
Prior Biennia (Expenditures)	\$ 0
Future Biennia (Projected Costs)	\$ 0
TOTAL	\$ 1,398,000

NEW SECTION. Sec. 691. FOR THE STATE BOARD FOR COMMUNITY AND TECHNICAL COLLEGES

Clover Park Technical College: Renovation (98-1-192)

Appropriation:

St Bidg Constr Acct—State	\$ 3,796,000
Prior Biennia (Expenditures)	\$ 0
Future Biennia (Projected Costs)	\$ 0
TOTAL	\$ 3,796,000

NEW SECTION. Sec. 692. FOR THE STATE BOARD FOR COMMUNITY AND TECHNICAL COLLEGES

Seattle Central Community College: Reuovation (98-1-193)

Appropriation:

St Bldg Constr Acct—State	\$	4,851,300
Prior Biennia (Expenditures)	\$	0
Future Biennia (Projected Costs)	\$	0
TOTAL	\$	4,851,300

NEW SECTION. Sec. 693. FOR THE STATE BOARD FOR COMMUNITY AND TECHNICAL COLLEGES

Highline Community College—Classroom and lahoratory building: Design (98-2-660)

Appropriation:

St Bldg Constr Acct—State	\$	390,700
Prior Biennia (Expenditures)	\$	16,059
Future Biennia (Projected Costs)	\$	4,114,500
TOTAL	\$	4,521,259

NEW SECTION. Sec. 694. FOR THE STATE BOARD FOR COMMUNITY AND TECHNICAL COLLEGES

Spokane Community College—Health Science addition: Design (98-2-661)

Appropriation:

St Bldg Constr Acct—State	\$	692,717
Prior Biennia (Expenditures)	\$	26,417
Future Biennia (Projected Costs)	\$	9,249,283
TOTAL	\$	9,968,417

NEW SECTION. Sec. 695. FOR THE STATE BOARD FOR COMMUNITY AND TECHNICAL COLLEGES

Predesign: Major projects (98-2-670)

The appropriation in this section is subject to the following conditions and limitations:

(1) The appropriation in this section is subject to the review and allotment procedures under section 712 of this act.

(2) To be considered for design funding in the 1999-01 biennium predesigns must be submitted to the office of financial management for review and approval before July 1, 1998.

Appropriation:

St Bldg Constr Acct—State	\$	400,000
Prior Biennia (Expenditures)	\$	0
Future Biennia (Projected Costs)	\$	<u>149,538,800</u>
TOTAL	\$	149,938,800

NEW SECTION. Sec. 696. FOR THE STATE BOARD FOR COMMUNITY AND TECHNICAL COLLEGES

Cascadia Community College and University of Washington - Bothell: Construction (98-2-999)

The appropriation in this section is subject to the following conditions and limitations:

(1) No money from this appropriation may be expended that would be inconsistent with the recommendations of the higher education coordinating board and the project design, scope, and schedule approved by the office of financial management.

(2) \$3,000,000 of this appropriation is provided solely for design of phase IIA of this project to accommodate an additional 1,000 University of Washington and community college student full-time equivalents for the colocated campus.

(3) The appropriation in this section is subject to the review and allotment procedures under sections 712 and 714 of this act.

(4) The appropriation in this section is to be combined with the appropriations shown in sections 538 and 539 of this act and shall be managed by the University of Washington to construct a campus to serve at least 2,000 student full-time equivalents with approximately 1,200 for the University of Washington and 800 for Cascadia Community College.

Appropriation:

St Bldg Constr Acct—State	\$	45,970,000
Prior Biennia (Expenditures)	\$	0
Future Biennia (Projected Costs)	\$	<u>79,000,000</u>
TOTAL	\$	124,970,000

**PART 6
MISCELLANEOUS**

NEW SECTION. Sec. 701. The estimated debt service costs impacting future general fund expenditures related solely to new capital appropriations within this act are \$12,824,000 during the 1997-99 fiscal period; \$81,818,000 during the 1999-01 fiscal period; \$188,122,000 during the 2001-03 fiscal period; \$123,822,000 during the 2003-05 fiscal period; and \$129,211,000 during the 2005-07 fiscal period.

NEW SECTION. Sec. 702. ACQUISITION OF PROPERTIES AND FACILITIES THROUGH FINANCIAL CONTRACTS. The following agencies

may enter into financial contracts, paid for from operating revenues, for the purposes indicated and in not more than the principal amounts indicated, plus financing expenses and required reserves pursuant to chapter 39.94 RCW. When securing properties under this section, agencies shall use the most economical financial contract option available, including long-term leases, lease-purchase agreements, lease-development with option to purchase agreements or financial contracts using certificates of participation. The director of general administration shall ensure that the clustering of state facilities and the collocation and consolidation of state agencies take place where such configurations are economical and consistent with agency space needs. Agencies shall assist the department of general administration with facility collocation and consolidation efforts.

State agencies may enter into agreements with the department of general administration and the state treasurer's office to develop requests to the legislature for acquisition of properties and facilities through financial contracts. The agreements may include charges for services rendered.

(1) Department of general administration:

(a) Enter into a financing contract in the amount of \$8,804,000 plus financing expenses and required reserves pursuant to chapter 39.94 RCW, to purchase an existing office building and associated land in Yakima for use by the department of social and health services.

(b) Enter into a financing contract on behalf of the joint center for higher education for \$8,500,000 plus financing expenses and required reserves pursuant to chapter 39.94 RCW, to purchase and make modifications to the Riverpoint One Building adjacent to the Riverpoint Campus. A financial plan identifying all costs related to this project, and the sources and amounts of all payments to cover these costs and a copy of the appraisal and engineering assessment shall be submitted for approval to both the office of financial management and the higher education coordinating board for approval before execution of any contract.

Copies of the financial plan shall also be submitted to the senate ways and means committee and the house of representatives capital budget committee.

(2) Liquor control board:

Enter into a long-term lease for a headquarters office in Thurston County for approximately 46,000 square feet.

(3) Department of corrections:

(a) Enter into a long-term ground lease for 17 acres in the Tacoma tide flats property from the Puyallup Nation for development of the 400-bed Tacoma prerelease facility for approximately \$360,000 per annum. Prior to entering into the lease, the department shall obtain written confirmation from the city of Tacoma and Pierce county that the prerelease facility planned for the site meets all land use, environmental protection, and community notification requirements that would apply to the facility if the land was not owned by the Puyallup nation.

(b) Enter into a financing contract on behalf of the department of corrections in the amount of \$14,736,900 plus financing expenses and required reserves pursuant to chapter 39.94 RCW to construct a 400-bed Tacoma prerelease facility. The department of corrections shall comply with all land use, environmental protection, and community notification statutes, regulations, and ordinances in the construction and operation of this facility.

(c) Lease-develop with the option to purchase or lease-purchase approximately 100 work release beds in facilities throughout the state for \$5,000,000.

(d) Enter into a financing contract on behalf of the department of corrections in the amount of \$396,369 plus financing expenses and required reserves pursuant to chapter 39.94 RCW to construct a dairy barn at the Monroe farm.

(e) Enter into a financing contract on behalf of the department of corrections in the amount of \$2,100,000 plus financing expenses and required reserves pursuant to chapter 39.94 RCW to purchase or construct a correctional industries transportation services warehouse.

(4) Community and technical colleges:

(a) Enter into a financing contract on behalf of Whatcom Community College in the amount of \$800,000 plus financing expenses and required reserves pursuant to chapter 39.94 RCW to develop a child care center costing \$2,410,000. The balance of project cost will be a combination of local capital funds and nonstate funds provided through private gifts or contributions.

(b) Enter into a financing contract on behalf of Pierce College in the amount of \$750,000 plus financing expenses and required reserves pursuant to chapter 39.94 RCW to develop a new classroom building on the Lakewood campus costing \$1,816,665. The balance of project cost will be provided through a combination of local capital funds and existing minor works appropriation to replace relocatable classrooms that are at the end of their useful lives.

(c) Enter into a financing contract in behalf of Bellingham Technical College in the amount of \$350,000 plus financing expenses and required reserves pursuant to chapter 39.94 RCW for construction of a new classroom addition to the diesel/heavy equipment instructional shop costing \$411,309.

(d) Enter into a financing contract on behalf of Green River Community College in the amount of \$1,526,150 plus financing expenses and reserves pursuant to chapter 39.94 RCW for remodel of the Lindbloom student center building.

(e) Enter into a financing contract on behalf of Edmonds Community College in the amount of \$2,787,950 plus financing expenses and required reserves pursuant to chapter 39.94 RCW to purchase and make improvements to several buildings and property contiguous to the college campus.

(f) Enter into a financing contract on behalf of Highline Community College in the amount of \$2,070,613 plus financing and required reserves pursuant to chapter 39.94 RCW for the purchase of the Federal Way Center, currently being leased by the college.

(5) State parks and recreation:

Enter into a financing contract on behalf of state parks and recreation in the amount of \$2,012,000 plus financing expenses and required reserves pursuant to chapter 39.94 RCW, to construct cabin and lodge facilities at Cama Beach, develop new campsite electrical hookups, develop new recreational facilities, and expand campsites at Ocean Beach/Grayland. It is the intent of the legislature that debt service on all projects financed under this authority be paid from operating revenues.

(6) Central Washington University:

Enter into a financing contract for \$3,000,000 plus financing expenses and required reserves pursuant to chapter 39.94 RCW to purchase and improve the Sno-King Building for the Lynnwood Extended Degree Center. A financial plan identifying all costs related to this project, and the sources and amounts of all payments to cover these costs and a copy of the building appraisal and engineering assessment shall be submitted for approval to the office of financial management before execution of any contract. Copies of the financial plan shall also be submitted to the senate ways and means committee and the house of representatives capital budget committee.

(7) Washington state patrol:

Enter into a financing contract for \$600,000 plus financing expenses and required reserves pursuant to chapter 39.94 RCW to purchase the Washington state patrol Port Angeles detachment office.

NEW SECTION. Sec. 703. FOR THE ARTS COMMISSION—ART WORK ALLOWANCE POOLING. (1) One-half of one percent of moneys appropriated in this act for original construction of school plant facilities is provided solely for the purposes of RCW 28A.335.210. The Washington state arts commission may combine the proceeds from individual projects in order to fund larger works of art or mobile art displays in consultation with the superintendent of public instruction and representatives of school district boards.

(2) One-half of one percent of moneys appropriated in this act for original construction or any major renovation or remodel work exceeding two hundred thousand dollars by colleges or universities is provided solely for the purposes of RCW 28B.10.027. The Washington state arts commission may combine the proceeds from individual projects in order to fund larger works of art or mobile art displays in consultation with the board of regents or trustees.

(3) One-half of one percent of moneys appropriated in this act for original construction of any public building by a state agency as defined in RCW 43.17.200 is provided solely for the purposes of RCW 43.17.200. The Washington state arts commission may combine the proceeds from individual projects in order to fund larger works of art or mobile art displays in consultation with the state agency.

(4) At least eighty-five percent of the moneys spent by the Washington state arts commission during the 1997-99 biennium for the purposes of RCW 28A.335.210, 28B.10.027, and 43.17.200 shall be spent solely for direct acquisition of works of art.

NEW SECTION. Sec. 704. The amounts shown under the headings "Prior Biennia," "Future Biennia," and "Total" in this act are for informational purposes only and do not constitute legislative approval of these amounts.

NEW SECTION. Sec. 705. "Reappropriations" in this act are appropriations and, unless the context clearly provides otherwise, are subject to the relevant conditions and limitations applicable to appropriations. Reappropriations shall be limited to the unexpended balances remaining on June 30, 1997, from the 1995-97 biennial appropriations for each project.

NEW SECTION. Sec. 706. To carry out the provisions of this act, the governor may assign responsibility for predesign, design, construction, and other related activities to any appropriate agency.

NEW SECTION. Sec. 707. If any federal moneys appropriated by this act for capital projects are not received by the state, the department or agency to which the moneys were appropriated may replace the federal moneys with funds available from private or local sources. No replacement may occur under this section without the prior approval of the director of financial management in consultation with the senate committee on ways and means and the house of representatives capital budget committee.

NEW SECTION. Sec. 708. (1) Unless otherwise stated, for all appropriations under this act that require a match of nonstate money or in-kind contributions, the following requirement, consistent with RCW 43.88.150, shall apply: Expenditures of state money shall be timed so that the state share of project expenditures never exceeds the intended state share of total project costs.

(2) Provision of the full amount of required matching funds is not required to permit the expenditure of capital budget appropriations for phased projects if a proportional amount of the required matching funds is provided for each distinct, identifiable phase of the project.

NEW SECTION. Sec. 709. Notwithstanding any other provisions of law, for the 1997-99 biennium, transfers of reimbursement by the state treasurer to the general fund from the community college capital projects account for debt service payments made under Title 28B RCW shall occur only after such debt service payment has been made and only to the extent that funds are actually available to the account. Any unpaid reimbursements shall be a continued obligation against the community college capital projects account until paid. The state board for community and technical colleges need not accumulate any specific balance in the community college capital projects account in anticipation of transfers to reimburse the general fund.

NEW SECTION. Sec. 710. Any capital improvements or capital projects involving construction or major expansion of a state office facility, including, but not limited to, district headquarters, detachment offices, and off-campus faculty offices, shall be reviewed by the department of general administration for possible

consolidation, colocation, and compliance with state office standards before allotment of funds. The intent of the requirement imposed by this section is to eliminate duplication and reduce total office space requirements where feasible, while ensuring proper service to the public.

NEW SECTION. Sec. 711. The governor, through the office of financial management, may authorize a transfer of appropriation authority provided for a capital project that is in excess of the amount required for the completion of such project to another capital project for which the appropriation is insufficient. No such transfer may be used to expand the capacity of any facility beyond that intended by the legislature in making the appropriation. Such transfers may be effected only between capital appropriations to a specific department, commission, agency, or institution of higher education and only between capital projects that are funded from the same fund or account. No transfers may occur between projects to local government agencies except where the grants are provided within a single omnibus appropriation and where such transfers are specifically authorized by the implementing statutes which govern the grants.

For purposes of this section, the governor may find that an amount is in excess of the amount required for the completion of a project only if: (1) The project as defined in the notes to the budget document is substantially complete and there are funds remaining; or (2) bids have been let on a project and it appears to a substantial certainty that the project as defined in the notes to the budget document can be completed within the biennium for less than the amount appropriated in this act.

For the purposes of this section, the legislature intends that each project be defined as proposed to the legislature in the governor's budget document, unless it clearly appears from the legislative history that the legislature intended to define the scope of a project in a different way.

A report of any transfer effected under this section except emergency projects or any transfer under \$250,000 shall be filed with the legislative fiscal committees of the senate and house of representatives by the office of financial management at least thirty days before the date the transfer is effected. The office of financial management shall report all emergency or smaller transfers within thirty days from the date of transfer.

NEW SECTION. Sec. 712. To ensure that major construction projects are carried out in accordance with legislative and executive intent, appropriations in this act referencing this section or in excess of \$5,000,000 shall not be expended until the office of financial management has reviewed and approved the agency's predesign and other documents and approved an allotment for the project. The predesign document shall include but not be limited to program, site, and cost analysis in accordance with the predesign manual adopted by the office of financial management. To improve monitoring of major construction projects, progress reports shall be submitted by the agency administering the project to the office of financial management and to the fiscal committees of the house and senate.

Reports will be submitted on July 1 and December 31 each year in a format to be developed by the office of financial management.

NEW SECTION. Sec. 713. Allotments for appropriations shall be provided in accordance with the capital project review requirements adopted by the office of financial management. The office of financial management shall notify the house of representatives capital budget committee and the senate ways and means committee of allotment releases based on review by the office of financial management. No expenditure may be incurred or obligation entered into for appropriations referring to this section until the allotment of the funds to be expended has been approved by the office of financial management. Projects that will be employing alternative public works construction procedures, under chapter 39.10 RCW, are subject to the allotment procedures defined in this section and RCW 43.88.110. Contracts shall not be executed that call for expenditures in excess of the approved allotment, and the total amount shown in such contracts for the cost of future work that has not been appropriated shall not exceed the amount identified for such work in the level of funding approved by the office of financial management at the completion of predesign.

NEW SECTION. Sec. 714. Appropriations for design and construction of facilities on higher education branch campuses shall be expended only after funds are allotted to institutions of higher education on the basis of: (1) Comparable unit cost standards, as determined by the office of financial management in consultation with the higher education coordinating board; (2) costs consistent with other higher education teaching facilities in the state; and (3) student full-time equivalent enrollment levels as established by the office of financial management in consultation with the higher education coordinating board.

NEW SECTION. Sec. 715. State agencies receiving appropriations from this act and from Senate Bill No. 5562 or Senate Bill No. 6091 (transportation budget) for land acquisition and environmental mitigation activities shall, to the extent feasible, coordinate those acquisitions and mitigation activities. When cost-effective and ecologically beneficial, the acquisition and development of environmental mitigation sites and activities, including but not limited to wetland banks and advance mitigation, should be provided in a manner that benefits both the department of transportation sites and activities and other agency sites and activities. The coordination of environmental mitigation shall also take into consideration the acquisitions and activities of local watershed groups. The coordination of environmental mitigation sites and activities is intended to improve ecological benefits gained from state expenditures, provide greater emphasis on shared natural resource management, and increase mitigation credit opportunities for the department of transportation. The credits earned from these activities are not intended to reduce department of transportation mitigation obligations, but to reduce the cost of meeting those obligations. The activities of this section shall be carried out in a manner consistent with recommendations developed by a work group consisting of state agencies with substantial environmental mitigation related

responsibilities. The office of financial management shall report to the fiscal committees of the senate and house of representatives and to the legislative transportation committee by December 1, 1998, on the results of the coordination of these environmental mitigation activities and make recommendations to further improve the coordination among state agencies to achieve better cost-efficiencies and ecological benefits.

NEW SECTION. Sec. 716. No moneys in this act shall be used to develop facilities for juvenile offenders at Rainier school.

****NEW SECTION. Sec. 717. When authority has been delegated to a local health district or county to administer and enforce the well tagging, sealing, and decommissioning portions of the water well construction program, the department of ecology shall provide to the local health district or county 75 percent of the fee revenue generated from well construction fees for wells constructed in the delegated county.***

**Sec. 717 was vetoed. See message at end of chapter.*

Sec. 718. RCW 43.98A.040 and 1990 1st ex.s. c 14 s 5 are each amended to read as follows:

(1) Moneys appropriated for this chapter to the habitat conservation account shall be distributed in the following way:

(a) Not less than thirty-five percent for the acquisition and development of critical habitat;

(b) Not less than twenty percent for the acquisition and development of natural areas;

(c) Not less than fifteen percent for the acquisition and development of urban wildlife habitat; and

(d) The remaining amount shall be considered unallocated and shall be used by the committee to fund high priority acquisition and development needs for critical habitat, natural areas, and urban wildlife habitat. During the fiscal biennium ending June 30, 1999, the remaining amount may be allocated for matching grants for riparian zone habitat protection projects that implement watershed plans.

(2) In distributing these funds, the committee retains discretion to meet the most pressing needs for critical habitat, natural areas, and urban wildlife habitat, and is not required to meet the percentages described in subsection (1) of this section in any one biennium.

(3) Only state agencies may apply for acquisition and development funds for critical habitat and natural areas projects under subsection (1) (a), (b), and (d) of this section.

(4) State and local agencies may apply for acquisition and development funds for urban wildlife habitat projects under subsection (1) (c) and (d) of this section.

Sec. 719. RCW 43.98A.060 and 1990 1st ex.s. c 14 s 7 are each amended to read as follows:

(1) The committee may adopt rules establishing acquisition policies and priorities for distributions from the habitat conservation account.

(2) Moneys appropriated for this chapter may not be used by the committee to fund additional staff positions or other overhead expenses, or by a state, regional, or local agency to fund operation and maintenance of areas acquired under this chapter, except that the committee may use moneys appropriated for this chapter for the fiscal biennium ending June 30, 1999, for the administrative costs of implementing the pilot watershed plan implementation program and developing an inventory of publicly owned lands.

(3) Moneys appropriated for this chapter may be used for costs incidental to acquisition, including, but not limited to, surveying expenses, fencing, and signing.

(4) Except as provided in subsection (5) of this section, the committee may not approve a local project where the local agency share is less than the amount to be awarded from the habitat conservation account.

(5) During the fiscal biennium ending June 30, 1999, the committee may approve a riparian zone habitat protection project where the local agency share is less than the amount to be awarded from the habitat conservation account.

(6) In determining acquisition priorities with respect to the habitat conservation account, the committee shall consider, at a minimum, the following criteria:

- (a) For critical habitat and natural areas proposals:
 - (i) Community support;
 - (ii) Immediacy of threat to the site;
 - (iii) Uniqueness of the site;
 - (iv) Diversity of species using the site;
 - (v) Quality of the habitat;
 - (vi) Long-term viability of the site;
 - (vii) Presence of endangered, threatened, or sensitive species;
 - (viii) Enhancement of existing public property;
 - (ix) Consistency with a local land use plan, or a regional or state-wide recreational or resource plan; and
 - (x) Educational and scientific value of the site.

(b) For urban wildlife habitat proposals, in addition to the criteria of (a) of this subsection:

- (i) Population of, and distance from, the nearest urban area;
- (ii) Proximity to other wildlife habitat;
- (iii) Potential for public use; and
- (iv) Potential for use by special needs populations.

~~((6))~~ (7) Before October 1st of each even-numbered year, the committee shall recommend to the governor a prioritized list of state agency projects to be funded under RCW 43.98A.040(1) (a), (b), and (c). The governor may remove projects from the list recommended by the committee and shall submit this amended list in the capital budget request to the legislature. The list shall include,

but not be limited to, a description of each project; and shall describe for each project any anticipated restrictions upon recreational activities allowed prior to the project.

~~((7))~~ (8) Before October 1st of each year, the committee shall recommend to the governor a prioritized list of all local projects to be funded under RCW 43.98A.040(1)(c). The governor may remove projects from the list recommended by the committee and shall submit this amended list in the capital budget request to the legislature. The list shall include, but not be limited to, a description of each project and any particular match requirement, and describe for each project any anticipated restrictions upon recreational activities allowed prior to the project.

Sec. 720. RCW 43.98A.070 and 1990 1st ex.s. c 14 s 8 are each amended to read as follows:

(1) In determining which state parks proposals and local parks proposals to fund, the committee shall use existing policies and priorities.

(2) Moneys appropriated for this chapter may not be used by the committee to fund additional staff or other overhead expenses, or by a state, regional, or local agency to fund operation and maintenance of areas acquired under this chapter, except that the committee may use moneys appropriated for this chapter for the fiscal biennium ending June 30, 1999, for the administrative costs of implementing the pilot watershed plan implementation program and developing an inventory of publicly owned lands.

(3) Moneys appropriated for this chapter may be used for costs incidental to acquisition, including, but not limited to, surveying expenses, fencing, and signing.

(4) The committee may not approve a project of a local agency where the share contributed by the local agency is less than the amount to be awarded from the outdoor recreation account.

(5) The committee may adopt rules establishing acquisition policies and priorities for the acquisition and development of trails and water access sites to be financed from moneys in the outdoor recreation account.

(6) In determining the acquisition and development priorities, the committee shall consider, at a minimum, the following criteria:

- (a) For trails proposals:
 - (i) Community support;
 - (ii) Immediacy of threat to the site;
 - (iii) Linkage between communities;
 - (iv) Linkage between trails;
 - (v) Existing or potential usage;
 - (vi) Consistency with an existing local land use plan or a regional or state-wide recreational or resource plan;
 - (vii) Availability of water access or views;
 - (viii) Enhancement of wildlife habitat; and
 - (ix) Scenic values of the site.
- (b) For water access proposals:

- (i) Community support;
- (ii) Distance from similar water access opportunities;
- (iii) Immediacy of threat to the site;
- (iv) Diversity of possible recreational uses; and
- (v) Public demand in the area.

(7) Before October 1st of each even-numbered year, the committee shall recommend to the governor a prioritized list of state agency projects to be funded under RCW 43.98A.050(1) (a), (c), and (d). The governor may remove projects from the list recommended by the committee and shall submit this amended list in the capital budget request to the legislature. The list shall include, but not be limited to, a description of each project; and shall describe for each project any anticipated restrictions upon recreational activities allowed prior to the project.

(8) Before October 1st of each year, the committee shall recommend to the governor a prioritized list of all local projects to be funded under RCW 43.98A.050(1) (b), (c), and (d) of this act. The governor may remove projects from the list recommended by the committee and shall submit this amended list in the capital budget request to the legislature. The list shall include, but not be limited to, a description of each project and any particular match requirement, and describe for each project any anticipated restrictions upon recreational activities allowed prior to the project.

Sec. 721. RCW 43.160.070 and 1996 c 51 s 6 are each amended to read as follows:

Public facilities financial assistance, when authorized by the board, is subject to the following conditions:

(1) The moneys in the public facilities construction loan revolving fund shall be used solely to fulfill commitments arising from financial assistance authorized in this chapter or, during the 1989-91 fiscal biennium, for economic development purposes as appropriated by the legislature. The total outstanding amount which the board shall dispense at any time pursuant to this section shall not exceed the moneys available from the fund. The total amount of outstanding financial assistance in Pierce, King, and Snohomish counties shall never exceed sixty percent of the total amount of outstanding financial assistance disbursed by the board.

(2) On contracts made for public facilities loans the board shall determine the interest rate which loans shall bear. The interest rate shall not exceed ten percent per annum. The board may provide reasonable terms and conditions for repayment for loans as the board determines. The loans shall not exceed twenty years in duration.

(3) Repayments of loans made under the contracts for public facilities construction loans shall be paid into the public facilities construction loan revolving fund. Repayments of loans from moneys from the new appropriation from the public works assistance account for the fiscal biennium ending June 30, 1999, shall be paid into the public works assistance account.

(4) When every feasible effort has been made to provide loans and loans are not possible, the board may provide grants upon finding that unique circumstances exist.

NEW SECTION. Sec. 722. The department of information services shall act as lead agency in coordinating video telecommunications services for state agencies. As lead agency, the department shall develop standards and common specifications for leased and purchased telecommunications equipment and assist state agencies in developing a video telecommunications expenditure plan. No agency may spend any portion of any appropriation in this act for new video telecommunications equipment, new video telecommunications transmission, or new video telecommunications systems without first complying with chapter 43.105 RCW, including but not limited to RCW 43.105.041(2), and without first submitting a video telecommunications equipment expenditure plan, in accordance with the policies of the department of information services, for review and assessment by the department of information services under RCW 43.105.052. Before any such expenditure by a public school, a video telecommunications expenditure plan shall be approved by the superintendent of public instruction. The office of the superintendent of public instruction shall submit the plans to the department of information services in a form prescribed by the department. The office of the superintendent of public instruction shall coordinate the use of the video telecommunications in public schools by providing educational information to local school districts and shall assist local school districts and educational service districts in telecommunications planning and curriculum development. Before any such expenditure by a public institution of postsecondary education, a telecommunications expenditure plan shall be approved by the higher education coordinating board. The higher education coordinating board shall coordinate the use of video telecommunications for instruction and instructional support in postsecondary education, including the review and approval of instructional telecommunications course offerings.

PART 7

1995-1997 SUPPLEMENTAL APPROPRIATIONS

NEW SECTION. Sec. 801. A supplemental capital budget is hereby adopted and, subject to the provisions set forth in sections 802 through 808 of this act, the several dollar amounts hereinafter specified, or as much thereof as shall be sufficient to accomplish the purposes designated, are hereby appropriated and authorized to be incurred for capital projects during the period ending June 30, 1997, out of the several funds specified in sections 802 through 808 of this act.

NEW SECTION. Sec. 802. A new section is added to 1995 2nd sp.s. c 16 to read as follows:

FOR THE MILITARY DEPARTMENT

Federal construction projects: For minor capital construction projects included on office of financial management unanticipated receipt approval request log numbers 261 and 275.

Appropriation:

General Fund—Federal	\$	3,644,300
Prior Biennia (Expenditures)	\$	0
Future Biennia (Projected Costs)	\$	0
TOTAL	\$	3,644,300

NEW SECTION. **Sec. 803.** A new section is added to 1995 2nd sp.s. c 16 to read as follows:

FOR THE STATE PARKS AND RECREATION COMMISSION

Riverside State Park renovations: For renovation of the sewer system, water system, and cottages at Riverside state park, as described on office of financial management unanticipated receipt approval request log number 264.

Appropriation:

General Fund—Federal	\$	30,000
Prior Biennia (Expenditures)	\$	0
Future Biennia (Projected Costs)	\$	0
TOTAL	\$	30,000

NEW SECTION. **Sec. 804.** A new section is added to 1995 2nd sp.s. c 16 to read as follows:

FOR THE DEPARTMENT OF NATURAL RESOURCES

Special lands acquisition: For acquisition of properties within the Trout Lake wetlands, as described on office of financial management unanticipated receipt approval request log number 265.

Appropriation:

General Fund—Federal	\$	450,000
Prior Biennia (Expenditures)	\$	0
Future Biennia (Projected Costs)	\$	0
TOTAL	\$	450,000

NEW SECTION. **Sec. 805.** A new section is added to 1995 2nd sp.s. c 16 to read as follows:

FOR THE STATE BOARD FOR COMMUNITY AND TECHNICAL COLLEGES

Yakima Valley College—Replace pedestrian street crossing (96-1-400)

The appropriation in this section is provided solely to use with other nonstate sources for the construction or installation of a pedestrian street crossing or other safety improvements in lieu of a street crossing. The college shall ensure that this appropriation is expended only for the direct cost of the construction or installation of the street crossing improvements.

Appropriation:

St Bldg Constr Acct—State	\$	100,000
Prior Biennia (Expenditures)	\$	0
Future Biennia (Projected Costs)	\$	<u>0</u>
TOTAL	\$	100,000

Sec. 806. 1995 2nd sp.s. c 16 s 713 (uncodified) is amended to read as follows:

FOR THE STATE BOARD FOR COMMUNITY AND TECHNICAL COLLEGES

Everett Community College: To procure land for a new access to the college and for a new Instruction Technology Center (96-2-652)

The appropriation in this section is subject to the review and allotment procedures under section 813 of this act.

Appropriation:

St Bldg Constr Acct—State	\$	((3,558,440))
		<u>5,068,984</u>
Prior Biennia (Expenditures)	\$	25,140
Future Biennia (Projected Costs)	\$	((12,251,270))
		<u>14,911,229</u>
TOTAL	\$	((15,834,850))
		<u>20,005,353</u>

NEW SECTION. Sec. 807. A new section is added to 1995 2nd sp.s. c 16 to read as follows:

FOR THE STATE BOARD FOR COMMUNITY AND TECHNICAL COLLEGES

Olympic College—Central heating repairs (98-1-043)

Appropriation:

St Bldg Constr Acct—State	\$	2,410,000
Prior Biennia (Expenditures)	\$	0
Future Biennia (Projected Costs)	\$	<u>0</u>
TOTAL	\$	2,410,000

NEW SECTION. Sec. 808. A new section is added to 1995 2nd sp.s. c 16 to read as follows:

FOR THE STATE BOARD FOR COMMUNITY AND TECHNICAL COLLEGES

Olympic College Library replacement (98-2-500)

Appropriation:

St Bldg Constr Acct—State	\$	1,669,563
General Fund—Federal	\$	<u>5,008,686</u>
Subtotal Appropriation	\$	6,678,249
Prior Biennia (Expenditures)	\$	0
Future Biennia (Projected Costs)	\$	<u>0</u>
TOTAL	\$	6,678,249

**PART 8
SEVERABILITY AND EFFECTIVE DATE**

NEW SECTION. Sec. 901. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

NEW SECTION. Sec. 902. This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately.

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Passed the Senate April 21, 1997.

Passed the House April 21, 1997.

Approved by the Governor April 26, 1997, with the exception of certain items that were vetoed.

Filed in Office of Secretary of State April 26, 1997.

Note: Governor's explanation of partial veto is as follows:

"I am returning herewith, without my approval as to sections 121, 391(4) and 717, Substitute Senate Bill No. 6063 entitled:

"AN ACT Relating to the capital budget;"

The 1997-99 capital budget enacted by the legislature includes the investments in education facilities that will be necessary to serve the growing enrollments expected in public schools, our community colleges, and the four-year higher education institutions. This commitment must be maintained in future years, and represents the highest priority element of the state construction program. The capital budget I am approving is the appropriate next step in providing the educational facilities our citizens deserve, and sets in motion a long-term spending plan that will be adequate and affordable.

Although I am generally pleased with the budget as enacted, I do have some concerns and have vetoed the following sections:

Section 121, page 12, Emergency projects declared and specifically enacted by the legislature (Department of Community, Trade, and Economic Development)

The specific projects to be funded from this appropriation are not identified, so no work can be accomplished with these funds. I have vetoed this section to allow these appropriations to be redirected to projects and programs that are ready to proceed.

Section 391(4), page 75, Aquatic lands enhancement grants (Department of Natural Resources)

Subsection 4 of section 391 presents an undue restriction to the completion of the Rocky Reach Trailway project near Wenatchee. The State Parks and Recreation

Commission has been developing this trail in cooperation with the Department of Transportation and adjoining property owners to complete a highly valued connection between two state parks. Trail development should continue as proposed. I am instructing the Commission to work closely with adjoining property owners to address any concerns they may have.

Section 717, page 144. Well regulation fees (Department of Ecology)

The proviso language in section 717 requires that when the Department of Ecology delegates to a county or local health district certain responsibilities related to well regulations, the county or health district would receive 75 percent of the well regulation fees paid. I have vetoed this section because the change in the fee sharing formula would reduce Department of Ecology revenues below the level necessary to administer the program. I encourage the Department to negotiate the cost of delegated responsibilities with the counties and local districts to develop a solution to this issue.

For these reasons, I have vetoed sections 121, 391(4) and 717 of Substitute Senate Bill No. 6063.

With the exception of sections 121, 391(4) and 717, Substitute Senate Bill No. 6063 is approved."

CHAPTER 236

[House Bill 1162]

DELEGATION OF DEPARTMENT OF SOCIAL AND HEALTH SERVICES LIEN AND SUBROGATION RIGHTS TO MANAGED HEALTH CARE SYSTEMS

AN ACT Relating to delegation of lien and subrogation rights to medical health care systems by contract; and amending RCW 74.09.180 and 43.20B.060.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 74.09.180 and 1990 c 100 s 2 are each amended to read as follows:

(1) The provisions of this chapter shall not apply to recipients whose personal injuries are occasioned by negligence or wrong of another: **PROVIDED, HOWEVER,** That the secretary may furnish assistance, under the provisions of this chapter, for the results of injuries to or illness of a recipient, and the department shall thereby be subrogated to the recipient's rights against the recovery had from any tortfeasor or the tortfeasor's insurer, or both, and shall have a lien thereupon to the extent of the value of the assistance furnished by the department. To secure reimbursement for assistance provided under this section, the department may pursue its remedies under RCW 43.20B.060.

(2) The rights and remedies provided to the department in this section to secure reimbursement for assistance, including the department's lien and subrogation rights, may be delegated to a managed health care system by contract entered into pursuant to RCW 74.09.522. A managed health care system may enforce all rights and remedies delegated to it by the department to secure and recover assistance provided under a managed health care system consistent with its agreement with the department!.

Sec. 2. RCW 43.20B.060 and 1990 c 100 s 7 are each amended to read as follows:

(1) To secure reimbursement of any assistance paid under chapter 74.09 RCW or reimbursement for any residential care provided by the department at a hospital for the mentally ill or habilitative care center for the developmentally disabled, as a result of injuries to or illness of a recipient caused by the negligence or wrong of another, the department shall be subrogated to the recipient's rights against a tortfeasor or the tortfeasor's insurer, or both.

(2) The department shall have a lien upon any recovery by or on behalf of the recipient from such tortfeasor or the tortfeasor's insurer, or both to the extent of the value of the assistance paid or residential care provided by the department, provided that such lien shall not be effective against recoveries subject to wrongful death when there are surviving dependents of the deceased. The lien shall become effective upon filing with the county auditor in the county where the assistance was authorized or where any action is brought against the tortfeasor or insurer. The lien may also be filed in any other county or served upon the recipient in the same manner as a civil summons if, in the department's discretion, such alternate filing or service is necessary to secure the department's interest. The additional lien shall be effective upon filing or service.

(3) The lien of the department shall be upon any claim, right of action, settlement proceeds, money, or benefits arising from an insurance program to which the recipient might be entitled (a) against the tortfeasor or insurer of the tortfeasor, or both, and (b) under any contract of insurance purchased by the recipient or by any other person providing coverage for the illness or injuries for which the assistance or residential care is paid or provided by the department.

(4) If recovery is made by the department under this section and the subrogation is fully or partially satisfied through an action brought by or on behalf of the recipient, the amount paid to the department shall bear its proportionate share of attorneys' fees and costs.

(a) The determination of the proportionate share to be borne by the department shall be based upon:

~~((a))~~ (i) The fees and costs approved by the court in which the action was initiated; or

~~((b))~~ (ii) The written agreement between the attorney and client which establishes fees and costs when fees and costs are not addressed by the court.

~~((c))~~ (b) When fees and costs have been approved by a court, after notice to the department, the department shall have the right to be heard on the matter of attorneys' fees and costs or its proportionate share.

~~((d))~~ (c) When fees and costs have not been addressed by the court, the department shall receive at the time of settlement a copy of the written agreement between the attorney and client which establishes fees and costs and may request and examine documentation of fees and costs associated with the case. The department may bring an action in superior court to void a settlement if it believes the attorneys' calculation of its proportionate share of fees and costs is inconsistent with the written agreement between the attorney and client which establishes fees

and costs or if the fees and costs associated with the case are exorbitant in relation to cases of a similar nature.

(5) The rights and remedies provided to the department in this section to secure reimbursement for assistance, including the department's lien and subrogation rights, may be delegated to a managed health care system by contract entered into pursuant to RCW 74.09.522. A managed health care system may enforce all rights and remedies delegated to it by the department to secure and recover assistance provided under a managed health care system consistent with its agreement with the department.

Passed the House March 7, 1997.

Passed the Senate April 7, 1997.

Approved by the Governor May 1, 1997.

Filed in Office of Secretary of State May 1, 1997.

CHAPTER 237

[Substitute House Bill 1166]

FOUND PROPERTY—PROCEDURES

AN ACT Relating to property; and amending RCW 63.21.010 and 63.21.030.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 63.21.010 and 1979 ex.s. c 85 s 1 are each amended to read as follows:

(1) Any person who finds property that is not unlawful to possess, the owner of which is unknown, and who wishes to claim the found property, shall:

~~((1))~~ (a) Within seven days of the finding acquire a signed statement setting forth an appraisal of the current market value of the property prepared by a qualified person engaged in buying or selling like items or by a district court judge, unless the found property is cash; and

~~((2))~~ (b) Within seven days report the find of property and surrender, if requested, the property and a copy of the evidence of the value of the property to the chief law enforcement officer, or his or her designated representative, of the governmental entity where the property was found, and serve written notice upon the officer of the finder's intent to claim the property if the owner does not make out his or her right to it under this chapter~~(; and~~

~~(3) Within thirty days of the finding cause notice of the finding to be published at least once a week for two successive weeks in a newspaper of general circulation in the county where the property was found).~~

(2) Within thirty days of the report the governmental entity shall cause notice of the finding to be published at least once a week for two successive weeks in a newspaper of general circulation in the county where the property was found, unless the appraised value of the property is less than the cost of publishing notice. If the value is less than the cost of publishing notice, the governmental entity may

cause notice to be posted or published in other media or formats that do not incur expense to the governmental entity.

Sec. 2. RCW 63.21.030 and 1979 ex.s. c 85 s 3 are each amended to read as follows:

(1) The found property shall be released to the finder and become the property of the finder sixty days after the find was reported to the appropriate officer if no owner has been found, or sixty days after the final disposition of any judicial or other official proceeding involving the property, whichever is later. The property shall be released only after the finder has presented evidence of(~~(:~~

~~—(a) Compliance with the publication requirement of this chapter; and~~
~~—(b) If the property is valued at more than twenty-five dollars;))~~ payment to the treasurer of the governmental entity handling the found property, the amount of ~~((five))~~ ten dollars ~~((, or ten percent of the appraised value of the property, whichever is greater))~~ plus the amount of the cost of publication of notice incurred by the government entity pursuant to RCW 63.21.010, which amount shall be deposited in the general fund of the governmental entity. If the appraised value of the property is less than the cost of publication of notice of the finding, then the finder is not required to pay any fee.

(2) When ninety days have passed after the found property was reported to the appropriate officer, or ninety days after the final disposition of a judicial or other proceeding involving the found property, and the finder has not completed the requirements of this chapter, the finder's claim shall be deemed to have expired and the found property may be disposed of as unclaimed property under chapter 63.32 or 63.40 RCW. Such laws shall also apply whenever a finder states in writing that he or she has no intention of claiming the found property.

Passed the House February 19, 1997.

Passed the Senate April 7, 1997.

Approved by the Governor May 1, 1997.

Filed in Office of Secretary of State May 1, 1997.

CHAPTER 238

[Substitute House Bill 1261]

BUSINESS AND OCCUPATION TAX SMALL BUSINESS CREDIT—STANDARDIZED TABLE

AN ACT Relating to the business and occupation tax small business credit; amending RCW 82.04.4451; and creating a new section.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. Sec. 1. The legislature finds that many businesses have difficulty applying the small business credit under RCW 82.04.4451. Further, the legislature appreciates the valuable time and resources small businesses expend on calculating the amount of credit based upon a statutory formula. For the purpose of tax simplification, it is the intent of this act to direct the department of revenue to create a schedule, in standard increments, to replace required calculations for the

small business credit. Each taxpayer can make reference to the taxpayer's tax range on the schedule and find the amount of the taxpayer's small business credit. Further, no taxpayer will owe a greater amount of tax nor will any taxpayer be responsible for a greater amount of taxes otherwise due.

Sec. 2. RCW 82.04.4451 and 1994 sp.s. c 2 s 1 are each amended to read as follows:

(1) In computing the tax imposed under this chapter, a credit is allowed against the amount of tax otherwise due under this chapter, as provided in this section. The maximum credit for a taxpayer for a reporting period is thirty-five dollars multiplied by the number of months in the reporting period, as determined under RCW 82.32.045.

(2) When the amount of tax otherwise due under this chapter is equal to or less than the maximum credit, a credit is allowed equal to the amount of tax otherwise due under this chapter.

(3) When the amount of tax otherwise due under this chapter exceeds the maximum credit, a reduced credit is allowed equal to twice the maximum credit, minus the tax otherwise due under this chapter, but not less than zero.

(4) The department may prepare a tax credit table consisting of tax ranges using increments of no more than five dollars and a corresponding tax credit to be applied to those tax ranges. The table shall be prepared in such a manner that no taxpayer will owe a greater amount of tax by using the table than would be owed by performing the calculation under subsections (1) through (3) of this section. A table prepared by the department under this subsection shall be used by all taxpayers in taking the credit provided in this section.

Passed the House April 19, 1997.

Passed the Senate April 10, 1997.

Approved by the Governor May 1, 1997.

Filed in Office of Secretary of State May 1, 1997.

CHAPTER 239

[Substitute House Bill 1277]

CONFIDENTIALITY OF PROPERTY TAX INFORMATION

AN ACT Relating to confidentiality of property tax information; amending RCW 84.40.020, 84.40.340, and 42.17.310; adding a new section to chapter 84.08 RCW; and prescribing penalties.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. **Sec. 1.** A new section is added to chapter 84.08 RCW to read as follows:

(1) For purposes of this section, "tax information" means confidential income data and proprietary business information obtained by the department in the course of carrying out the duties now or hereafter imposed upon it in this title that has been communicated in confidence in connection with the assessment of property and that has not been publicly disseminated by the taxpayer, the disclosure of

which would be either highly offensive to a reasonable person and not a legitimate concern to the public or would result in an unfair competitive disadvantage to the taxpayer.

(2) Tax information is confidential and privileged, and except as authorized by this section, neither the department nor any other person may disclose tax information.

(3) Subsection (2) of this section, however, does not prohibit the department from:

(a) Disclosing tax information to any county assessor or county treasurer;

(b) Disclosing tax information in a civil or criminal judicial proceeding or an administrative proceeding in respect to taxes or penalties imposed under this title or Title 82 RCW or in respect to assessment or valuation for tax purposes of the property to which the information or facts relate;

(c) Disclosing tax information with the written permission of the taxpayer;

(d) Disclosing tax information to the proper officer of the tax department of any state responsible for the imposition or collection of property taxes, or for the valuation of property for tax purposes, if the other state grants substantially similar privileges to the proper officers of this state;

(e) Disclosing tax information that is also maintained by another Washington state or local governmental agency as a public record available for inspection and copying under chapter 42.17 RCW or is a document maintained by a court of record not otherwise prohibited from disclosure;

(f) Disclosing tax information to a peace officer as defined in RCW 9A.04.110 or county prosecutor, for official purposes. The disclosure may be made only in response to a search warrant, subpoena, or other court order, unless the disclosure is for the purpose of criminal tax enforcement. A peace officer or county prosecutor who receives the tax information may disclose the tax information only for use in the investigation and a related court proceeding, or in the court proceeding for which the tax information originally was sought; or

(g) Disclosing information otherwise available under chapter 42.17 RCW.

(4) A violation of this section constitutes a gross misdemeanor.

Sec. 2. RCW 84.40.020 and 1973 c 69 s 1 are each amended to read as follows:

All real property in this state subject to taxation shall be listed and assessed every year, with reference to its value on the first day of January of the year in which it is assessed. Such listing and all supporting documents and records shall be open to public inspection during the regular office hours of the assessor's office: **PROVIDED**, That confidential income data is hereby exempted from public inspection (~~pursuant to RCW 42.17.310~~) as noted in RCW 42.17.260 and 42.17.310. All personal property in this state subject to taxation shall be listed and assessed every year, with reference to its value and ownership on the first day of January of the year in which it is assessed: **PROVIDED**, That if the stock of goods, wares, merchandise or material, whether in a raw or finished state or in

process of manufacture, owned or held by any taxpayer on January 1 of any year does not fairly represent the average stock carried by such taxpayer, such stock shall be listed and assessed upon the basis of the monthly average of stock owned or held by such taxpayer during the preceding calendar year or during such portion thereof as the taxpayer was engaged in business.

Sec. 3. RCW 84.40.340 and 1973 1st ex.s. c 74 s 1 are each amended to read as follows:

For the purpose of verifying any list, statement, or schedule required to be furnished to the assessor by any taxpayer, any assessor or his trained and qualified deputy at any reasonable time may visit, investigate and examine any personal property, and for this purpose the records, accounts and inventories also shall be subject to any such visitation, investigation and examination which shall aid in determining the amount and valuation of such property. Such powers and duties may be performed at any office of the taxpayer in this state, and the taxpayer shall furnish or make available all such information pertaining to property in this state to the assessor although the records may be maintained at any office outside this state.

Any information or facts obtained pursuant to this section shall be used by the assessor only for the purpose of determining the assessed valuation of the taxpayer's property: **PROVIDED**, That such information or facts shall also be made available to the department of revenue upon request for the purpose of determining any sales or use tax liability with respect to personal property, and except in a ~~((court action pertaining))~~ civil or criminal judicial proceeding or an administrative proceeding in respect to penalties imposed pursuant to RCW 84.40.130, to such sales or use taxes, or to the assessment or valuation for tax purposes of the property to which such information and facts relate, shall not be disclosed by the assessor or the department of revenue without the permission of the taxpayer to any person other than public officers or employees whose duties relate to valuation of property for tax purposes or to the imposition and collection of sales and use taxes, and any violation of this secrecy provision shall constitute a gross misdemeanor.

Sec. 4. RCW 42.17.310 and 1996 c 305 s 2 are each amended to read as follows:

(1) The following are exempt from public inspection and copying:

(a) Personal information in any files maintained for students in public schools, patients or clients of public institutions or public health agencies, or welfare recipients.

(b) Personal information in files maintained for employees, appointees, or elected officials of any public agency to the extent that disclosure would violate their right to privacy.

(c) Information required of any taxpayer in connection with the assessment or collection of any tax if the disclosure of the information to other persons would (i) be prohibited to such persons by section 1 of this act, RCW 82.32.330, 84.40.020,

or 84.40.340 or (ii) violate the taxpayer's right to privacy or result in unfair competitive disadvantage to the taxpayer.

(d) Specific intelligence information and specific investigative records compiled by investigative, law enforcement, and penology agencies, and state agencies vested with the responsibility to discipline members of any profession, the nondisclosure of which is essential to effective law enforcement or for the protection of any person's right to privacy.

(e) Information revealing the identity of persons who are witnesses to or victims of crime or who file complaints with investigative, law enforcement, or penology agencies, other than the public disclosure commission, if disclosure would endanger any person's life, physical safety, or property. If at the time a complaint is filed the complainant, victim or witness indicates a desire for disclosure or nondisclosure, such desire shall govern. However, all complaints filed with the public disclosure commission about any elected official or candidate for public office must be made in writing and signed by the complainant under oath.

(f) Test questions, scoring keys, and other examination data used to administer a license, employment, or academic examination.

(g) Except as provided by chapter 8.26 RCW, the contents of real estate appraisals, made for or by any agency relative to the acquisition or sale of property, until the project or prospective sale is abandoned or until such time as all of the property has been acquired or the property to which the sale appraisal relates is sold, but in no event shall disclosure be denied for more than three years after the appraisal.

(h) Valuable formulae, designs, drawings, and research data obtained by any agency within five years of the request for disclosure when disclosure would produce private gain and public loss.

(i) Preliminary drafts, notes, recommendations, and intra-agency memorandums in which opinions are expressed or policies formulated or recommended except that a specific record shall not be exempt when publicly cited by an agency in connection with any agency action.

(j) Records which are relevant to a controversy to which an agency is a party but which records would not be available to another party under the rules of pretrial discovery for causes pending in the superior courts.

(k) Records, maps, or other information identifying the location of archaeological sites in order to avoid the looting or depredation of such sites.

(l) Any library record, the primary purpose of which is to maintain control of library materials, or to gain access to information, which discloses or could be used to disclose the identity of a library user.

(m) Financial information supplied by or on behalf of a person, firm, or corporation for the purpose of qualifying to submit a bid or proposal for (i) a ferry system construction or repair contract as required by RCW 47.60.680 through

47.60.750 or (ii) highway construction or improvement as required by RCW 47.28.070.

(n) Railroad company contracts filed prior to July 28, 1991, with the utilities and transportation commission under RCW 81.34.070, except that the summaries of the contracts are open to public inspection and copying as otherwise provided by this chapter.

(o) Financial and commercial information and records supplied by private persons pertaining to export services provided pursuant to chapter 43.163 RCW and chapter 53.31 RCW, and by persons pertaining to export projects pursuant to RCW 43.23.035.

(p) Financial disclosures filed by private vocational schools under chapters 28B.85 and 28C.10 RCW.

(q) Records filed with the utilities and transportation commission or attorney general under RCW 80.04.095 that a court has determined are confidential under RCW 80.04.095.

(r) Financial and commercial information and records supplied by businesses or individuals during application for loans or program services provided by chapters 43.163, 43.160, 43.330, and 43.168 RCW, or during application for economic development loans or program services provided by any local agency.

(s) Membership lists or lists of members or owners of interests of units in timeshare projects, subdivisions, camping resorts, condominiums, land developments, or common-interest communities affiliated with such projects, regulated by the department of licensing, in the files or possession of the department.

(t) All applications for public employment, including the names of applicants, resumes, and other related materials submitted with respect to an applicant.

(u) The residential addresses and residential telephone numbers of employees or volunteers of a public agency which are held by the agency in personnel records, employment or volunteer rosters, or mailing lists of employees or volunteers.

(v) The residential addresses and residential telephone numbers of the customers of a public utility contained in the records or lists held by the public utility of which they are customers.

(w)(i) The federal social security number of individuals governed under chapter 18.130 RCW maintained in the files of the department of health, except this exemption does not apply to requests made directly to the department from federal, state, and local agencies of government, and national and state licensing, credentialing, investigatory, disciplinary, and examination organizations; (ii) the current residential address and current residential telephone number of a health care provider governed under chapter 18.130 RCW maintained in the files of the department, if the provider requests that this information be withheld from public inspection and copying, and provides to the department an accurate alternate or business address and business telephone number. On or after January 1, 1995, the current residential address and residential telephone number of a health care

provider governed under RCW 18.130.140 maintained in the files of the department shall automatically be withheld from public inspection and copying unless the provider specifically requests the information be released, and except as provided for under RCW 42.17.260(9).

(x) Information obtained by the board of pharmacy as provided in RCW 69.45.090.

(y) Information obtained by the board of pharmacy or the department of health and its representatives as provided in RCW 69.41.044, 69.41.280, and 18.64.420.

(z) Financial information, business plans, examination reports, and any information produced or obtained in evaluating or examining a business and industrial development corporation organized or seeking certification under chapter 31.24 RCW.

(aa) Financial and commercial information supplied to the state investment board by any person when the information relates to the investment of public trust or retirement funds and when disclosure would result in loss to such funds or in private loss to the providers of this information.

(bb) Financial and valuable trade information under RCW 51.36.120.

(cc) Client records maintained by an agency that is a domestic violence program as defined in RCW 70.123.020 or 70.123.075 or a rape crisis center as defined in RCW 70.125.030.

(dd) Information that identifies a person who, while an agency employee: (i) Seeks advice, under an informal process established by the employing agency, in order to ascertain his or her rights in connection with a possible unfair practice under chapter 49.60 RCW against the person; and (ii) requests his or her identity or any identifying information not be disclosed.

(ee) Investigative records compiled by an employing agency conducting a current investigation of a possible unfair practice under chapter 49.60 RCW or of a possible violation of other federal, state, or local laws prohibiting discrimination in employment.

(ff) Business related information protected from public inspection and copying under RCW 15.86.110.

(gg) Financial, commercial, operations, and technical and research information and data submitted to or obtained by the clean Washington center in applications for, or delivery of, program services under chapter 70.95H RCW.

(hh) Information and documents created specifically for, and collected and maintained by a quality improvement committee pursuant to RCW 43.70.510, regardless of which agency is in possession of the information and documents.

(ii) Personal information in files maintained in a data base created under RCW 43.07.360.

(jj) Names of individuals residing in emergency or transitional housing that are furnished to the department of revenue or a county assessor in order to substantiate a claim for property tax exemption under RCW 84.36.043.

(2) Except for information described in subsection (1)(c)(i) of this section and confidential income data exempted from public inspection pursuant to RCW 84.40.020, the exemptions of this section are inapplicable to the extent that information, the disclosure of which would violate personal privacy or vital governmental interests, can be deleted from the specific records sought. No exemption may be construed to permit the nondisclosure of statistical information not descriptive of any readily identifiable person or persons.

(3) Inspection or copying of any specific records exempt under the provisions of this section may be permitted if the superior court in the county in which the record is maintained finds, after a hearing with notice thereof to every person in interest and the agency, that the exemption of such records is clearly unnecessary to protect any individual's right of privacy or any vital governmental function.

(4) Agency responses refusing, in whole or in part, inspection of any public record shall include a statement of the specific exemption authorizing the withholding of the record (or part) and a brief explanation of how the exemption applies to the record withheld.

Passed the House April 19, 1997.

Passed the Senate April 17, 1997.

Approved by the Governor May 1, 1997.

Filed in Office of Secretary of State May 1, 1997.

CHAPTER 240

[House Bill 1353]

SALE OF MATERIALS FROM DEPARTMENT OF TRANSPORTATION LANDS

AN ACT Relating to sale of materials from department of transportation lands; and amending RCW 47.12.140.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 47.12.140 and 1981 c 260 s 12 are each amended to read as follows:

~~((1) Except as otherwise provided in subsection (2) of this section,))~~
 Whenever the department ~~((shall have))~~ has acquired any lands for ~~((highway))~~ transportation purposes, except state granted lands, upon which are located any structures, timber, or other thing of value attached to the land ~~((, which))~~ that the department ~~((shall))~~ deems it best to sever from the land and sell as personal property, the same may be ~~((sold))~~ disposed of by one of the following means:

(1) The department may sell the personal property at public auction after due notice ~~((thereof shall have))~~ has been given in accordance with general ~~((regulations))~~ rules adopted by the secretary. The department may set minimum prices that will be accepted for any item offered for sale at public auction as ~~((herein))~~ provided in this section and may prescribe terms or conditions of sale ~~((and, in the event that any)),~~ If an item ~~((shall be))~~ is offered for sale at ~~((such))~~ the auction and ~~((for which))~~ no satisfactory bids ~~((shall be))~~ are received or ~~((for~~

which)) the amount bid (~~(shall be)~~) is less than the minimum set by the department, (~~(it shall be lawful for)~~) the department (~~(to)~~) may sell (~~(such)~~) the item at private sale for the best price (~~(which)~~) that it deems obtainable, but (~~(at)~~) not less than the highest price bid at the public auction. The proceeds of all sales under this section (~~(shall)~~) must be placed in the motor vehicle fund.

(2) The department may issue permits to residents of this state to remove specified quantities of standing or downed trees and shrubs, rock, sand, gravel, or soils (~~(which)~~) that have no market value in place and (~~(which)~~) that the department desires to be removed from state-owned lands (~~(which)~~) that are under the jurisdiction of the department. An applicant for (~~(such)~~) a permit must certify that the materials so removed are to be used by (~~(himself)~~) the applicant and that they will not be disposed of to any other person. Removal of materials (~~(pursuant to)~~) under the permit (~~(shall)~~) must be in accordance with (~~(such regulations as)~~) rules adopted by the department (~~(shall prescribe)~~). The fee for a permit (~~(shall be)~~) is two dollars and fifty cents, which (~~(shall)~~) fee must be deposited in the motor vehicle fund. The department may adopt (~~(regulations)~~) rules providing for special access to limited access facilities for the purpose of removal of materials (~~(pursuant to)~~) under permits authorized in this section.

(3) The department may sell timber or logs to an abutting landowner for cash at full appraised value, but only after each other abutting owner (if any), as shown in the records of the county assessor, is notified in writing of the proposed sale. If more than one abutting owner requests in writing the right to purchase the timber within fifteen days after receiving notice of the proposed sale, the timber must be sold in accordance with subsection (1) of this section.

(4) The department may sell timber or logs having an appraised value of one thousand dollars or less directly to interested parties for cash at the full appraised value without notice or advertising. If the timber is attached to state-owned land, the department shall issue a permit to the purchaser of the timber to allow for the removal of the materials from state land. The permit fee is two dollars and fifty cents.

Passed the House April 19, 1997.

Passed the Senate April 11, 1997.

Approved by the Governor May 1, 1997.

Filed in Office of Secretary of State May 1, 1997.

CHAPTER 241

[House Bill 1457]

PERMITS AND CERTIFICATES—ISSUANCE AND COST

AN ACT Relating to permits and certificates issued by the department of licensing; amending RCW 46.09.070, 46.10.040, 46.12.010, 46.12.080, 46.12.170, 46.12.181, 46.16.210, 46.16.220, 46.16.305, 46.16.630, 88.02.075, 46.16.010, and 46.37.010; and adding a new section to chapter 46.16 RCW.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 46.09.070 and 1986 c 206 s 4 are each amended to read as follows:

(1) Application for annual or temporary ORV use permits shall be made to the department or its authorized agent in such manner and upon such forms as the department shall prescribe and shall state the name and address of each owner of the off-road vehicle.

(2) An application for an annual permit shall be signed by at least one owner, and shall be accompanied by a fee of five dollars. Upon receipt of the annual permit application and the application fee, the off-road vehicle shall be assigned a use permit number tag or decal, which shall be affixed to the off-road vehicle in a manner prescribed by the department. The annual permit is valid for a period of one year and is renewable each year in such manner as the department may prescribe for an additional period of one year upon payment of a renewal fee of five dollars.

Any person acquiring an off-road vehicle for which an annual permit has been issued who desires to continue to use the permit must, within fifteen days of the acquisition of the off-road vehicle, make application to the department or its authorized agent for transfer of the permit, and the application shall be accompanied by a transfer fee of one dollar and twenty-five cents.

(3) A temporary use permit is valid for sixty days. Application for a temporary permit shall be accompanied by a fee of two dollars. The permit shall be carried on the vehicle at all times during its operation in the state.

(4) Except as provided in RCW 46.09.050, any out-of-state operator of an off-road vehicle shall, when operating in this state, comply with this chapter, and if an ORV use permit is required under this chapter, the operator shall obtain an annual or temporary permit and tag.

Sec. 2. RCW 46.10.040 and 1996 c 164 s 1 are each amended to read as follows:

Application for registration shall be made to the department in the manner and upon forms the department prescribes, and shall state the name and address of each owner of the snowmobile to be registered, and shall be signed by at least one such owner, and shall be accompanied by an annual registration fee to be established by the commission, after consultation with the committee and any state-wide snowmobile user groups. The fee shall be fifteen dollars pending action by the commission to increase the fee. The commission shall increase the fee by two dollars and fifty cents effective September 30, 1996, and the commission shall increase the fee by another two dollars and fifty cents effective September 30, 1997. After the fee increase effective September 30, 1997, the commission shall not increase the fee. Upon receipt of the application and the application fee, the snowmobile shall be registered and a registration number assigned, which shall be affixed to the snowmobile in a manner provided in RCW 46.10.070.

The registration provided in this section shall be valid for a period of one year. At the end of the period of registration, every owner of a snowmobile in this state

shall renew his or her registration in the manner the department prescribes, for an additional period of one year, upon payment of the annual registration fee as determined by the commission.

Any person acquiring a snowmobile already validly registered under the provisions of this chapter must, within ten days of the acquisition or purchase of the snowmobile, make application to the department for transfer of the registration, and the application shall be accompanied by a transfer fee of one dollar and twenty-five cents.

A snowmobile owned by a resident of another state or Canadian province where registration is not required by law may be issued a nonresident registration permit valid for not more than sixty days. Application for the permit shall state the name and address of each owner of the snowmobile to be registered and shall be signed by at least one owner and shall be accompanied by a registration fee of five dollars. The registration permit shall be carried on the vehicle at all times during its operation in this state.

The registration fees provided in this section shall be in lieu of any personal property or excise tax heretofore imposed on snowmobiles by this state or any political subdivision thereof, and no city, county, or other municipality, and no state agency shall hereafter impose any other registration or license fee on any snowmobile in this state.

The department shall make available a pair of uniform decals consistent with the provisions of RCW 46.10.070. In addition to the registration fee provided in this section the department shall charge each applicant for registration the actual cost of the decal. The department shall make available replacement decals for a fee equivalent to the actual cost of the decals.

Sec. 3. RCW 46.12.010 and 1979 c 158 s 132 are each amended to read as follows:

It shall be unlawful for any person to operate any vehicle in this state under a certificate of license registration of this state without securing and having in full force and effect a certificate of ownership therefor that contains the name of the registered owner exactly as it appears on the certificate of license registration and it shall further be unlawful for any person to sell or transfer any vehicle without complying with all the provisions of this chapter relating to certificates of ownership and license registration of vehicles: **PROVIDED**, No certificate of title need be obtained for a vehicle owned by a manufacturer or dealer and held for sale, even though incidentally moved on the highway or used for purposes of testing and demonstration, or a vehicle used by a manufacturer solely for testing: **PROVIDED**, That a security interest in a vehicle held as inventory by a manufacturer or dealer shall be perfected in accordance with RCW 62A.9-302(1) and no endorsement on the certificate of title shall be necessary for perfection: **AND PROVIDED FURTHER**, That nothing in this title shall be construed to prevent any person entitled thereto from securing a certificate of ownership upon a vehicle (~~(other than a travel trailer or camper)~~) without securing a certificate of

license registration and vehicle license plates, when, in the judgment of the director of licensing, it is proper to do so.

Sec. 4. RCW 46.12.080 and 1979 ex.s. c 113 s 1 are each amended to read as follows:

Any person holding the certificate of (~~license registration~~) ownership for a motorcycle or any vehicle registered by its motor number in which there has been installed a new or different motor than that with which it was issued certificates of ownership and license registration shall forthwith and within five days after such installation forward and surrender such certificates to the department, together with an application for issue of corrected certificates of ownership and license registration and a fee of one dollar and twenty-five cents, and a statement of the disposition of the former motor. The possession by any person of any such certificates for such vehicle in which a new or different motor has been installed, after five days following such installation, shall be prima facie evidence of a violation of the provisions of this chapter and shall constitute a misdemeanor.

Sec. 5. RCW 46.12.170 and 1994 c 262 s 6 are each amended to read as follows:

If, after a certificate of ownership is issued, a security interest is granted on the vehicle described therein, the registered owner or secured party shall, within ten days thereafter, present an application to the department, to which shall be attached the certificate of ownership last issued covering the vehicle, or such other documentation as may be required by the department, which application shall be upon a form (~~provided~~) approved by the department and shall be accompanied by a fee of one dollar and twenty-five cents in addition to all other fees. The department, if satisfied that there should be a reissue of the certificate, shall note such change upon the vehicle records and issue to the secured party a new certificate of ownership.

Whenever there is no outstanding secured obligation and no commitment to make advances and incur obligations or otherwise give value, the secured party must assign the certificate of ownership to the debtor or the debtor's assignee and transmit the certificate to the department with an accompanying fee of one dollar and twenty-five cents in addition to all other fees. The department shall then issue a new certificate of ownership and transmit it to the owner. If the affected secured party fails to either assign or transmit the certificate of ownership to the department within ten days after proper demand, that secured party shall be liable to the debtor for one hundred dollars, and in addition for any loss caused to the debtor by such failure.

NEW SECTION. **Sec. 6.** A new section is added to chapter 46.16 RCW to read as follows:

If a certificate of license registration is lost, stolen, mutilated, or destroyed or becomes illegible, the registered owner or owners, as shown by the records of the department, shall promptly make application for and may obtain a duplicate upon tender of one dollar and twenty-five cents in addition to all other fees and upon

furnishing information satisfactory to the department. The duplicate of the license registration shall contain the legend, "duplicate."

A person recovering an original certificate of license registration for which a duplicate has been issued shall promptly surrender the original certificate to the department.

Sec. 7. RCW 46.12.181 and 1994 c 262 s 7 are each amended to read as follows:

If a certificate of ownership (~~(or a certificate of license registration)~~) is lost, stolen, mutilated, or destroyed or becomes illegible, the first priority secured party or, if none, the owner or legal representative of the owner named in the certificate, as shown by the records of the department, shall promptly make application for and may obtain a duplicate upon tender of one dollar and twenty-five cents in addition to all other fees and upon furnishing information satisfactory to the department. The duplicate certificate of ownership (~~(or license registration)~~) shall contain the legend, "~~((This is a))~~ duplicate (~~(certificate)~~)." It shall be (~~(mailed)~~) provided to the first priority secured party named in it or, if none, to the owner.

A person recovering an original certificate of ownership (~~(or title registration)~~) for which a duplicate has been issued shall promptly surrender the original certificate to the department.

Sec. 8. RCW 46.16.210 and 1994 c 262 s 9 are each amended to read as follows:

(1) Upon receipt of the application and proper fee for original vehicle license, the director shall make a recheck of the application and in the event that there is any error in the application it may be returned to the county auditor or other agent to effectively secure the correction of such error, who shall return the same corrected to the director.

(2) Application for the renewal of a vehicle license shall be made to the director or his agents, including county auditors, by the registered owner on a form prescribed by the director. The application must be accompanied by the certificate of registration for the last registration period in which the vehicle was registered in Washington unless the applicant submits a preprinted application mailed from Olympia, and the payment of such license fees and excise tax as may be required by law. Such application shall be handled in the same manner and the fees transmitted to the state treasurer in the same manner as in the case of an original application. Any such application which upon validation becomes a renewal certificate need not have entered upon it the name of the lien holder, if any, of the vehicle concerned.

(3) Persons expecting to be out of the state during the normal (~~((forty-five day))~~) renewal period of a vehicle license may secure renewal of such vehicle license and have license plates or tabs preissued by making application to the director or his agents upon forms prescribed by the director. The application must be accompanied by the certificate of registration for the last registration period in

which the vehicle was registered in Washington and be accompanied by such license fees, and excise tax as may be required by law.

(4) Application for the annual renewal of a vehicle license number plate to the director or ~~((his))~~ the director's agents shall not be required for those vehicles owned, rented, or leased by the state of Washington, or by any county, city, town, school district, or other political subdivision of the state of Washington or a governing body of an Indian tribe located within this state and recognized as a governmental entity by the United States department of the interior.

Sec. 9. RCW 46.16.220 and 1991 c 339 s 20 are each amended to read as follows:

Vehicle licenses and vehicle license number plates may be renewed for the subsequent registration year ~~((on and after the forty-fifth day prior to the end of))~~ up to eighteen months before the current ((registration year)) expiration date and must be used and displayed from the date of issue or from the day of the expiration of the preceding registration year, whichever date is later.

Sec. 10. RCW 46.16.305 and 1990 c 250 s 2 are each amended to read as follows:

The department shall continue to issue, under RCW 46.16.301 and the department's rules implementing RCW 46.16.301 through 46.16.332, the categories of special plates issued by the department under the sections repealed under section ~~((13))~~ 12 (1) through (7), chapter 250, Laws of 1990. Special license plates issued under those repealed sections before January 1, 1991, are valid to the extent and under the conditions provided in those repealed sections. The following conditions, limitations, or requirements apply to certain special license plates issued after January 1, 1991:

(1) A horseless carriage plate and a plate or plates issued for collectors' vehicles more than thirty years old, upon payment of the initial fees required by law and the additional special license plate fee established by the department, are valid for the life of the vehicle for which application is approved by the department. When a single plate is issued, it shall be displayed on the rear of the vehicle.

(2) The department may issue special license plates denoting amateur radio operator status only to persons having a valid official radio operator license issued ~~((for a term of five years))~~ by the federal communications commission.

(3) The department shall issue one set of special license plates to each resident of this state who has been awarded the Congressional Medal of Honor for use on a passenger vehicle registered to that person. The department shall issue the plate without the payment of any fees.

(4) The department may issue for use on only one motor vehicle owned by the qualified applicant special license plates denoting that the recipient of the plate is a survivor of the attack on Pearl Harbor on December 7, 1941, to persons meeting all of the following criteria:

(a) Is a resident of this state;

(b) Was a member of the United States Armed Forces on December 7, 1941;
(c) Was on station on December 7, 1941, during the hours of 7:55 a.m. to 9:45 a.m. Hawaii time at Pearl Harbor, the island of Oahu, or offshore at a distance not to exceed three miles;

(d) Received an honorable discharge from the United States Armed Forces;
and

(e) Is certified by a Washington state chapter of the Pearl Harbor survivors association as satisfying the qualifications in (c) of this subsection.

The department may issue such plates to the surviving spouse of any deceased Pearl Harbor survivor who met the requirements of this subsection. If the surviving spouse remarries, he or she shall return the special plates to the department within fifteen days and apply for regular plates. The surviving spouse must be a resident of this state.

The department shall issue these plates upon payment by the applicant of all other license fees, but the department may not set or charge an additional fee for these special license plates under RCW 46.16.313.

(5) The department shall replace, free of charge, special license plates issued under subsections (3) and (4) of this section if they are lost, stolen, damaged, defaced, or destroyed. Such plates shall remain with the persons upon transfer or other disposition of the vehicle for which they were initially issued, and may be used on another vehicle registered to the recipient in accordance with the provisions of RCW 46.16.316(1).

Sec. 11. RCW 46.16.630 and 1979 ex.s. c 213 s 5 are each amended to read as follows:

Application for registration of a moped shall be made to the department of licensing in such manner and upon such forms as the department shall prescribe, and shall state the name and address of each owner of the moped to be registered, the vehicle identification number, and such other information as the department may require, and shall be accompanied by a registration fee of three dollars. Upon receipt of the application and the application fee, the moped shall be registered and a registration number assigned, which shall be affixed to the moped in the manner as provided by rules adopted by the department. The registration provided in this section shall be valid for a period of twelve months.

Every owner of a moped in this state shall renew the registration, in such manner as the department shall prescribe, for an additional period of twelve months, upon payment of a renewal fee of three dollars.

Any person acquiring a moped already validly registered must, within fifteen days of the acquisition or purchase of the moped, make application to the department for transfer of the registration, and the application shall be accompanied by a transfer fee of one dollar and twenty-five cents.

The registration fees provided in this section shall be in lieu of any personal property tax or the vehicle excise tax imposed by chapter 82.44 RCW.

The department shall, at the time the registration number is assigned, make available a decal or other identifying device to be displayed on the moped. A fee of one dollar and fifty cents shall be charged for the decal or other identifying device.

The provisions of RCW 46.01.130 and 46.01.140 shall apply to applications for the issuance of registration numbers or renewals or transfers thereof for mopeds as they do to the issuance of vehicle licenses, the appointment of agents, and the collection of application fees. Except for the fee collected pursuant to RCW 46.01.140, all fees collected under this section shall be deposited in the motor vehicle fund.

Sec. 12. RCW 88.02.075 and 1986 c 71 s 1 are each amended to read as follows:

(1) If a certificate of ~~((title))~~ ownership, a certificate of registration, or a pair of decals is lost, stolen, mutilated, or destroyed or becomes illegible, the first priority secured party or, if none, the owner or legal representative of the owner named in the certificate, as shown by the records of the department, shall promptly apply for and may obtain a duplicate certificate or replacement decals upon payment of one dollar and twenty-five cents and furnishing information satisfactory to the department.

(a) An application for a duplicate certificate of title shall be accompanied by an affidavit of loss or destruction in a form approved by the department and signed by the first secured party or, if none, the owner or legal representative of the owner.

(b) An application for a duplicate certificate of registration or replacement decals shall be accompanied by an affidavit of loss or destruction in a form approved by the department and signed by the registered owner or legal representative of the owner.

(2) The duplicate certificate of ~~((title))~~ ownership or registration shall contain the legend, "~~((This is a))~~ duplicate ~~((certificate)).~~" It shall be mailed to the first priority secured party named in it or, if none, to the owner.

(3) A person recovering an original certificate of ~~((title))~~ ownership, certificate of registration, or decal for which a duplicate or replacement has been issued shall promptly surrender the original to the department.

Sec. 13. RCW 46.16.010 and 1996 c 184 s 1 are each amended to read as follows:

(1) It is unlawful for a person to operate any vehicle over and along a public highway of this state without first having obtained and having in full force and effect a current and proper vehicle license and display vehicle license number plates therefor as by this chapter provided. Failure to make initial registration before operation on the highways of this state is a misdemeanor, and any person convicted thereof shall be punished by a fine of no less than three hundred thirty dollars, no part of which may be suspended or deferred. Failure to renew an

expired registration before operation on the highways of this state is a traffic infraction.

(2) The licensing of a vehicle in another state by a resident of this state, as defined in RCW 46.16.028, evading the payment of any tax or license fee imposed in connection with registration, is a gross misdemeanor punishable as follows:

(a) For a first offense, up to one year in the county jail and a fine equal to twice the amount of delinquent taxes and fees, no part of which may be suspended or deferred;

(b) For a second or subsequent offense, up to one year in the county jail and a fine equal to four times the amount of delinquent taxes and fees, no part of which may be suspended or deferred;

(c) For fines levied under (b) of this subsection, an amount equal to the avoided taxes and fees owed shall be deposited in the vehicle licensing fraud account created in the state treasury;

(d) The avoided taxes and fees shall be deposited and distributed in the same manner as if the taxes and fees were properly paid in a timely fashion.

(3) These provisions shall not apply to farm vehicles as defined in RCW 46.04.181 if operated within a radius of fifteen miles of the farm where principally used or garaged, farm tractors and farm implements including trailers designed as cook or bunk houses used exclusively for animal herding temporarily operating or drawn upon the public highways, and trailers used exclusively to transport farm implements from one farm to another during the daylight hours or at night when such equipment has lights that comply with the law: **PROVIDED FURTHER**, That these provisions shall not apply to spray or fertilizer applicator rigs designed and used exclusively for spraying or fertilization in the conduct of agricultural operations and not primarily for the purpose of transportation, and nurse rigs or equipment auxiliary to the use of and designed or modified for the fueling, repairing or loading of spray and fertilizer applicator rigs and not used, designed or modified primarily for the purpose of transportation: **PROVIDED FURTHER**, That these provisions shall not apply to fork lifts operated during daylight hours on public highways adjacent to and within five hundred feet of the warehouses which they serve: **PROVIDED FURTHER**, That these provisions shall not apply to vehicles used by the state parks and recreation commission exclusively for park maintenance and operations upon public highways within state parks: **PROVIDED FURTHER**, That these provisions shall not apply to equipment defined as follows:

"Special highway construction equipment" is any vehicle which is designed and used primarily for grading of highways, paving of highways, earth moving, and other construction work on highways and which is not designed or used primarily for the transportation of persons or property on a public highway and which is only incidentally operated or moved over the highway. It includes, but is not limited to, road construction and maintenance machinery so designed and used such as portable air compressors, air drills, asphalt spreaders, bituminous mixers, bucket loaders, track laying tractors, ditchers, leveling graders, finishing

machines, motor graders, paving mixers, road rollers, scarifiers, earth moving scrapers and carryalls, lighting plants, welders, pumps, power shovels and draglines, self-propelled and tractor-drawn earth moving equipment and machinery, including dump trucks and tractor-dump trailer combinations which either (1) are in excess of the legal width or (2) which, because of their length, height or unladen weight, may not be moved on a public highway without the permit specified in RCW 46.44.090 and which are not operated laden except within the boundaries of the project limits as defined by the contract, and other similar types of construction equipment, or (3) which are driven or moved upon a public highway only for the purpose of crossing such highway from one property to another, provided such movement does not exceed five hundred feet and the vehicle is equipped with wheels or pads which will not damage the roadway surface.

Exclusions:

"Special highway construction equipment" does not include any of the following:

Dump trucks originally designed to comply with the legal size and weight provisions of this code notwithstanding any subsequent modification which would require a permit, as specified in RCW 46.44.090, to operate such vehicles on a public highway, including trailers, truck-mounted transit mixers, cranes and shovels, or other vehicles designed for the transportation of persons or property to which machinery has been attached.

(4) The following vehicles, whether operated solo or in combination, are exempt from license registration and displaying license plates as required by this chapter:

(a) A converter gear used to convert a semitrailer into a trailer or a two-axle truck or tractor into a three or more axle truck or tractor or used in any other manner to increase the number of axles of a vehicle. Converter gear includes an auxiliary axle, booster axle, dolly, and jeep axle.

(b) A tow dolly that is used for towing a motor vehicle behind another motor vehicle. The front or rear wheels of the towed vehicle are secured to and rest on the tow dolly that is attached to the towing vehicle by a tow bar.

Sec. 14. RCW 46.37.010 and 1989 c 178 s 22 are each amended to read as follows:

(1) It is a traffic infraction for any person to drive or move or for the owner to cause or knowingly permit to be driven or moved on any highway any vehicle or combination of vehicles which is in such unsafe condition as to endanger any person, or which does not contain those parts or is not at all times equipped with such lamps and other equipment in proper condition and adjustment as required in this chapter or in regulations issued by the chief of the Washington state patrol, or which is equipped in any manner in violation of this chapter or the state patrol's regulations, or for any person to do any act forbidden or fail to perform any act required under this chapter or the state patrol's regulations.

(2) Nothing contained in this chapter or the state patrol's regulations shall be construed to prohibit the use of additional parts and accessories on any vehicle not inconsistent with the provisions of this chapter or the state patrol's regulations.

(3) The provisions of the chapter and the state patrol's regulations with respect to equipment on vehicles shall not apply to implements of husbandry, road machinery, road rollers, or farm tractors except as herein made applicable.

(4) No owner or operator of a farm tractor, self-propelled unit of farm equipment, or implement of husbandry shall be guilty of a crime or subject to penalty for violation of RCW 46.37.160 as now or hereafter amended unless such violation occurs on a public highway.

(5) It is a traffic infraction for any person to sell or offer for sale vehicle equipment which is required to be approved by the state patrol as prescribed in RCW 46.37.005 unless it has been approved by the state patrol.

(6) The provisions of this chapter with respect to equipment required on vehicles shall not apply to motorcycles or motor-driven cycles except as herein made applicable.

(7) This chapter does not apply to vehicles used by the state parks and recreation commission exclusively for park maintenance and operations upon public highways within state parks.

(8) Notices of traffic infraction issued to commercial drivers under the provisions of this chapter with respect to equipment required on commercial motor vehicles shall not be considered for driver improvement purposes under chapter 46.20 RCW.

~~((8))~~ (9) Whenever a traffic infraction is chargeable to the owner or lessee of a vehicle under subsection (1) of this section, the driver shall not be arrested or issued a notice of traffic infraction unless the vehicle is registered in a jurisdiction other than Washington state, or unless the infraction is for an offense that is clearly within the responsibility of the driver.

~~((9))~~ (10) Whenever the owner or lessee is issued a notice of traffic infraction under this section the court may, on the request of the owner or lessee, take appropriate steps to make the driver of the vehicle, or any other person who directs the loading, maintenance, or operation of the vehicle, a codefendant. If the codefendant is held solely responsible and is found to have committed the traffic infraction, the court may dismiss the notice against the owner or lessee.

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CHAPTER 242

[Engrossed Second Substitute House Bill 1527]
PESTICIDE REGISTRATION AND LICENSING

AN ACT Relating to pesticide registration and licensing; amending RCW 15.58.040, 15.58.070, 15.58.170, 15.58.180, 15.58.200, 15.58.210, 15.58.220, 15.58.411, 15.58.420, 17.21.070, 17.21.110, 17.21.122, 17.21.126, 17.21.129, 17.21.132, 17.21.220, 17.21.280, and 17.21.350; adding a new section to chapter 15.58 RCW; adding a new section to chapter 17.21 RCW; repealing RCW 15.58.245, 17.21.910, 15.58.415, and 17.21.360; and providing an effective date.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 15.58.040 and 1996 c 188 s 4 are each amended to read as follows:

(1) The director shall administer and enforce the provisions of this chapter and rules adopted under this chapter. All the authority and requirements provided for in chapter 34.05 RCW (Administrative Procedure Act) and chapter 42.30 RCW shall apply to this chapter in the adoption of rules including those requiring due notice and a hearing for the adoption of permanent rules.

(2) The director is authorized to adopt appropriate rules for carrying out the purpose and provisions of this chapter, including but not limited to rules providing for:

(a) Declaring as a pest any form of plant or animal life or virus which is injurious to plants, people, animals (domestic or otherwise), land, articles, or substances;

(b) Determining that certain pesticides are highly toxic to people. For the purpose of this chapter, highly toxic pesticide means any pesticide that conforms to the criteria in 40 C.F.R. Sec. ~~((162-10))~~ 156.10 for toxicity category I due to oral inhalation or dermal toxicity. The director shall publish a list of all pesticides, determined to be highly toxic, by their common or generic name and their trade or brand name if practical. Such list shall be kept current and shall, upon request, be made available to any interested party;

(c) Determining standards for denaturing pesticides by color, taste, odor, or form;

(d) The collection and examination of samples of pesticides or devices;

(e) The safe handling, transportation, storage, display, distribution, and disposal of pesticides and their containers;

(f) Restricting or prohibiting the use of certain types of containers or packages for specific pesticides. These restrictions may apply to type of construction, strength, and/or size to alleviate danger of spillage, breakage, misuse, or any other hazard to the public. The director shall be guided by federal regulations concerning pesticide containers;

(g) Procedures in making of pesticide recommendations;

(h) Adopting a list of restricted use pesticides for the state or for designated areas within the state if the director determines that such pesticides may require rules restricting or prohibiting their distribution or use. The director may include in the rule the time and conditions of distribution or use of such restricted use

pesticides and may, if it is found necessary to carry out the purpose and provisions of this chapter, require that any or all restricted use pesticides shall be purchased, possessed, or used only under permit of the director and under the director's direct supervision in certain areas and/or under certain conditions or in certain quantities or concentrations. The director may require all persons issued such permits to maintain records as to the use of all the restricted use pesticides;

(i) Label requirements of all pesticides required to be registered under provisions of this chapter;

(j) Regulating the labeling of devices;

(k) The establishment of criteria governing the conduct of a structural pest control inspection; and

(l) Declaring crops, when grown to produce seed specifically for crop reproduction purposes, to be nonfood and/or nonfeed sites of pesticide application. The director may include in the rule any restrictions or conditions regarding: (i) The application of pesticides to the designated crops; and (ii) the disposition of any portion of the treated crop.

(3) For the purpose of uniformity and to avoid confusion endangering the public health and welfare the director may adopt rules in conformity with the primary pesticide standards, particularly as to labeling, established by the United States environmental protection agency or any other federal agency.

Sec. 2. RCW 15.58.070 and 1995 c 374 s 66 are each amended to read as follows:

(1) ~~((Except as provided in subsection (4) of this section.))~~ Any person desiring to register a pesticide with the department shall pay to the director an annual registration fee for each pesticide registered by the department for such person. The registration fee ~~((for the registration of pesticides for any one person during a calendar year))~~ shall be ~~((:))~~ one hundred ~~((five))~~ forty-five dollars for each ~~((of the first twenty-five))~~ pesticide~~((s))~~ registered~~((; one hundred dollars for each of the twenty-sixth through one hundredth pesticides registered; seventy-five dollars for each of the one hundred first through one hundred fiftieth pesticides registered; and fifty dollars for each additional pesticide registered. In addition, the department may establish by rule a registration fee not to exceed ten dollars for each registered product labeled and intended for home and garden use only)).~~

(2) The revenue generated by the ~~((pesticide))~~ registration fees shall be deposited in the agricultural local fund to support the activities of the pesticide program within the department. ~~((The revenue generated by the home and garden use only fees shall be deposited in the agriculture local fund, to be used to assist in funding activities of the pesticide incident reporting and tracking review panel.))~~

(3) All pesticide registrations expire on December 31st of each year. A registrant may elect to register a pesticide for a two-year period by prepaying for a second year at the time of registration.

(4) ~~((A person desiring to register a label where a special local need exists shall pay to the director a nonrefundable application fee of two hundred dollars~~

~~upon submission of the registration request. In addition, a person desiring to renew an approved special local need registration shall pay to the director an annual registration fee of two hundred dollars for each special local needs label registered by the department for such person. The revenue generated by the special local needs application fees and the special local needs renewal fees shall be deposited in the agricultural local fund to be used to assist in funding the department's special local needs registration activities. All special local needs registrations expire on December 31st of each year.~~

—(5)) Any registration approved by the director and in effect on the 31st day of December for which a renewal application has been made and the proper fee paid, continues in full force and effect until the director notifies the applicant that the registration has been renewed, or otherwise denied in accord with the provision of RCW 15.58.110.

Sec. 3. RCW 15.58.170 and 1989 c 380 s 13 are each amended to read as follows:

(1) After service of a "stop sale, use or removal" order is made upon any person, either that person or the director may file an action in a court of competent jurisdiction in the county in which a violation of this chapter or rules adopted under this chapter is alleged to have occurred for an adjudication of the alleged violation. The court in such action may issue temporary or permanent injunctions mandatory or restraining, and such intermediate orders as it deems necessary or advisable. The court may order condemnation of any pesticide or device which does not meet the requirements of this chapter or rules adopted under this chapter: **PROVIDED**, That no authority is granted hereunder to affect the sale or use of products on which legally approved pesticides have been legally used.

(2) If the pesticide or device is condemned, it shall, after entry of decree, be disposed of by destruction or sale as the court directs, and the proceeds, if such pesticide or device is sold, less cost including legal costs, shall be paid to the state treasury (~~as provided in RCW 15.58.410~~): **PROVIDED**, That the pesticide or device shall not be sold contrary to the provisions of this chapter or rules adopted under this chapter. Upon payment of costs and execution and delivery of a good and sufficient bond conditioned that the pesticide or device shall not be disposed of unlawfully, the court may direct that the pesticide or device be delivered to the owner thereof for relabeling or reprocessing as the case may be.

(3) When a decree of condemnation is entered against the pesticide, court costs, fees, and storage and other proper expenses shall be awarded against the person, if any, appearing as claimant of the pesticide.

Sec. 4. RCW 15.58.180 and 1989 c 380 s 14 are each amended to read as follows:

(1) Except as provided in subsections (4) and (5) of this section, it is unlawful for any person to act in the capacity of a pesticide dealer or advertise as or assume to act as a pesticide dealer without first having obtained an annual license from the director. The license shall expire on the master license expiration date. A license

is required for each location or outlet located within this state from which pesticides are distributed. A manufacturer, registrant, or distributor who has no pesticide dealer outlet licensed within this state and who distributes such pesticides directly into this state shall obtain a pesticide dealer license for his or her principal out-of-state location or outlet, but such licensed out-of-state pesticide dealer is exempt from the pesticide dealer manager requirements.

(2) Application for a license shall be accompanied by a ~~((thirty-dollar annual license))~~ fee of fifty dollars and shall be made through the master license system and shall include the full name of the person applying for the license and the name of the individual within the state designated as the pesticide dealer manager. If the applicant is a partnership, association, corporation, or organized group of persons, the full name of each member of the firm or partnership or the names of the officers of the association or corporation shall be given on the application. The application shall further state the principal business address of the applicant in the state and elsewhere, the name of a person domiciled in this state authorized to receive and accept service of summons of legal notices of all kinds for the applicant, and any other necessary information prescribed by the director.

(3) It is unlawful for any licensed dealer outlet to operate without a pesticide dealer manager who has a license of qualification. The department shall be notified forthwith of any change in the pesticide dealer manager designee during the licensing period.

(4) This section does not apply to (a) a licensed pesticide applicator who sells pesticides only as an integral part of the applicator's pesticide application service when such pesticides are dispensed only through apparatuses used for such pesticide application, or (b) any federal, state, county, or municipal agency that provides pesticides only for its own programs.

(5) A user of a pesticide may distribute a properly labeled pesticide to another user who is legally entitled to use that pesticide without obtaining a pesticide dealer's license if the exclusive purpose of distributing the pesticide is keeping it from becoming a hazardous waste as defined in chapter 70.105 RCW.

Sec. 5. RCW 15.58.200 and 1992 c 170 s 2 are each amended to read as follows:

The director shall require each pesticide dealer manager to demonstrate to the director knowledge of pesticide laws and rules; pesticide hazards; and the safe distribution, use and application, and disposal of pesticides by satisfactorily passing a written examination after which the director shall issue a license of qualification. Application for a license shall be accompanied by a ~~((license))~~ fee of ~~((fifteen))~~ twenty-five dollars. The pesticide dealer manager license shall be an annual license expiring on a date set by rule by the director. ~~((License fees shall be prorated where necessary to accommodate staggering of expiration dates of a license or licenses.))~~

Sec. 6. RCW 15.58.210 and 1992 c 170 s 3 are each amended to read as follows:

(1) Except as provided in subsection (2) of this section, no individual may perform services as a pest control consultant without obtaining a license from the director ~~((an annual license, which)).~~ The license shall expire annually on a date set by rule by the director. ~~((License fees shall be prorated where necessary to accommodate staggering of expiration dates of a license or licenses.))~~ Except as provided in subsection (3) of this section, no individual may act as a structural pest control inspector without first obtaining from the director a pest control consultant license in the special category of structural pest control inspector. Application for a license shall be on a form prescribed by the director and shall be accompanied by a fee of ~~((thirty))~~ forty-five dollars.

(2) The following are exempt from the licensing requirements of subsection (1) of this section when acting within the authorities of their existing licenses issued under chapter 17.21 RCW: Licensed commercial pesticide applicators and operators; licensed private-commercial applicators; and licensed demonstration and research applicators. The following are also exempt from the licensing requirements of subsection (1) of this section: Employees of federal, state, county, or municipal agencies when acting in their official governmental capacities; and pesticide dealer managers and employees working under the direct supervision of the pesticide dealer manager and only at a licensed pesticide dealer's outlet.

(3) The following are exempt from the structural pest control inspector licensing requirement: Individuals inspecting for damage caused by wood destroying organisms if such inspections are solely for the purpose of: (a) Repairing or making specific recommendations for the repair of such damage, or (b) assessing a monetary value for the structure inspected. Individuals performing wood destroying organism inspections that incorporate but are not limited to the activities described in (a) or (b) of this subsection are not exempt from the structural pest control inspector licensing requirement.

Sec. 7. RCW 15.58.220 and 1991 c 109 s 40 are each amended to read as follows:

For the purpose of this section public pest control consultant means any individual who is employed by a governmental agency or unit to act as a pest control consultant as defined in RCW 15.58.030(28). No person shall act as a public pest control consultant ~~((on or after February 28, 1973))~~ without first obtaining ~~((an annual))~~ a license from the director. The license shall expire annually on a date set by rule by the director. ~~((License fees shall be prorated where necessary to accommodate staggering of expiration dates of a license or licenses.))~~ Application for a license shall be on a form prescribed by the director and shall be accompanied by ~~((an annual license))~~ a fee of ~~((fifteen))~~ twenty-five dollars. Federal and state employees whose principal responsibilities are in pesticide research, the jurisdictional health officer or a duly authorized representative, public pest control consultants licensed and working in the health vector field, and public operators licensed under RCW 17.21.220 shall be exempt from this licensing provision.

Sec. 8. RCW 15.58.411 and 1995 c 374 s 67 are each amended to read as follows:

All license fees collected under this chapter shall be paid to the director for use exclusively in the enforcement of this chapter. All moneys collected for civil penalties levied under this chapter shall be deposited in the state general fund.

Sec. 9. RCW 15.58.420 and 1989 c 380 s 30 are each amended to read as follows:

By ~~((December 1, 1989, and each subsequent December 1,))~~ February 1st of each year the department shall report to the appropriate committees of the house of representatives and the senate on the activities of the department under this chapter. The report shall include, at a minimum, a review of the department's enforcement activities, with the number of cases investigated and the number and amount of civil penalties assessed.

NEW SECTION. **Sec. 10.** A new section is added to chapter 15.58 RCW to read as follows:

(1) The director may renew any license issued under this chapter subject to the recertification standards identified in subsection (2) of this section or an examination requiring new knowledge that may be required to apply pesticides.

(2) Except as provided in subsection (3) of this section, all individuals licensed under this chapter shall meet the recertification standards identified in (a) or (b) of this subsection, every five years, in order to qualify for continuing licensure.

(a) Licensed pesticide applicators may qualify for continued licensure through accumulation of recertification credits. Individuals licensed under this chapter shall accumulate a minimum of forty department-approved credits every five years with no more than fifteen credits allowed per year.

(b) Licensed pesticide applicators may qualify for continued licensure through meeting the examination requirements necessary to become licensed in those areas in which the licensee operates.

(3) At the termination of a licensee's five-year recertification period, the director may waive the recertification requirements if the licensee can demonstrate that he or she is meeting comparable recertification standards through another state or jurisdiction or through a federal environmental protection agency-approved government agency plan.

Sec. 11. RCW 17.21.070 and 1994 c 283 s 6 are each amended to read as follows:

It shall be unlawful for any person to engage in the business of applying pesticides to the land of another without a commercial pesticide applicator license. Application for ~~((the))~~ a commercial applicator license shall be accompanied by a fee of one hundred ~~((thirty-six))~~ seventy dollars and in addition a fee of ~~((eleven))~~ twenty dollars for each apparatus, exclusive of one, used by the applicant in the application of pesticides: PROVIDED, That the provisions of this section shall not apply to any person employed only to operate any apparatus used for the

application of any pesticide, and in which such person has no financial interest or other control over such apparatus other than its day to day mechanical operation for the purpose of applying any pesticide.

Sec. 12. RCW 17.21.110 and 1994 c 283 s 10 are each amended to read as follows:

It shall be unlawful for any person to act as an employee of a commercial pesticide applicator and apply pesticides manually or as the operator directly in charge of any apparatus which is licensed or should be licensed under the provisions of this chapter for the application of any pesticide, without having obtained a commercial pesticide operator license from the director. The commercial pesticide operator license shall be in addition to any other license or permit required by law for the operation or use of any such apparatus. Application for a commercial operator license shall be accompanied by a ~~((license))~~ fee of ~~((thirty-three))~~ fifty dollars. The provisions of this section shall not apply to any individual who is a licensed commercial pesticide applicator.

Sec. 13. RCW 17.21.122 and 1994 c 283 s 11 are each amended to read as follows:

It shall be unlawful for any person to act as a private-commercial pesticide applicator without having obtained a private-commercial pesticide applicator license from the director. Application for a private-commercial pesticide applicator license shall be accompanied by a ~~((license))~~ fee of ~~((seventeen))~~ twenty-five dollars ~~((before a license may be issued))~~.

Sec. 14. RCW 17.21.126 and 1994 c 283 s 12 are each amended to read as follows:

It shall be unlawful for any person to act as a private pesticide applicator without first complying with ~~((the certification))~~ requirements determined by the director as necessary to prevent unreasonable adverse effects on the environment, including injury to the pesticide applicator or other persons, for each specific pesticide use.

(1) Certification standards to determine the individual's competency with respect to the use and handling of the pesticide or class of pesticides for which the private pesticide applicator is certified shall be relative to hazards of the particular type of application, class of pesticides, or handling procedure. In determining these standards the director shall take into consideration standards of the EPA and is authorized to adopt these standards by rule.

(2) Application for a private pesticide applicator ~~((certification))~~ license shall be accompanied by a ~~((license))~~ fee of ~~((seventeen))~~ twenty-five dollars. Individuals with a valid certified applicator license, pest control consultant license, or dealer manager license who qualify in the appropriate state-wide or agricultural license categories are exempt from the private applicator fee requirement. However, licensed public pesticide operators, otherwise exempted from the public pesticide operator license fee requirement, are not also exempted from the private pesticide applicator fee requirement.

Sec. 15. RCW 17.21.129 and 1994 c 283 s 14 are each amended to read as follows:

Except as provided in RCW 17.21.203, it is unlawful for a person to use or supervise the use of any experimental use pesticide or any restricted use pesticide on small experimental plots for research purposes when no charge is made for the pesticide and its application without a demonstration and research applicator's license.

(1) Application for a demonstration and research ~~((certification))~~ license shall be accompanied by a ~~((license))~~ fee of ~~((seventeen))~~ twenty-five dollars.

(2) Persons licensed in accordance with this section are exempt from the requirements of RCW 17.21.160, 17.21.170, and 17.21.180.

Sec. 16. RCW 17.21.132 and 1994 c 283 s 16 are each amended to read as follows:

Any person applying for a license or certification authorized under the provisions of this chapter shall file an application on a form prescribed by the director.

(1) The application shall state the license or certification and the classification(s) for which the applicant is applying and the method in which the pesticides are to be applied.

(2) For all classes of licenses except private applicator, all applicants shall be at least eighteen years of age on the date that the application is made. Applicants for a private pesticide applicator license shall be at least sixteen years of age on the date that the application is made.

(3) Application for a license to apply pesticides shall be accompanied by the required fee. No license may be issued until the required ~~((license))~~ fee has been received by the department. ~~((License fees shall be prorated where necessary to accommodate staggering of expiration dates of a license or licenses.))~~

(4) Each classification of license issued under this chapter shall expire annually on a date set by rule by the director. ~~((License expiration dates may be staggered for administrative purposes.))~~ Renewal applications shall be filed on or before the applicable expiration date.

Sec. 17. RCW 17.21.220 and 1994 c 283 s 25 are each amended to read as follows:

(1) All state agencies, municipal corporations, and public utilities or any other governmental agency shall be subject to the provisions of this chapter and rules adopted thereunder concerning the application of pesticides.

(2) It shall be unlawful for any employee of a state agency, municipal corporation, public utility, or any other government agency to use or to supervise the use of any restricted use pesticide, or any pesticide by means of an apparatus, without having obtained a public operator license from the director. ~~((A license))~~ Application for a public operator license shall be accompanied by a fee of ((seventeen)) twenty-five dollars ((shall be paid before a public operator license may be issued)). The ~~((license))~~ fee shall not apply to public operators licensed

and working in the health vector field. The public operator license shall be valid only when the operator is acting as an employee of a government agency.

(3) The jurisdictional health officer or his or her duly authorized representative is exempt from this licensing provision when applying pesticides that are not restricted use pesticides to control pests other than weeds.

(4) Such agencies, municipal corporations and public utilities shall be subject to legal recourse by any person damaged by such application of any pesticide, and such action may be brought in the county where the damage or some part thereof occurred.

Sec. 18. RCW 17.21.280 and 1994 c 283 s 29 are each amended to read as follows:

(1) Except as provided in subsection (2) of this section, all moneys collected under the provisions of this chapter shall be paid to the director and deposited in the agricultural local fund, RCW 43.23.230, for use exclusively in the enforcement of this chapter.

(2) All moneys collected for civil penalties levied under RCW 17.21.315 shall be deposited in the state general fund. All fees, fines, forfeitures and penalties collected or assessed by a district court because of the violation of a state law shall be remitted as provided in chapter 3.62 RCW.

Sec. 19. RCW 17.21.350 and 1989 c 380 s 64 are each amended to read as follows:

By ~~((December 1, 1989, and each subsequent December 1,))~~ February 1st of each year the department shall report to the appropriate committees of the house of representatives and the senate on the activities of the department under this chapter. The report shall include, at a minimum: (1) A review of the department's pesticide incident investigation and enforcement activities, with the number of cases investigated and the number and amount of civil penalties assessed; and (2) a summary of the pesticide residue food monitoring program with information on the food samples tested and results of the tests, a listing of the pesticides for which ~~((no))~~ testing is done, and other pertinent information.

NEW SECTION. **Sec. 20.** A new section is added to chapter 17.21 RCW to read as follows:

(1) The purpose of this section is to establish a pilot project to evaluate the feasibility of establishing a limited private applicator license to facilitate the control of weeds, especially those defined as noxious weeds, in Washington state.

(2) "Limited private applicator" means a certified applicator who uses or is in direct supervision of the use of any herbicide classified by the EPA or the director as a restricted use pesticide, for the sole purpose of controlling weeds on nonproduction agricultural land owned or rented by the applicator or the applicator's employer. Nonproduction agricultural land includes pastures, range land, fencerows, and areas around farm buildings but not aquatic sites. A limited private applicator also may apply restricted use herbicides to nonproduction agricultural land of another person if applied without compensation other than

trading of personal services between the applicator and the other person. A limited private applicator may not apply restricted use herbicides through any equipment defined under this chapter as an apparatus.

(3) A person may participate in the pilot project by applying to be licensed as a limited private applicator in 1998, 1999, or 2000. The application requirements, fee, and examination requirements for a limited private applicator are the same as for a private applicator.

(4)(a) A limited private applicator is exempt from the credit accumulation requirements of RCW 17.21.128(2)(a), and, upon application, begins a recertification period which ends on December 31, 2002.

(i) Limited private pesticide applicators first applying for a license in 1998 shall accumulate a minimum of ten department-approved credits by the end of the recertification period.

(ii) Limited private pesticide applicators first applying for a license in 1999 shall accumulate a minimum of eight department-approved credits by the end of the recertification period.

(iii) Limited private pesticide applicators first applying for a license in 2000 shall accumulate a minimum of six department-approved credits by the end of the recertification period.

(b) All credits must be applicable to the control of weeds with at least half of the credits directly related to weed control.

(5) Any limited private applicator who successfully completes the recertification requirements of this section is deemed to have met the credit accumulation requirements of RCW 17.21.128(2)(a) for private applicators.

(6) This section applies only to certified applicators in Ferry and Okanogan counties, Washington and expires December 31, 2002.

NEW SECTION. Sec. 21. The following acts or parts of acts are each repealed:

(1) RCW 15.58.245 and 1992 c 170 s 4 & 1989 c 380 s 21; and

(2) RCW 17.21.910 and 1994 c 283 s 35, 1992 c 170 s 10, 1989 c 380 s 65, & 1961 c 249 s 32.

NEW SECTION. Sec. 22. The following acts or parts of acts are each repealed:

(1) RCW 15.58.415 and 1993 sp.s. c 19 s 3 & 1989 c 380 s 32; and

(2) RCW 17.21.360 and 1994 c 283 s 31, 1993 sp.s. c 19 s 10, & 1989 c 380 s 66.

NEW SECTION. Sec. 23. Sections 2, 4 through 7, 11 through 15, 17, and 22 of this act take effect January 1, 1998.

Passed the House April 19, 1997.

Passed the Senate April 14, 1997.

Approved by the Governor May 1, 1997.

Filed in Office of Secretary of State May 1, 1997.

CHAPTER 243

[House Bill 1609]

**LOW-LEVEL RADIOACTIVE WASTE DISPOSAL SITES—TIMING OF ADJUSTMENT TO
MAXIMUM DISPOSAL RATES**

AN ACT Relating to low-level radioactive waste disposal sites; and amending RCW 81.108.050.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 81.108.050 and 1991 c 272 s 6 are each amended to read as follows:

(1) The maximum disposal rates that a site operator may charge generators shall be determined in accordance with this section. The rates shall include all charges for disposal services at the site.

(2) Initially, the maximum disposal rates shall be the initial rates established pursuant to RCW 81.108.040.

(3) Subsequently, the maximum disposal rates shall be adjusted (~~semiannually~~) in January (~~and July~~) of each year to incorporate inflation and volume adjustments. Such adjustments shall take effect thirty days after filing with the commission unless the commission authorizes that the adjustments take effect earlier, or the commission contests the calculation of the adjustments, in which case the commission may suspend the filing. A site operator shall provide notice to its customers concurrent with the filing.

(4)(a) Subsequently, a site operator may also file for revisions to the maximum disposal rates due to:

(i) Changes in any governmentally imposed fee, surcharge, or tax assessed on a volume or a gross revenue basis against or collected by the site operator, including site closure fees, perpetual care and maintenance fees, business and occupation taxes, site surveillance fees, leasehold excise taxes, commission regulatory fees, municipal taxes, and a tax or payment in lieu of taxes authorized by the state to compensate the county in which a site is located for that county's legitimate costs arising out of the presence of that site within that county; or

(ii) Factors outside the control of the site operator such as a material change in regulatory requirements regarding the physical operation of the site.

(b) Revisions to the maximum disposal rate shall take effect thirty days after filing with the commission unless the commission suspends the filing or authorizes the proposed adjustments to take effect earlier.

(5) Upon establishment of a contract rate pursuant to RCW 81.108.060 for a disposal fee, the site operator may not collect a disposal fee that is greater than the effective rate. The effective rate shall be in effect so long as such contract rate remains in effect. Adjustments to the maximum disposal rates may be made during the time an effective rate is in place. Contracts for disposal of extraordinary volumes pursuant to RCW 81.108.070 shall not be considered in determining the effective rate.

(6) The site operator may petition the commission for new maximum disposal rates at any time. Upon receipt of such a petition, the commission shall set the matter for hearing and shall issue an order within seven months of the filing of the petition. The petition shall be accompanied by the documents required to accompany the filing for initial rates. The hearing on the petition shall be conducted in accordance with the commission's rules of practice and procedure.

(7) This section shall only take effect following a finding that the site operator is a monopoly pursuant to RCW 81.108.100.

Passed the House March 11, 1997.

Passed the Senate April 7, 1997.

Approved by the Governor May 1, 1997.

Filed in Office of Secretary of State May 1, 1997.

CHAPTER 244

[Substitute Senate Bill 5003]

PROPERTY TAX EXEMPTION FOR PROPERTY WITH AN ASSESSED VALUE OF LESS THAN FIVE HUNDRED DOLLARS

AN ACT Relating to property tax exemptions for property with an assessed value of less than five hundred dollars; amending RCW 84.64.320; adding a new section to chapter 84.36 RCW; and providing an effective date.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. Sec. 1. A new section is added to chapter 84.36 RCW to read as follows:

(1) Each parcel of real property, and each personal property account, that has an assessed value of less than five hundred dollars is exempt from taxation.

(2) This section does not apply to personal property to which the exemption from taxation under RCW 84.36.110(2) may be applied or to real property which qualifies for preferential tax treatment under this chapter or chapter 84.14, 84.26, 84.33, or 84.34 RCW.

Sec. 2. RCW 84.64.320 and 1993 c 310 s 2 are each amended to read as follows:

The county legislative authority may dispose of tax foreclosed property by private negotiation, without a call for bids, for not less than the principal amount of the unpaid taxes in any of the following cases: (1) When the sale is to any governmental agency and for public purposes; (2) when the county legislative authority determines that it is not practical to build on the property due to the physical characteristics of the property or legal restrictions on construction activities on the property; ~~((or))~~ (3) when the property has an assessed value of less than five hundred dollars and the property is sold to an adjoining landowner; or (4) when no acceptable bids were received at the attempted public auction of the

property, if the sale is made within six months from the date of the attempted public auction.

NEW SECTION. Sec. 3. This act takes effect January 1, 1999.

Passed the Senate April 21, 1997.

Passed the House April 9, 1997.

Approved by the Governor May 2, 1997.

Filed in Office of Secretary of State May 2, 1997.

CHAPTER 245

[Senate Bill 5018]

TECHNICAL CORRECTIONS TO THE REVISED CODE OF WASHINGTON

AN ACT Relating to making technical corrections to the Revised Code of Washington; amending RCW 36.32.210; reenacting and amending RCW 18.71.210, 57.08.050, and 70.47.060; reenacting RCW 35.02.200, 70.47.020, and 74.15.020; and repealing RCW 56.08.070.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 18.71.210 and 1995 c 65 s 4 and 1995 c 103 s 1 are each reenacted and amended to read as follows:

No act or omission of any physician's trained emergency medical service intermediate life support technician and paramedic, as defined in RCW 18.71.200, or any emergency medical technician or first responder, as defined in RCW 18.73.030, done or omitted in good faith while rendering emergency medical service under the responsible supervision and control of a licensed physician or an approved medical program director or delegate(s) to a person who has suffered illness or bodily injury shall impose any liability upon:

(1) The physician's trained emergency medical service intermediate life support technician and paramedic, emergency medical technician, or first responder;

(2) The medical program director;

(3) The supervising physician(s);

(4) Any hospital, the officers, members of the staff, nurses, or other employees of a hospital;

(5) Any training agency or training physician(s);

(6) Any licensed ambulance service; or

(7) Any federal, state, county, city or other local governmental unit or employees of such a governmental unit.

This section shall apply to an act or omission committed or omitted in the performance of the actual emergency medical procedures and not in the commission or omission of an act which is not within the field of medical expertise of the physician's trained emergency medical service intermediate life support technician and paramedic, emergency medical technician, or first responder, as the case may be.

This section shall apply also, as to the entities and personnel described in subsections (1) through (7) of this section, to any act or omission committed or omitted in good faith by such entities or personnel in rendering services at the request of an approved medical program director in the training of emergency medical service (~~(medical)~~) personnel for certification or recertification pursuant to this chapter.

This section shall not apply to any act or omission which constitutes either gross negligence or willful or wanton misconduct.

EXPLANATORY NOTE

RCW 18.71.210 was amended twice by the 1995 legislature. Chapter 65 s 4 revised the classifications for emergency medical service personnel and chapter 103 s 1 revised the liability immunity for emergency medical service personnel and their supervisors. The purpose of this bill is to give effect to both amendments by reenacting the section including both amendments and making technical corrections.

Sec. 2. RCW 35.02.200 and 1989 c 267 s 1 and 1989 c 76 s 3 are each reenacted to read as follows:

(1) If a portion of a fire protection district including less than sixty percent of the assessed value of the real property of the district is annexed to or incorporated into a city or town, the ownership of all assets of the district shall remain in the district and the district shall pay to the city or town, or, if the city or town has been annexed by another fire protection district, to the other fire protection district within one year or within such period of time as the district continues to collect taxes in such incorporated or annexed areas, in cash, properties or contracts for fire protection services, a percentage of the value of said assets equal to the percentage of the value of the real property in the entire district lying within the area so incorporated or annexed: PROVIDED, That if the area annexed or incorporated includes less than five percent of the area of the district, no payment shall be made to the city or town or fire protection district except as provided in RCW 35.02.205.

(2) As provided in RCW 35.02.210, the fire protection district from which territory is removed as a result of an incorporation or annexation shall provide fire protection to the incorporated or annexed area for such period as the district continues to collect taxes levied in such annexed or incorporated area.

(3) For the purposes of this section, the word "assets" shall mean the total assets of the fire district, reduced by its liabilities, including bonded indebtedness, the same to be determined by usual and accepted accounting methods. The amount of said liability shall be determined by reference to the fire district's balance sheet, produced in the regular course of business, which is nearest in time to the certification of the annexation of fire district territory by the city or town.

EXPLANATORY NOTE

RCW 35.02.200 was amended twice by the 1989 legislature. Chapter 76 s 3 established that a payment owed by a fire protection district that is

annexed by a city or town would be paid to another fire protection district if that other district had annexed the city or town and chapter 267 s 1 revised the method to calculate the payment without taking cognizance of the possibility of payment to another fire protection district. The purpose of this bill is to give effect to both amendments by reenacting the section including both amendments.

Sec. 3. RCW 36.32.210 and 1995 c 194 s 5 are each amended to read as follows:

Each board of county commissioners of the several counties of the state of Washington shall, on the first Monday of ~~((March of))~~ March of each year, file with the auditor of the county a statement verified by oath showing for the twelve months period ending December 31st of the preceding year, the following:

(1) A full and complete inventory of all capitalized assets shall be kept in accordance with standards established by the state auditor. This inventory shall be segregated to show the following subheads:

(a) The assets, including equipment, on hand, together with a statement of the date when acquired, the amount paid therefor, the estimated life thereof and a sufficient description to fully identify such property;

(b) All equipment of every kind or nature sold or disposed of in any manner during such preceding twelve months period, together with the name of the purchaser, the amount paid therefor, whether or not the same was sold at public or private sale, the reason for such disposal and a sufficient description to fully identify the same;

(c) All the equipment purchased during said period, together with the date of purchase, the amount paid therefor, whether or not the same was bought under competitive bidding, the price paid therefor and the probable life thereof, the reason for making the purchase and a sufficient description to fully identify such property;

(2) The person to whom such money or any part thereof was paid and why so paid and the date of such payment.

EXPLANATORY NOTE

This bill adds the words "March of", which were inadvertently omitted in a 1995 floor amendment to Substitute Senate Bill No. 5183.

Sec. 4. RCW 57.08.050 and 1996 c 230 s 311 and 1996 c 18 s 14 are each reenacted and amended to read as follows:

(1) All work ordered, the estimated cost of which is in excess of five thousand dollars shall be let by contract. All contract projects, the estimated cost of which is less than fifty thousand dollars, may be awarded to a contractor using the small works roster process provided in RCW 39.04.155. The board of commissioners may set up uniform procedures to prequalify contractors for inclusion on the small works roster. All contract projects equal to or in excess of fifty thousand dollars shall be let by competitive bidding. Before awarding any such contract the board

of commissioners shall publish a notice in a newspaper of general circulation where the district is located at least once thirteen days before the last date upon which bids will be received, inviting sealed proposals for such work, plans and specifications which must at the time of publication of such notice be on file in the office of the board of commissioners subject to the public inspection. The notice shall state generally the work to be done and shall call for proposals for doing the same to be sealed and filed with the board of ((water)) commissioners on or before the day and hour named therein.

Each bid shall be accompanied by a certified or cashier's check or postal money order payable to the order of the county treasurer for a sum not less than five percent of the amount of the bid, or accompanied by a bid bond in an amount not less than five percent of the bid with a corporate surety licensed to do business in the state, conditioned that the bidder will pay the district as liquidated damages the amount specified in the bond, unless the bidder enters into a contract in accordance with the bidder's bid, and no bid shall be considered unless accompanied by such check, cash or bid bond. At the time and place named such bids shall be publicly opened and read and the board of commissioners shall proceed to canvass the bids and may let such contract to the lowest responsible bidder upon plans and specifications on file or to the best bidder submitting the bidder's own plans and specifications. However, no contract shall be let in excess of the cost of the materials or work. The board of commissioners may reject all bids for good cause and readvertise and in such case all checks, cash or bid bonds shall be returned to the bidders. If the contract is let, then all checks, cash, or bid bonds shall be returned to the bidders, except that of the successful bidder, which shall be retained until a contract shall be entered into for doing the work, and a bond to perform such work furnished with sureties satisfactory to the board of commissioners in the full amount of the contract price between the bidder and the commission in accordance with the bid. If the bidder fails to enter into the contract in accordance with the bid and furnish the bond within ten days from the date at which the bidder is notified that the bidder is the successful bidder, the check, cash, or bid bonds and the amount thereof shall be forfeited to the district. If the bidder fails to enter into a contract in accordance with the bidder's bid, and the board of commissioners deems it necessary to take legal action to collect on any bid bond required by this section, then the district shall be entitled to collect from the bidder any legal expenses, including reasonable attorneys' fees occasioned thereby. A low bidder who claims error and fails to enter into a contract is prohibited from bidding on the same project if a second or subsequent call for bids is made for the project.

(2) Any purchase of materials, supplies, or equipment, with an estimated cost in excess of ten thousand dollars, shall be by contract. Any purchase of materials, supplies, or equipment, with an estimated cost of from five thousand dollars to less than fifty thousand dollars shall be made using the process provided in RCW 39.04.155 or by competitive bidding following the procedure for letting contracts for projects under subsection (1) of this section. Any purchase of materials,

supplies, or equipment with an estimated cost of fifty thousand dollars or more shall be made by competitive bidding following the procedure for letting contracts for projects under subsection (1) of this section.

(3) In the event of an emergency when the public interest or property of the district would suffer material injury or damage by delay, upon resolution of the board of commissioners, or proclamation of an official designated by the board to act for the board during such emergencies, declaring the existence of such emergency and reciting the facts constituting the same, the board or official acting for the board may waive the requirements of this chapter with reference to any purchase or contract. In addition, these requirements may be waived for purchases which are clearly and legitimately limited to a single source of supply and purchases involving special facilities, services, or market conditions, in which instances the purchase price may be best established by direct negotiation.

EXPLANATORY NOTE

RCW 57.08.050 was amended twice by the 1996 legislature. Chapter 18 s 14 added a provision to water district bidding procedures prohibiting a low bidder who claims error from bidding again on the same project and chapter 230 s 311 made a number of revisions to water-sewer districts, which are created by chapter 230. The purpose of this bill is to give effect to both amendments by reenacting the section including both amendments.

Sec. 5. RCW 70.47.020 and 1995 c 266 s 2 and 1995 c 2 s 3 are each reenacted to read as follows:

As used in this chapter:

(1) "Washington basic health plan" or "plan" means the system of enrollment and payment on a prepaid capitated basis for basic health care services, administered by the plan administrator through participating managed health care systems, created by this chapter.

(2) "Administrator" means the Washington basic health plan administrator, who also holds the position of administrator of the Washington state health care authority.

(3) "Managed health care system" means any health care organization, including health care providers, insurers, health care service contractors, health maintenance organizations, or any combination thereof, that provides directly or by contract basic health care services, as defined by the administrator and rendered by duly licensed providers, on a prepaid capitated basis to a defined patient population enrolled in the plan and in the managed health care system.

(4) "Subsidized enrollee" means an individual, or an individual plus the individual's spouse or dependent children, not eligible for medicare, who resides in an area of the state served by a managed health care system participating in the plan, whose gross family income at the time of enrollment does not exceed twice the federal poverty level as adjusted for family size and determined annually by the federal department of health and human services, and who chooses to obtain basic

health care coverage from a particular managed health care system in return for periodic payments to the plan.

(5) "Nonsubsidized enrollee" means an individual, or an individual plus the individual's spouse or dependent children, not eligible for medicare, who resides in an area of the state served by a managed health care system participating in the plan, and who chooses to obtain basic health care coverage from a particular managed health care system, and who pays or on whose behalf is paid the full costs for participation in the plan, without any subsidy from the plan.

(6) "Subsidy" means the difference between the amount of periodic payment the administrator makes to a managed health care system on behalf of a subsidized enrollee plus the administrative cost to the plan of providing the plan to that subsidized enrollee, and the amount determined to be the subsidized enrollee's responsibility under RCW 70.47.060(2).

(7) "Premium" means a periodic payment, based upon gross family income which an individual, their employer or another financial sponsor makes to the plan as consideration for enrollment in the plan as a subsidized enrollee or a nonsubsidized enrollee.

(8) "Rate" means the per capita amount, negotiated by the administrator with and paid to a participating managed health care system, that is based upon the enrollment of subsidized and nonsubsidized enrollees in the plan and in that system.

EXPLANATORY NOTE

RCW 70.47.020 was amended twice by the 1995 legislature. Chapter 2 s 3 changed the date by which health insurance entities must be certified as certified health plans and chapter 266 s 2 eliminated the requirement that health insurance entities must be certified as certified health plans and made other revisions. The purpose of this bill is to reenact the section eliminating the requirement.

Sec. 6. RCW 70.47.060 and 1995 c 266 s 1 and 1995 c 2 s 4 are each reenacted and amended to read as follows:

The administrator has the following powers and duties:

(1) To design and from time to time revise a schedule of covered basic health care services, including physician services, inpatient and outpatient hospital services, prescription drugs and medications, and other services that may be necessary for basic health care. In addition, the administrator may offer as basic health plan services chemical dependency services, mental health services and organ transplant services; however, no one service or any combination of these three services shall increase the actuarial value of the basic health plan benefits by more than five percent excluding inflation, as determined by the office of financial management. All subsidized and nonsubsidized enrollees in any participating managed health care system under the Washington basic health plan shall be entitled to receive (~~covered basic health care services~~) covered basic health care services in return for premium payments to the plan. The schedule of services shall

emphasize proven preventive and primary health care and shall include all services necessary for prenatal, postnatal, and well-child care. However, with respect to coverage for groups of subsidized enrollees who are eligible to receive prenatal and postnatal services through the medical assistance program under chapter 74.09 RCW, the administrator shall not contract for such services except to the extent that such services are necessary over not more than a one-month period in order to maintain continuity of care after diagnosis of pregnancy by the managed care provider. The schedule of services shall also include a separate schedule of basic health care services for children, eighteen years of age and younger, for those subsidized or nonsubsidized enrollees who choose to secure basic coverage through the plan only for their dependent children. In designing and revising the schedule of services, the administrator shall consider the guidelines for assessing health services under the mandated benefits act of 1984, RCW 48.42.080, and such other factors as the administrator deems appropriate.

However, with respect to coverage for subsidized enrollees who are eligible to receive prenatal and postnatal services through the medical assistance program under chapter 74.09 RCW, the administrator shall not contract for such services except to the extent that the services are necessary over not more than a one-month period in order to maintain continuity of care after diagnosis of pregnancy by the managed care provider.

(2)(a) To design and implement a structure of periodic premiums due the administrator from subsidized enrollees that is based upon gross family income, giving appropriate consideration to family size and the ages of all family members. The enrollment of children shall not require the enrollment of their parent or parents who are eligible for the plan. The structure of periodic premiums shall be applied to subsidized enrollees entering the plan as individuals pursuant to subsection (9) of this section and to the share of the cost of the plan due from subsidized enrollees entering the plan as employees pursuant to subsection (10) of this section.

(b) To determine the periodic premiums due the administrator from nonsubsidized enrollees. Premiums due from nonsubsidized enrollees shall be in an amount equal to the cost charged by the managed health care system provider to the state for the plan plus the administrative cost of providing the plan to those enrollees and the premium tax under RCW 48.14.0201.

(c) An employer or other financial sponsor may, with the prior approval of the administrator, pay the premium, rate, or any other amount on behalf of a subsidized or nonsubsidized enrollee, by arrangement with the enrollee and through a mechanism acceptable to the administrator, but in no case shall the payment made on behalf of the enrollee exceed the total premiums due from the enrollee.

(d) To develop, as an offering by all health carriers providing coverage identical to the basic health plan, a model plan benefits package with uniformity in enrollee cost-sharing requirements.

(3) To design and implement a structure of enrollee cost sharing due a managed health care system from subsidized and nonsubsidized enrollees. The structure shall discourage inappropriate enrollee utilization of health care services, and may utilize copayments, deductibles, and other cost-sharing mechanisms, but shall not be so costly to enrollees as to constitute a barrier to appropriate utilization of necessary health care services.

(4) To limit enrollment of persons who qualify for subsidies so as to prevent an overexpenditure of appropriations for such purposes. Whenever the administrator finds that there is danger of such an overexpenditure, the administrator shall close enrollment until the administrator finds the danger no longer exists.

(5) To limit the payment of subsidies to subsidized enrollees, as defined in RCW 70.47.020. The level of subsidy provided to persons who qualify may be based on the lowest cost plans, as defined by the administrator.

(6) To adopt a schedule for the orderly development of the delivery of services and availability of the plan to residents of the state, subject to the limitations contained in RCW 70.47.080 or any act appropriating funds for the plan.

(7) To solicit and accept applications from managed health care systems, as defined in this chapter, for inclusion as eligible basic health care providers under the plan. The administrator shall endeavor to assure that covered basic health care services are available to any enrollee of the plan from among a selection of two or more participating managed health care systems. In adopting any rules or procedures applicable to managed health care systems and in its dealings with such systems, the administrator shall consider and make suitable allowance for the need for health care services and the differences in local availability of health care resources, along with other resources, within and among the several areas of the state. Contracts with participating managed health care systems shall ensure that basic health plan enrollees who become eligible for medical assistance may, at their option, continue to receive services from their existing providers within the managed health care system if such providers have entered into provider agreements with the department of social and health services.

(8) To receive periodic premiums from or on behalf of subsidized and nonsubsidized enrollees, deposit them in the basic health plan operating account, keep records of enrollee status, and authorize periodic payments to managed health care systems on the basis of the number of enrollees participating in the respective managed health care systems.

(9) To accept applications from individuals residing in areas served by the plan, on behalf of themselves and their spouses and dependent children, for enrollment in the Washington basic health plan as subsidized or nonsubsidized enrollees, to establish appropriate minimum-enrollment periods for enrollees as may be necessary, and to determine, upon application and on a reasonable schedule defined by the authority, or at the request of any enrollee, eligibility due to current gross family income for sliding scale premiums. No subsidy may be paid with

respect to any enrollee whose current gross family income exceeds twice the federal poverty level or, subject to RCW 70.47.110, who is a recipient of medical assistance or medical care services under chapter 74.09 RCW. If, as a result of an eligibility review, the administrator determines that a subsidized enrollee's income exceeds twice the federal poverty level and that the enrollee knowingly failed to inform the plan of such increase in income, the administrator may bill the enrollee for the subsidy paid on the enrollee's behalf during the period of time that the enrollee's income exceeded twice the federal poverty level. If a number of enrollees drop their enrollment for no apparent good cause, the administrator may establish appropriate rules or requirements that are applicable to such individuals before they will be allowed to reenroll in the plan.

(10) To accept applications from business owners on behalf of themselves and their employees, spouses, and dependent children, as subsidized or nonsubsidized enrollees, who reside in an area served by the plan. The administrator may require all or the substantial majority of the eligible employees of such businesses to enroll in the plan and establish those procedures necessary to facilitate the orderly enrollment of groups in the plan and into a managed health care system. The administrator may require that a business owner pay at least an amount equal to what the employee pays after the state pays its portion of the subsidized premium cost of the plan on behalf of each employee enrolled in the plan. Enrollment is limited to those not eligible for medicare who wish to enroll in the plan and choose to obtain the basic health care coverage and services from a managed care system participating in the plan. The administrator shall adjust the amount determined to be due on behalf of or from all such enrollees whenever the amount negotiated by the administrator with the participating managed health care system or systems is modified or the administrative cost of providing the plan to such enrollees changes.

(11) To determine the rate to be paid to each participating managed health care system in return for the provision of covered basic health care services to enrollees in the system. Although the schedule of covered basic health care services will be the same for similar enrollees, the rates negotiated with participating managed health care systems may vary among the systems. In negotiating rates with participating systems, the administrator shall consider the characteristics of the populations served by the respective systems, economic circumstances of the local area, the need to conserve the resources of the basic health plan trust account, and other factors the administrator finds relevant.

(12) To monitor the provision of covered services to enrollees by participating managed health care systems in order to assure enrollee access to good quality basic health care, to require periodic data reports concerning the utilization of health care services rendered to enrollees in order to provide adequate information for evaluation, and to inspect the books and records of participating managed health care systems to assure compliance with the purposes of this chapter. In requiring reports from participating managed health care systems, including data on services rendered enrollees, the administrator shall endeavor to minimize costs,

both to the managed health care systems and to the plan. The administrator shall coordinate any such reporting requirements with other state agencies, such as the insurance commissioner and the department of health, to minimize duplication of effort.

(13) To evaluate the effects this chapter has on private employer-based health care coverage and to take appropriate measures consistent with state and federal statutes that will discourage the reduction of such coverage in the state.

(14) To develop a program of proven preventive health measures and to integrate it into the plan wherever possible and consistent with this chapter.

(15) To provide, consistent with available funding, assistance for rural residents, underserved populations, and persons of color.

EXPLANATORY NOTE

RCW 70.47.060 was amended twice by the 1995 legislature. Chapter 2 s 4 changed the date by which the uniform benefits package must be implemented as the schedule of covered basic health care services and chapter 266 s 1 eliminated the requirement that the uniform benefits package must be implemented as the schedule of covered basic health care services and made other revisions. The purpose of this bill is to reenact the section eliminating the requirement. In addition, this bill adds the words "covered basic health care services," which were inadvertently left out of an amendment.

Sec. 7. RCW 74.15.020 and 1995 c 311 s 18 and 1995 c 302 s 3 are each reenacted to read as follows:

For the purpose of chapter 74.15 RCW and RCW 74.13.031, and unless otherwise clearly indicated by the context thereof, the following terms shall mean:

- (1) "Department" means the state department of social and health services;
- (2) "Secretary" means the secretary of social and health services;

(3) "Agency" means any person, firm, partnership, association, corporation, or facility which receives children, expectant mothers, or persons with developmental disabilities for control, care, or maintenance outside their own homes, or which places, arranges the placement of, or assists in the placement of children, expectant mothers, or persons with developmental disabilities for foster care or placement of children for adoption, and shall include the following irrespective of whether there is compensation to the agency or to the children, expectant mothers or persons with developmental disabilities for services rendered:

(a) "Group-care facility" means an agency, other than a foster-family home, which is maintained and operated for the care of a group of children on a twenty-four hour basis;

(b) "Child-placing agency" means an agency which places a child or children for temporary care, continued care, or for adoption;

(c) "Maternity service" means an agency which provides or arranges for care or services to expectant mothers, before or during confinement, or which provides care as needed to mothers and their infants after confinement;

(d) "Child day-care center" means an agency which regularly provides care for a group of children for periods of less than twenty-four hours;

(e) "Family day-care provider" means a child day-care provider who regularly provides child day care for not more than twelve children in the provider's home in the family living quarters;

(f) "Foster-family home" means an agency which regularly provides care on a twenty-four hour basis to one or more children, expectant mothers, or persons with developmental disabilities in the family abode of the person or persons under whose direct care and supervision the child, expectant mother, or person with a developmental disability is placed;

(g) "Crisis residential center" means an agency which is a temporary protective residential facility operated to perform the duties specified in chapter 13.32A RCW, in the manner provided in RCW 74.13.032 through 74.13.036.

(4) "Agency" shall not include the following:

(a) Persons related to the child, expectant mother, or person with developmental disability in the following ways:

(i) Any blood relative, including those of half-blood, and including first cousins, nephews or nieces, and persons of preceding generations as denoted by prefixes of grand, great, or great-great;

(ii) Stepfather, stepmother, stepbrother, and stepsister;

(iii) A person who legally adopts a child or the child's parent as well as the natural and other legally adopted children of such persons, and other relatives of the adoptive parents in accordance with state law;

(iv) Spouses of any persons named in (i), (ii), or (iii) of this subsection (4)(a), even after the marriage is terminated; or

(v) Extended family members, as defined by the law or custom of the Indian child's tribe or, in the absence of such law or custom, a person who has reached the age of eighteen and who is the Indian child's grandparent, aunt or uncle, brother or sister, brother-in-law or sister-in-law, niece or nephew, first or second cousin, or stepparent who provides care in the family abode on a twenty-four-hour basis to an Indian child as defined in 25 U.S.C. Sec. 1903(4);

(b) Persons who are legal guardians of the child, expectant mother, or persons with developmental disabilities;

(c) Persons who care for a neighbor's or friend's child or children, with or without compensation, where: (i) The person providing care for periods of less than twenty-four hours does not conduct such activity on an ongoing, regularly scheduled basis for the purpose of engaging in business, which includes, but is not limited to, advertising such care; or (ii) the parent and person providing care on a twenty-four-hour basis have agreed to the placement in writing and the state is not providing any payment for the care;

(d) Parents on a mutually cooperative basis exchange care of one another's children;

(e) A person, partnership, corporation, or other entity that provides placement or similar services to exchange students or international student exchange visitors or persons who have the care of an exchange student in their home;

(f) Nursery schools or kindergartens which are engaged primarily in educational work with preschool children and in which no child is enrolled on a regular basis for more than four hours per day;

(g) Schools, including boarding schools, which are engaged primarily in education, operate on a definite school year schedule, follow a stated academic curriculum, accept only school-age children and do not accept custody of children;

(h) Seasonal camps of three months' or less duration engaged primarily in recreational or educational activities;

(i) Hospitals licensed pursuant to chapter 70.41 RCW when performing functions defined in chapter 70.41 RCW, nursing homes licensed under chapter 18.51 RCW and boarding homes licensed under chapter 18.20 RCW;

(j) Licensed physicians or lawyers;

(k) Facilities providing care to children for periods of less than twenty-four hours whose parents remain on the premises to participate in activities other than employment;

(l) Facilities approved and certified under chapter 71A.22 RCW;

(m) Any agency having been in operation in this state ten years prior to June 8, 1967, and not seeking or accepting moneys or assistance from any state or federal agency, and is supported in part by an endowment or trust fund;

(n) Persons who have a child in their home for purposes of adoption, if the child was placed in such home by a licensed child-placing agency, an authorized public or tribal agency or court or if a replacement report has been filed under chapter 26.33 RCW and the placement has been approved by the court;

(o) An agency operated by any unit of local, state, or federal government or an agency, located within the boundaries of a federally recognized Indian reservation, licensed by the Indian tribe;

(p) An agency located on a federal military reservation, except where the military authorities request that such agency be subject to the licensing requirements of this chapter.

(5) "Requirement" means any rule, regulation, or standard of care to be maintained by an agency.

(6) "Probationary license" means a license issued as a disciplinary measure to an agency that has previously been issued a full license but is out of compliance with licensing standards.

EXPLANATORY NOTE

RCW 74.15.020 was amended twice by the 1995 legislature. Chapter 302 s 3 revised the definition of related persons who are not included in the definition of agency and made other revisions and chapter 311 s 18 made similar revisions to the definition of related persons who are not included in the definition of agency. The purpose of this bill is to give

effect to both amendments by reenacting the section including both amendments.

NEW SECTION. Sec. 8. RCW 56.08.070 and 1996 c 18 s 13 & 1994 c 31 s 1 are each repealed.

EXPLANATORY NOTE

RCW 56.08.070 was amended and repealed by the 1996 legislature. Chapter 18 s 13 added a provision to sewer district bidding procedures prohibiting a low bidder who claims error from bidding again on the same project and chapter 230 repealed Title 56 relating to sewer districts and created water-sewer districts. The same amendment was made to Title 57 by chapter 18 and will apply to water-sewer districts. The purpose of this bill is to give effect to the repeal of RCW 56.08.070.

Passed the Senate April 19, 1997.

Passed the House April 8, 1997.

Approved by the Governor May 2, 1997.

Filed in Office of Secretary of State May 2, 1997.

CHAPTER 246

[Senate Bill 5151]

CIVIL JURISDICTION OF DISTRICT COURTS—INCREASE IN AMOUNT AT ISSUE

AN ACT Relating to civil jurisdiction of district courts; and amending RCW 3.66.020.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 3.66.020 and 1991 c 33 s 1 are each amended to read as follows:

If the value of the claim or the amount at issue does not exceed ~~((twenty-five))~~ thirty-five thousand dollars, exclusive of interest, costs, and attorneys' fees, the district court shall have jurisdiction and cognizance of the following civil actions and proceedings:

- (1) Actions arising on contract for the recovery of money;
- (2) Actions for damages for injuries to the person, or for taking or detaining personal property, or for injuring personal property, or for an injury to real property when no issue raised by the answer involves the plaintiff's title to or possession of the same and actions to recover the possession of personal property;
- (3) Actions for a penalty;
- (4) Actions upon a bond conditioned for the payment of money, when the amount claimed does not exceed ~~((twenty-five))~~ thirty-five thousand dollars, though the penalty of the bond exceeds that sum, the judgment to be given for the sum actually due, not exceeding the amount claimed in the complaint;
- (5) Actions on an undertaking or surety bond taken by the court;
- (6) Actions for damages for fraud in the sale, purchase, or exchange of personal property;
- (7) Proceedings to take and enter judgment on confession of a defendant;

(8) Proceedings to issue writs of attachment, garnishment and replevin upon goods, chattels, moneys, and effects; and

(9) All other actions and proceedings of which jurisdiction is specially conferred by statute, when the title to, or right of possession of real property is not involved.

Passed the Senate April 19, 1997.

Passed the House April 9, 1997.

Approved by the Governor May 2, 1997.

Filed in Office of Secretary of State May 2, 1997.

CHAPTER 247

[Senate Bill 5266]

ENGINEERS AND LAND SURVEYORS—REGULATION

AN ACT Relating to regulating engineers and land surveyors; amending RCW 18.43.035, 18.43.110, and 18.43.130; adding a new section to chapter 18.43 RCW; and providing an effective date.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. Sec. 1. A new section is added to chapter 18.43 RCW to read as follows:

Upon request of the board, and with approval of the director, the board chair shall appoint up to two individuals to serve as pro tem members of the board. The appointments are limited, as defined by the board chair, for the purpose of participating as a temporary member of the board on any combination of one or more committees or formal disciplinary hearing panels. An appointed individual must meet the same qualifications as a regular member of the board. While serving as a board member pro tem, an appointed person has all the powers, duties, and immunities of a regular member of the board and is entitled to the same compensation, including travel expenses, in accordance with RCW 18.43.030. A pro tem appointment may not last for more than one hundred eighty days unless approved by the director.

Sec. 2. RCW 18.43.035 and 1986 c 102 s 2 are each amended to read as follows:

The board may adopt and amend bylaws establishing its organization and method of operation, including but not limited to meetings, maintenance of books and records, publication of reports, code of ethics, and rosters, and adoption and use of a seal. Four members of the board shall constitute a quorum for the conduct of any business of the board. The board may employ such persons as are necessary to carry out its duties under this chapter. It may adopt rules ~~((and regulations))~~ reasonably necessary to administer the provisions of this chapter. It may conduct investigations concerning alleged violations of ~~((the provisions of))~~ this chapter or the rules adopted by the board. In making such investigations and in all proceedings under RCW 18.43.110, the chairman of the board or any member of

the board acting in his place may administer oaths or affirmations to witnesses appearing before the board, subpoena witnesses and compel their attendance, and require the production of books, records, papers and documents. If any person shall refuse to obey any subpoena so issued, or shall refuse to testify or produce any books, records, papers or documents so required to be produced, the board may present its petition to the superior court of the county in which such person resides, setting forth the facts, and thereupon the court shall, in any proper case, enter a suitable order compelling compliance with ~~((the provisions of))~~ this chapter and imposing such other terms and conditions as the court may deem equitable. The board shall submit to the governor such periodic reports as may be required. A roster, showing the names and places of business of all registered professional engineers and land surveyors may be published for distribution, upon request, to professional engineers and land surveyors registered under this chapter and to the public.

Sec. 3. RCW 18.43.110 and 1989 c 175 s 62 are each amended to read as follows:

The board shall have the exclusive power to fine and reprimand the registrant and suspend or revoke the certificate of registration of any registrant who is found guilty of:

The practice of any fraud or deceit in obtaining a certificate of registration; or

Any gross negligence, incompetency, or misconduct in the practice of engineering or land surveying as a registered engineer or land surveyor.

Any person may prefer ~~((charges of))~~ a complaint alleging fraud, deceit, gross negligence, incompetency, or misconduct against any registrant~~((Such charges))~~ and the complaint shall be in writing and shall be sworn to in writing by the person making ~~((them and shall be filed with the secretary of the board))~~ the allegation. A registrant against whom a complaint was made must be immediately informed of such complaint by the board.

All procedures related to hearings on such charges shall be in accordance with provisions relating to adjudicative proceedings in chapter 34.05 RCW, the Administrative Procedure Act.

If, after such hearing, a majority of the board vote in favor of finding the ~~((accused guilty))~~ violations had occurred, the board shall revoke or suspend the certificate of registration of such registered professional engineer or land surveyor.

The board, for reasons it deems sufficient, may reissue a certificate of registration to any person whose certificate has been revoked or suspended, providing a majority of the board vote in favor of such issuance. A new certificate of registration to replace any certificate revoked, lost, destroyed, or mutilated may be issued, subject to the rules of the board, and a charge determined by the director as provided in RCW 43.24.086 shall be made for such issuance.

Any person who shall feel aggrieved by any action of the board in denying or revoking his certificate of registration may appeal therefrom to the superior court of the county in which such person resides, and after full hearing, said court shall

make such decree sustaining or revoking the action of the board as it may deem just and proper.

Fines imposed by the board shall not exceed one thousand dollars for each offense.

In addition to the imposition of civil penalties under this section, the board may refer violations of this chapter to the appropriate prosecuting attorney for charges under RCW 18.43.120.

Sec. 4. RCW 18.43.130 and 1991 c 19 s 6 are each amended to read as follows:

This chapter shall not be construed to prevent or affect:

- (1) The practice of any other legally recognized profession or trade; or
- (2) The practice of a person not a resident and having no established place of business in this state, practicing or offering to practice herein the profession of engineering or land surveying, when such practice does not exceed in the aggregate more than thirty days in any calendar year: PROVIDED, Such person has been determined by the board to be legally qualified by registration to practice the said profession in his or her own state or country in which the requirements and qualifications for obtaining a certificate of registration are not lower than those specified in this chapter. The person shall request such a determination by completing an application prescribed by the board and accompanied by a fee determined by the director. Upon approval of the application, the board shall issue a permit authorizing temporary practice; or
- (3) The practice of a person not a resident and having no established place of business in this state, or who has recently become a resident thereof, practicing or offering to practice herein for more than thirty days in any calendar year the profession of engineering or land surveying, if he or she shall have filed with the board an application for a certificate of registration and shall have paid the fee required by this chapter: PROVIDED, That such person is legally qualified by registration to practice engineering or land surveying in his or her own state or country in which the requirements and qualifications of obtaining a certificate of registration are not lower than those specified in this chapter. Such practice shall continue only for such time as the board requires for the consideration of the application for registration; or
- (4) The work of an employee or a subordinate of a person holding a certificate of registration under this chapter, or an employee of a person practicing lawfully under provisions of this section: PROVIDED, That such work does not include final design or decisions and is done under the direct responsibility, checking, and supervision of a person holding a certificate of registration under this chapter or a person practicing lawfully under the provisions of this section; or
- (5) The work of a person rendering engineering or land surveying services to a corporation, as an employee of such corporation, when such services are rendered in carrying on the general business of the corporation and such general business

does not consist, either wholly or in part, of the rendering of engineering services to the general public: PROVIDED, That such corporation employs at least one person holding a certificate of registration under this chapter or practicing lawfully under the provisions of this chapter; or

(6) The practice of officers or employees of the government of the United States while engaged within the state in the practice of the profession of engineering or land surveying for ~~((said))~~ the government of the United States; or

(7) Nonresident engineers employed for the purpose of making engineering examinations; or

(8) The practice of engineering or land surveying, or both, in this state by a corporation or joint stock association: PROVIDED, That

(a) ~~((Such))~~ The corporation ~~((shall file))~~ has filed with the board an application for certificate of authorization upon a form to be prescribed by the board and containing information required to enable the board to determine whether such corporation is qualified in accordance with ~~((the provisions of))~~ this chapter to practice engineering or land surveying, or both, in this state;

(b) ~~((Such))~~ For engineering, the corporation ~~((shall file))~~ has filed with the board a certified copy of a resolution of the board of directors of the corporation ~~((which))~~ that shall designate a person holding a certificate of registration under this chapter as responsible for the practice of engineering by ~~((said))~~ the corporation in this state and shall provide that full authority to make all final engineering decisions on behalf of ~~((said))~~ the corporation with respect to work performed by the corporation in this state shall be granted and delegated by the board of directors to the person so designated in ~~((said))~~ the resolution ~~((: PROVIDED, That))~~. For land surveying, the corporation has filed with the board a certified copy of a resolution of the board of directors of the corporation which shall designate a person holding a certificate of registration under this chapter as responsible for the practice of land surveying by the corporation in this state and shall provide full authority to make all final land surveying decisions on behalf of the corporation with respect to work performed by the corporation in this state be granted and delegated by the board of directors to the person so designated in the resolution. If a corporation offers both engineering and land surveying services, the board of directors shall designate both a licensed engineer and a licensed land surveyor. If a person is licensed in both engineering and land surveying, the person may be designated for both professions. The resolution shall further state that the bylaws of the corporation shall be amended to include the following provision: "The designated engineer or land surveyor, respectively, named in the resolution as being in responsible charge, or an engineer or land surveyor under the designated engineer or land surveyor's direct supervision, shall make all engineering or land surveying decisions pertaining to engineering or land surveying activities in the state of Washington." However, the filing of ~~((such))~~ the resolution shall not relieve the corporation of any responsibility or liability imposed upon it by law or by contract;

(c) ~~((Such corporation shall file with the board a designation in writing setting forth the name or names of a person or persons holding certificates of registration under this chapter who shall be in responsible charge of each project and each major branch of the engineering activities in which the corporation shall specialize in this state. In the event there shall be a change in the person or persons in responsible charge of any project or major branch of the engineering activities; such changes shall be designated in writing and filed with the board within thirty days after the effective date of such changes))~~ If there is a change in the designated engineer or designated land surveyor, the corporation shall notify the board in writing within thirty days after the effective date of the change. If the corporation changes its name, the corporation shall submit a copy of its amended certificate of authority or amended certificate of incorporation as filed with the secretary of state within thirty days of the filing;

(d) Upon the filing with the board ~~((of))~~ the application for certificate for authorization, certified copy of resolution ~~((;))~~ and an affidavit ~~((and designation of persons))~~, the designation of a designated engineer or designated land surveyor, or both, specified in ~~((subparagraphs (a);))~~ (b) ~~((, and (e)))~~ of this ~~((section))~~ subsection, a certificate of incorporation or certificate of authorization as filed with the secretary of state, and a copy of the corporation's current Washington business license, the board shall issue to ~~((such))~~ the corporation a certificate of authorization to practice engineering or land surveying, or both, in this state upon a determination by the board that:

(i) ~~((The bylaws of the corporation contain provisions that all engineering decisions pertaining to any project or engineering activities in this state shall be made by the specified engineer in responsible charge, or other responsible engineers under his or her direction or supervision))~~ The designated engineer or designated land surveyor, or both, hold a certificate of registration in this state in accordance with this chapter and the certificate is in force;

(ii) ~~((The application for certificate of authorization states the type, or types, of engineering practiced, or to be practiced by such corporation;))~~ The designated engineer or designated land surveyor, or both, are not designated in responsible charge for another corporation or a limited liability company; and

(iii) ~~((A current certified financial statement accurately reflecting the financial condition of the corporation has been filed with the board and is available for public inspection;~~

~~— (iv) The applicant corporation has the ability to provide through qualified engineering personnel, professional services or creative work requiring engineering experience, and that with respect to the engineering services which the corporation undertakes or offers to undertake such personnel have the ability to apply special knowledge of the mathematical, physical, and engineering sciences to such professional services or creative work as consultation, investigation, evaluation, planning, design, and supervision of construction for the purpose of assuring~~

compliance with specifications and design, in connection with any public or private utilities, structures, buildings, machines, equipment, processes, works, or projects;
 — (v) The application for certificate of authorization states the professional records of the designated person or persons who shall be in responsible charge of each project and each major branch of engineering activities in which the corporation shall specialize;

— (vi) The application for certificate of authorization states the experience of the corporation, if any, in furnishing engineering services during the preceding five year period and states the experience of the corporation, if any, in the furnishing of all feasibility and advisory studies made within the state of Washington;

— (vii) The applicant corporation meets such other requirements related to professional competence in the furnishing of engineering services as may be established and promulgated by the board in furtherance of the objectives and provisions of this chapter; and

— Upon a determination by the board based upon an evaluation of the foregoing findings and information that the applicant corporation is possessed of the ability and competence to furnish engineering services in the public interest)) The corporation is licensed with the secretary of state and holds a current unified business identification number and the board determines, based on evaluating the findings and information in this section, that the applicant corporation possesses the ability and competence to furnish engineering or land surveying services, or both, in the public interest.

The board may ((in the)) exercise ((of)) its discretion to refuse to issue or it may suspend ((and/)) or revoke a certificate of authorization issued to a corporation ((where)) if the board ((shall)) finds that any of the officers, directors, incorporators, or the stockholders holding a majority of stock of such corporation has committed misconduct or malpractice as defined in RCW 18.43.105 or has been found personally responsible for misconduct or malpractice under ((the provisions of subsections)) (f) and (g) ((hereof)) of this subsection.

((The certificate of authorization shall specify the major branches of engineering of which the corporation has designated a person or persons in responsible charge as provided in subsection (8)(c) of this section.

— (c) In the event a corporation, organized solely by a group of engineers, each holding a certificate of registration under this chapter, applies for a certificate of authorization, the board may, in its discretion, grant a certificate of authorization to such corporation based on a review of the professional records of such incorporators, in lieu of the required qualifications set forth in this subsection. In the event the ownership of such corporation shall be altered, the corporation shall apply for a revised certificate of authorization, based upon the professional records of the owners, if exclusively engineers or, otherwise, under the qualifications required by subparagraphs (a), (b), (c), and (d) hereof:)) (e) Engineers or land surveyors organized as a professional service corporation under chapter 18.100 RCW are exempt from applying for a certificate of authorization under this chapter.

(f) Any corporation authorized to practice engineering under this chapter, together with its directors and officers for their own individual acts, are responsible to the same degree as an individual registered engineer, and must conduct its business without misconduct or malpractice in the practice of engineering as defined in this chapter.

(g) Any corporation (~~((which has been duly))~~) that is certified under ((the provisions of)) this chapter ((and has engaged in the practice of engineering shall have its certificate of authorization either suspended or revoked by the board if, after a proper hearing, the board shall find that the corporation has committed misconduct or malpractice as defined in RCW 18.43.105. In such case any individual engineer holding a certificate of registration under this chapter, involved in such malpractice or misconduct, shall have his or her certificate of registration suspended or revoked also)) is subject to the authority of the board as provided in RCW 18.43.035, 18.43.105, 18.43.110, and 18.43.120.

(h) All plans, specifications, designs, and reports when issued in connection with work performed by a corporation under its certificate of authorization shall be prepared by or under the (~~(responsible charge))~~ direct supervision of and shall be signed by and shall be stamped with the official seal of a person holding a certificate of registration under this chapter.

(i) For each certificate of authorization issued under (~~(the provisions of))~~) this subsection (8) (~~(of this section))~~) there shall be paid an initial fee determined by the director as provided in RCW 43.24.086 and an annual renewal fee determined by the director as provided in RCW 43.24.086.

(9) The practice of engineering and/or land surveying in this state by a partnership(~~(- PROVIDED, That~~

~~—(a) A majority of the members of the partnership are engineers or architects or land surveyors duly certificated by the state of Washington or by a state, territory, possession, district, or foreign country meeting the reciprocal provisions of RCW 18.43.100; PROVIDED, That at least one of the members is a professional engineer or land surveyor holding a certificate issued by the director under the provisions of RCW 18.43.070; and~~

~~—(b) Except where all members of the partnership are professional engineers or land surveyors or a combination of professional engineers and land surveyors or where all members of the partnership are either professional engineers or land surveyors in combination with an architect or architects all of which are holding certificates of qualification therefor issued under the laws of the state of Washington, the partnership shall file with the board an instrument executed by a partner on behalf of the partnership designating the persons responsible for the practice of engineering by the partnership in this state and in all other respects such person so designated and such partnership shall meet the same qualifications and shall be subject to the same requirements and the same penalties as those pertaining to corporations and to the responsible persons designated by corporations as provided in subsection (8) of this section.~~

~~— For each certificate of authorization issued under the provisions of this subsection (9) of this section there shall be paid an initial fee determined by the director as provided in RCW 43.24.086 and an annual renewal fee determined by the director as provided in RCW 43.24.086) if the partnership employs at least one person holding a valid certificate of registration under this chapter to practice engineering or land surveying, or both. The board shall not issue certificates of authorization to partnerships after July 1, 1998. Partnerships currently registered with the board are not required to pay an annual renewal fee after July 1, 1998.~~

(10) The practice of engineering or land surveying, or both, in this state by limited liability companies: Provided, That

(a) The limited liability company has filed with the board an application for certificate of authorization upon a form to be prescribed by the board and containing information required to enable the board to determine whether the limited liability company is qualified under this chapter to practice either or both engineering or land surveying in this state.

(b) The limited liability company has filed with the board a certified copy of a resolution by the company manager or managers that shall designate a person holding a certificate of registration under this chapter as being responsible for the practice of engineering or land surveying, or both, by the limited liability company in this state and that the designated person has full authority to make all final engineering or land surveying decisions on behalf of the limited liability company with respect to work performed by the limited liability company in this state. The resolution shall further state that the limited liability company agreement shall be amended to include the following provision: "The designated engineer or land surveyor, respectively, named in the resolution as being in responsible charge, or an engineer or land surveyor under the designated engineer or land surveyor's direct supervision, shall make all engineering or land surveying decisions pertaining to engineering or land surveying activities in the state of Washington." However, the filing of the resolution shall not relieve the limited liability company of responsibility or liability imposed upon it by law or by contract.

(c) The designated engineer for the limited liability company must hold a current professional engineer license issued by this state.

The designated land surveyor for the limited liability company must hold a current professional land surveyor license issued by this state.

If a person is licensed as both a professional engineer and as a professional land surveyor in this state, then the limited liability company may designate the person as being in responsible charge for both professions.

If there is a change in the designated engineer or designated land surveyor, the limited liability company shall notify the board in writing within thirty days after the effective date of the change. If the limited liability company changes its name, the company shall submit to the board a copy of the certificate of amendment filed with the secretary of state's office.

(d) Upon the filing with the board the application for certificate of authorization, a certified copy of the resolution, an affidavit from the designated engineer or the designated land surveyor, or both, specified in (b) and (c) of this subsection, a copy of the certificate of formation as filed with the secretary of state, and a copy of the company's current business license, the board shall issue to the limited liability company a certificate of authorization to practice engineering or land surveying, or both, in this state upon determination by the board that:

(i) The designated engineer or designated land surveyor, or both, hold a certificate of registration in this state under this chapter and the certificate is in force;

(ii) The designated engineer or designated land surveyor, or both, are not designated in responsible charge for another limited liability company or a corporation;

(iii) The limited liability company is licensed with the secretary of state and has a current unified business identification number and that the board determines, based on evaluating the findings and information under this subsection, that the applicant limited liability company possesses the ability and competence to furnish either or both engineering or land surveying services in the public interest.

The board may exercise its discretion to refuse to issue, or it may suspend or revoke a certificate of authorization issued to a limited liability company if the board finds that any of the managers or members holding a majority interest in the limited liability company has committed misconduct or malpractice as defined in RCW 18.43.105 or has been found personally responsible for misconduct or malpractice under the provisions of (f) and (g) of this subsection.

(e) Engineers or land surveyors organized as a professional limited liability company are exempt from applying for a certificate of authorization under this chapter.

(f) Any limited liability company authorized to practice engineering or land surveying, or both, under this chapter, together with its manager or managers and members for their own individual acts, are responsible to the same degree as an individual registered engineer or registered land surveyor, and must conduct their business without misconduct or malpractice in the practice of engineering or land surveying, or both.

(g) A limited liability company that is certified under this chapter is subject to the authority of the board as provided in RCW 18.43.035, 18.43.105, 18.43.110, and 18.43.120.

(h) All plans, specifications, designs, and reports when issued in connection with work performed by a limited liability company under its certificate of authorization shall be prepared by or under the direct supervision of and shall be signed by and shall be stamped with the official seal of a person holding a certificate of registration under this chapter.

(i) For each certificate of authorization issued under this subsection (10) there shall be paid an initial fee determined by the director as provided in RCW

43.24.086 and an annual renewal fee determined by the director as provided in RCW 43.24.086.

NEW SECTION, Sec. 5. Section 4 of this act takes effect July 1, 1998.

Passed the Senate April 21, 1997.

Passed the House April 10, 1997.

Approved by the Governor May 2, 1997.

Filed in Office of Secretary of State May 2, 1997.

CHAPTER 248

[Substitute Senate Bill 5539]

ACCIDENT REPORTS—REQUIREMENTS

AN ACT Relating to accident reports; amending RCW 46.52.030; and declaring an emergency.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 46.52.030 and 1996 c 183 s 1 are each amended to read as follows:

(1) Unless a report is to be made by a law enforcement officer under subsection (3) of this section, the driver of any vehicle involved in an accident resulting in injury to or death of any person or damage to the property of any one person to an apparent extent equal to or greater than the minimum amount established by rule adopted by the chief of the Washington state patrol in accordance with subsection (5) of this section, shall, within ~~((twenty-four hours))~~ four days after such accident, make a written report of such accident to the chief of police of the city or town if such accident occurred within an incorporated city or town or the county sheriff or state patrol if such accident occurred outside incorporated cities and towns. Nothing in this subsection prohibits accident reports from being filed by drivers where damage to property is less than the minimum amount or where a law enforcement officer has submitted a report.

(2) The original of the report shall be immediately forwarded by the authority receiving the report to the chief of the Washington state patrol at Olympia, Washington. The Washington state patrol shall give the department of licensing full access to the report.

(3) Any law enforcement officer who investigates an accident for which a ~~((driver's))~~ report is required under subsection (1) of this section shall submit an investigator's report as required by RCW 46.52.070.

(4) The chief of the Washington state patrol may require any driver of any vehicle involved in an accident, of which report must be made as provided in this section, to file supplemental reports whenever the original report in ~~((his))~~ the chief's opinion is insufficient, and may likewise require witnesses of any such accident to render reports. For this purpose, the chief of the Washington state patrol shall prepare and, upon request, supply to any police department, coroner, sheriff, and any other suitable agency or individual, sample forms of accident reports required hereunder, which reports shall be upon a form devised by the chief

of the Washington state patrol and shall call for sufficiently detailed information to disclose all material facts with reference to the accident to be reported thereon, including the location, the ~~((cause))~~ circumstances, the conditions then existing, the persons and vehicles involved, the insurance information required under RCW 46.30.030, personal injury or death, if any, the amounts of property damage claimed, the total number of vehicles involved, whether the vehicles were legally parked, legally standing, or moving, and whether such vehicles were occupied at the time of the accident. Every required accident report shall be made on a form prescribed by the chief of the Washington state patrol and each authority charged with the duty of receiving such reports shall provide sufficient report forms in compliance with the form devised. The report forms shall be designated so as to provide that a copy may be retained by the reporting person.

(5) The chief of the Washington state patrol shall adopt rules establishing the accident-reporting threshold for property damage accidents. Beginning October 1, 1987, the accident-reporting threshold for property damage accidents shall be five hundred dollars. The accident-reporting threshold for property damage accidents shall be revised when necessary, but not more frequently than every two years. The revisions shall only be for the purpose of recognizing economic changes as reflected by an inflationary index recommended by the office of financial management. The revisions shall be guided by the change in the index for the time period since the last revision.

NEW SECTION. **Sec. 2.** This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately.

Passed the Senate April 21, 1997.

Passed the House April 8, 1997.

Approved by the Governor May 2, 1997.

Filed in Office of Secretary of State May 2, 1997.

CHAPTER 249

[Senate Bill 5811]

CRIME VICTIM COMPENSATION AND COMPENSATION—INCLUSION OF TERRORIST ACTS

AN ACT Relating to including terrorism committed outside of the United States in the definition of criminal act for the purposes of crime victim compensation and assistance; amending RCW 7.68.020; creating a new section; and declaring an emergency.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 7.68.020 and 1990 c 73 s 1 are each amended to read as follows:

The following words and phrases as used in this chapter have the meanings set forth in this section unless the context otherwise requires.

(1) "Department" means the department of labor and industries.

(2) "Criminal act" means an act committed or attempted in this state which is punishable as a felony or gross misdemeanor under the laws of this state, or an act committed outside the state of Washington against a resident of the state of Washington which would be compensable had it occurred inside this state; and the crime occurred in a state which does not have a crime victims compensation program, for which the victim is eligible as set forth in the Washington compensation law, or an act of terrorism as defined in 18 U.S.C. Sec. 2331, as it exists on the effective date of this section, committed outside of the United States against a resident of the state of Washington, except as follows:

(a) The operation of a motor vehicle, motorcycle, train, boat, or aircraft in violation of law does not constitute a "criminal act" unless:

(i) The injury or death was intentionally inflicted;

(ii) The operation thereof was part of the commission of another non-vehicular criminal act as defined in this section;

(iii) The death or injury was the result of the operation of a motor vehicle after July 24, 1983, and a preponderance of the evidence establishes that the death was the result of vehicular homicide under RCW 46.61.520, or a conviction of vehicular assault under RCW 46.61.522, has been obtained: PROVIDED, That in cases where a probable criminal defendant has died in perpetration of vehicular assault or, because of physical or mental infirmity or disability the perpetrator is incapable of standing trial for vehicular assault, the department may, by a preponderance of the evidence, establish that a vehicular assault had been committed and authorize benefits; or

(iv) Injury or death caused by a driver in violation of RCW 46.61.502;

(b) Neither an acquittal in a criminal prosecution nor the absence of any such prosecution is admissible in any claim or proceeding under this chapter as evidence of the noncriminal character of the acts giving rise to such claim or proceeding, except as provided for in subsection (2)(a)(iii) of this section;

(c) Evidence of a criminal conviction arising from acts which are the basis for a claim or proceeding under this chapter is admissible in such claim or proceeding for the limited purpose of proving the criminal character of the acts; and

(d) Acts which, but for the insanity or mental irresponsibility of the perpetrator, would constitute criminal conduct are deemed to be criminal conduct within the meaning of this chapter.

(3) "Victim" means a person who suffers bodily injury or death as a proximate result of a criminal act of another person, the victim's own good faith and reasonable effort to prevent a criminal act, or his good faith effort to apprehend a person reasonably suspected of engaging in a criminal act. For the purposes of receiving benefits pursuant to this chapter, "victim" is interchangeable with "employee" or "workman" as defined in chapter 51.08 RCW as now or hereafter amended.

(4) "Child," "accredited school," "dependent," "beneficiary," "average monthly wage," "director," "injury," "invalid," "permanent partial disability," and

"permanent total disability" have the meanings assigned to them in chapter 51.08 RCW as now or hereafter amended.

(5) "Gainfully employed" means engaging on a regular and continuous basis in a lawful activity from which a person derives a livelihood.

(6) "Private insurance" means any source of recompense provided by contract available as a result of the claimed injury or death at the time of such injury or death, or which becomes available any time thereafter.

(7) "Public insurance" means any source of recompense provided by statute, state or federal, available as a result of the claimed injury or death at the time of such injury or death, or which becomes available any time thereafter.

NEW SECTION. Sec. 2. This act is remedial in nature and applies to criminal acts that occur on April 1, 1997, and thereafter.

NEW SECTION. Sec. 3. This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately.

Passed the Senate April 8, 1997.

Passed the House April 18, 1997.

Approved by the Governor May 2, 1997.

Filed in Office of Secretary of State May 2, 1997.

CHAPTER 250

[Substitute House Bill 1513]

TRANSPORTATION DEMAND MANAGEMENT—ENCOURAGING COMMUTE TRIP REDUCTION PROGRAMS

AN ACT Relating to transportation demand management; amending RCW 70.94.521, 70.94.527, 70.94.531, 70.94.534, 70.94.537, 70.94.551, 46.74.010, 46.74.030, and 51.08.013; and reenacting and amending RCW 42.17.310.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 70.94.521 and 1991 c 202 s 10 are each amended to read as follows:

The legislature finds that automotive traffic in Washington's metropolitan areas is the major source of emissions of air contaminants. This air pollution causes significant harm to public health, causes damage to trees, plants, structures, and materials and degrades the quality of the environment.

Increasing automotive traffic is also aggravating traffic congestion in Washington's metropolitan areas. This traffic congestion imposes significant costs on Washington's businesses, governmental agencies, and individuals in terms of lost working hours and delays in the delivery of goods and services. Traffic congestion worsens automobile-related air pollution, increases the consumption of fuel, and degrades the habitability of many of Washington's cities and suburban areas. The capital and environmental costs of fully accommodating the existing and projected automobile traffic on roads and highways are prohibitive.

Decreasing the demand for vehicle trips is significantly less costly and at least as effective in reducing traffic congestion and its impacts as constructing new transportation facilities such as roads and bridges, to accommodate increased traffic volumes.

The legislature also finds that increasing automotive transportation is a major factor in increasing consumption of gasoline and, thereby, increasing reliance on imported sources of petroleum. Moderating the growth in automotive travel is essential to stabilizing and reducing dependence on imported petroleum and improving the nation's energy security.

The legislature further finds that reducing the number of commute trips to work made via single-occupant cars and light trucks is an effective way of reducing automobile-related air pollution, traffic congestion, and energy use. Major employers have significant opportunities to encourage and facilitate reducing single-occupant vehicle commuting by employees. In addition, the legislature also recognizes the importance of increasing individual citizens' awareness of air quality, energy consumption, and traffic congestion, and the contribution individual actions can make towards addressing these issues.

The intent of this chapter is to require local governments in those counties experiencing the greatest automobile-related air pollution and traffic congestion to develop and implement plans to reduce single-occupant vehicle commute trips. Such plans shall require major employers and employers at major worksites to implement programs to reduce single-occupant vehicle commuting by employees at major worksites. Local governments in counties experiencing significant but less severe automobile-related air pollution and traffic congestion may implement such plans. State agencies shall implement programs to reduce single-occupant vehicle commuting at all major worksites throughout the state.

Sec. 2. RCW 70.94.527 and 1996 c 186 s 513 are each amended to read as follows:

(1) Each county with a population over one hundred fifty thousand, and each city or town within those counties containing a major employer shall, by October 1, 1992, adopt by ordinance and implement a commute trip reduction plan for all major employers. The plan shall be developed in cooperation with local transit agencies, regional transportation planning organizations as established in RCW 47.80.020, major employers, and the owners of and employers at major worksites. The plan shall be designed to achieve reductions in the proportion of single-occupant vehicle commute trips and the commute trip vehicle miles traveled per employee by employees of major public and private sector employers in the jurisdiction.

(2) All other counties, and cities and towns in those counties, may adopt and implement a commute trip reduction plan.

(3) The department of ecology may, after consultation with the department of transportation, as part of the state implementation plan for areas that do not attain the national ambient air quality standards for carbon monoxide or ozone, require

municipalities other than those identified in subsection (1) of this section to adopt and implement commute trip reduction plans if the department determines that such plans are necessary for attainment of said standards.

(4) A commute trip reduction plan shall be consistent with the guidelines established under RCW 70.94.537 and shall include but is not limited to (a) goals for reductions in the proportion of single-occupant vehicle commute trips and the commute trip vehicle miles traveled per employee; (b) designation of commute trip reduction zones; (c) requirements for major public and private sector employers to implement commute trip reduction programs; (d) a commute trip reduction program for employees of the county, city, or town; (e) a review of local parking policies and ordinances as they relate to employers and major worksites and any revisions necessary to comply with commute trip reduction goals and guidelines; (f) an appeals process by which major employers, who as a result of special characteristics of their business or its locations would be unable to meet the requirements of a commute trip reduction plan, may obtain waiver or modification of those requirements; and (g) means for determining base year values of the proportion of single-occupant vehicle commute trips and the commute trip vehicle miles traveled per employee and progress toward meeting commute trip reduction plan goals on an annual basis. Goals which are established shall take into account existing transportation demand management efforts which are made by major employers. Each jurisdiction shall ensure that employers shall receive full credit for the results of transportation demand management efforts and commute trip reduction programs which have been implemented by major employers prior to the base year. The goals for miles traveled per employee for all major employers shall not be less than a fifteen percent reduction from the worksite base year value ~~((of))~~ or the base year value for the commute trip reduction zone in which their worksite is located by January 1, 1995, ~~((twenty-five))~~ twenty percent reduction from the base year values by January 1, 1997, ~~((and thirty-five))~~ twenty-five percent reduction from the base year values by January 1, 1999, and a thirty-five percent reduction from the base year values by January 1, 2005.

(5) A county, city, or town may, as part of its commute trip reduction plan, require commute trip reduction programs for employers with ten or more full time employees at major worksites in federally designated nonattainment areas for carbon monoxide and ozone. The county, city or town shall develop the programs in cooperation with affected employers and provide technical assistance to the employers in implementing such programs.

(6) The commute trip reduction plans adopted by counties, cities, and towns under this chapter shall be consistent with and may be incorporated in applicable state or regional transportation plans and local comprehensive plans and shall be coordinated, and consistent with, the commute trip reduction plans of counties, cities, or towns with which the county, city, or town has, in part, common borders or related regional issues. Such regional issues shall include assuring consistency in the treatment of employers who have worksites subject to the requirements of

this chapter in more than one jurisdiction. Counties, cities, or towns adopting commute trip reduction plans may enter into agreements through the interlocal cooperation act or by resolution or ordinance as appropriate with other jurisdictions, local transit agencies, or regional transportation planning organizations to coordinate the development and implementation of such plans. Transit agencies shall work with counties, cities, and towns to take into account the location of major employer worksites when planning transit service changes or the expansion of public transportation services. Counties, cities, or towns adopting a commute trip reduction plan shall review it annually and revise it as necessary to be consistent with applicable plans developed under RCW 36.70A.070.

(7) Each county, city, or town implementing a commute trip reduction program shall, within thirty days submit a summary of its plan along with certification of adoption to the commute trip reduction task force established under RCW 70.94.537.

(8) Each county, city, or town implementing a commute trip reduction program shall submit an annual progress report to the commute trip reduction task force established under RCW 70.94.537. The report shall be due July 1, 1994, and each July 1st thereafter through July 1, ~~((2000))~~ 2006. The report shall describe progress in attaining the applicable commute trip reduction goals for each commute trip reduction zone and shall highlight any problems being encountered in achieving the goals. The information shall be reported in a form established by the commute trip reduction task force.

(9) Any waivers or modifications of the requirements of a commute trip reduction plan granted by a jurisdiction shall be submitted for review to the commute trip reduction task force established under RCW 70.94.537. The commute trip reduction task force may not deny the granting of a waiver or modification of the requirements of a commute trip reduction plan by a jurisdiction but they may notify the jurisdiction of any comments or objections.

(10) Each county, city, or town implementing a commute trip reduction program shall count commute trips eliminated through work-at-home options or alternate work schedules as one and two-tenths vehicle trips eliminated for the purpose of meeting trip reduction goals.

(11) Each county, city, or town implementing a commute trip reduction program shall ensure that employers that have modified their employees' work schedules so that some or all employees are not scheduled to arrive at work between 6:00 a.m. and 9:00 a.m. are provided credit when calculating single-occupancy vehicle use and vehicle miles traveled at that worksite. This credit shall be awarded if implementation of the schedule change was an identified element in that worksite's approved commute trip reduction program or if the schedule change occurred because of impacts associated with chapter 36.70A RCW, the growth management act.

(12) Plans implemented under this section shall not apply to commute trips for seasonal agricultural employees.

~~((12))~~ (13) Plans implemented under this section shall not apply to construction worksites when the expected duration of the construction project is less than two years.

Sec. 3. RCW 70.94.531 and 1991 c 202 s 13 are each amended to read as follows:

(1) Not more than six months after the adoption of the commute trip reduction plan by a jurisdiction, each major employer in that jurisdiction shall develop a commute trip reduction program and shall submit a description of that program to the jurisdiction for review. The program shall be implemented not more than six months after submission to the jurisdiction.

(2) A commute trip reduction program shall consist of, at a minimum (a) designation of a transportation coordinator and the display of the name, location, and telephone number of the coordinator in a prominent manner at each affected worksite; (b) regular distribution of information to employees regarding alternatives to single-occupant vehicle commuting; (c) an annual review of employee commuting and reporting of progress toward meeting the single-occupant vehicle reduction goals to the county, city, or town consistent with the method established in the commute trip reduction plan; and (d) implementation of a set of measures designed to achieve the applicable commute trip reduction goals adopted by the jurisdiction. Such measures may include but are not limited to:

- (i) Provision of preferential parking or reduced parking charges, or both, for high occupancy vehicles;
- (ii) Instituting or increasing parking charges for single-occupant vehicles;
- (iii) Provision of commuter ride matching services to facilitate employee ridesharing for commute trips;
- (iv) Provision of subsidies for transit fares;
- (v) Provision of vans for van pools;
- (vi) Provision of subsidies for car pooling or van pooling;
- (vii) Permitting the use of the employer's vehicles for car pooling or van pooling;
- (viii) Permitting flexible work schedules to facilitate employees' use of transit, car pools, or van pools;
- (ix) Cooperation with transportation providers to provide additional regular or express service to the worksite;
- (x) Construction of special loading and unloading facilities for transit, car pool, and van pool users;
- (xi) Provision of bicycle parking facilities, lockers, changing areas, and showers for employees who bicycle or walk to work;
- (xii) Provision of a program of parking incentives such as a rebate for employees who do not use the parking facility;
- (xiii) Establishment of a program to permit employees to work part or full time at home or at an alternative worksite closer to their homes;

(xiv) Establishment of a program of alternative work schedules such as compressed work week schedules which reduce commuting; and

(xv) Implementation of other measures designed to facilitate the use of high-occupancy vehicles such as on-site day care facilities and emergency taxi services.

(3) Employers or owners of worksites may form or utilize existing transportation management associations to assist members in developing and implementing commute trip reduction programs.

(4) Employers shall make a good faith effort towards achievement of the goals identified in RCW 70.94.527(4)(g).

Sec. 4. RCW 70.94.534 and 1991 c 202 s 14 are each amended to read as follows:

(1) Each jurisdiction implementing a commute trip reduction plan under this chapter or as part of a plan or ordinance developed under RCW 36.70A.070 shall review each employer's initial commute trip reduction program to determine if the program is likely to meet the applicable commute trip reduction goals. The employer shall be notified by the jurisdiction of its findings. If the jurisdiction finds that the program is not likely to meet the applicable commute trip reduction goals, the jurisdiction will work with the employer to modify the program as necessary. The jurisdiction shall complete review of each employer's initial commute trip reduction program within three months of receipt.

(2) Employers implementing commute trip reduction programs are expected to undertake good faith efforts to achieve the goals outlined in RCW 70.94.527(4). Employers are considered to be making a good faith effort if the following conditions have been met:

(a) The employer has met the minimum requirements identified in RCW 70.94.531; and

(b) The employer is working collaboratively with its jurisdiction to continue its existing program or is developing and implementing program modifications likely to result in improvements to the program over an agreed upon length of time.

(3) Each jurisdiction shall annually review each employer's progress and good faith efforts toward meeting the applicable commute trip reduction goals. If ~~((it appears))~~ an employer makes a good faith effort, as defined in this section, but is not likely to meet the applicable commute trip reduction goals, the jurisdiction shall work collaboratively with the employer to make modifications to the commute trip reduction program. Failure of an employer to reach the applicable commute trip reduction goals is not a violation of this chapter.

~~((3))~~ (4) If an employer fails to make a good faith effort and fails to meet the applicable commute trip reduction goals, the jurisdiction shall work collaboratively with the employer to propose modifications to the program and shall direct the employer to revise its program within thirty days to incorporate those modifications or modifications which the jurisdiction determines to be equivalent.

~~((4))~~ (5) Each jurisdiction implementing a commute trip reduction plan pursuant to this chapter may impose civil penalties, in the manner provided in

chapter 7.80 RCW, for failure by an employer to implement a commute trip reduction program or to modify its commute trip reduction program as required in subsection ~~((3))~~ (4) of this section. No major employer may be held liable for civil penalties for failure to reach the applicable commute trip reduction goals. No major employer shall be liable for civil penalties under this chapter if failure to achieve a commute trip reduction program goal was the result of an inability to reach agreement with a certified collective bargaining agent under applicable laws where the issue was raised by the employer and pursued in good faith.

(6) Jurisdictions shall notify major employers of the procedures for applying for goal modification or exemption from the commute trip reduction requirements based on the guidelines established by the commute trip reduction task force.

Sec. 5. RCW 70.94.537 and 1996 c 186 s 514 are each amended to read as follows:

(1) A ~~((twenty-two))~~ twenty-eight member state commute trip reduction task force ~~((shall be))~~ is established as follows:

(a) The secretary of the department of transportation or the secretary's designee who shall serve as chair;

(b) The director of the department of ecology or the director's designee;

(c) The director of the department of community, trade, and economic development or the director's designee;

(d) The director of the department of general administration or the director's designee;

(e) Three representatives from counties appointed by the governor from a list of at least six recommended by the Washington state association of counties;

(f) Three representatives from cities and towns appointed by the governor from a list of at least six recommended by the association of Washington cities;

(g) Three representatives from transit agencies appointed by the governor from a list of at least six recommended by the Washington state transit association;

(h) ~~((Six))~~ Twelve representatives of employers at or owners of major worksites in Washington appointed by the governor from a list ~~((of at least twelve))~~ recommended by the association of Washington business or other state-wide business associations representing major employers, provided that every affected county shall have at least one representative; and

(i) Three citizens appointed by the governor.

Members of the commute trip reduction task force shall serve without compensation but shall be reimbursed for travel expenses as provided in RCW 43.03.050 and 43.03.060. Members appointed by the governor shall be compensated in accordance with RCW 43.03.220. The task force has all powers necessary to carry out its duties as prescribed by this chapter. The task force shall be dissolved on July 1, ~~((2000))~~ 2006.

(2) By March 1, 1992, the commute trip reduction task force shall establish guidelines for commute trip reduction plans. The guidelines are intended to ensure consistency in commute trip reduction plans and goals among jurisdictions while

fairly taking into account differences in employment and housing density, employer size, existing and anticipated levels of transit service, special employer circumstances, and other factors the task force determines to be relevant. The guidelines shall include:

- (a) Criteria for establishing commute trip reduction zones;
- (b) Methods and information requirements for determining base year values of the proportion of single-occupant vehicle commute trips and the commute trip vehicle miles traveled per employee and progress toward meeting commute trip reduction plan goals;
- (c) Model commute trip reduction ordinances;
- (d) Methods for assuring consistency in the treatment of employers who have worksites subject to the requirements of this chapter in more than one jurisdiction;
- (e) An appeals process by which major employers, who as a result of special characteristics of their business or its locations would be unable to meet the requirements of a commute trip reduction plan, may obtain a waiver or modification of those requirements and criteria for determining eligibility for waiver or modification;
- (f) Methods to ensure that employers shall receive full credit for the results of transportation demand management efforts and commute trip reduction programs which have been implemented by major employers prior to the base year;
- (g) Alternative commute trip reduction goals for major employers which cannot meet the goals of this chapter because of the unique nature of their business;
- ~~((and))~~
- (h) Alternative commute trip reduction goals for major employers whose worksites change and who contribute substantially to traffic congestion in a trip reduction zone; and
- (i) Methods to insure that employers receive credit for scheduling changes enacted pursuant to the criteria identified in RCW 70.94.527(11).
- (3) The task force shall work with jurisdictions, major employers, and other parties to develop and implement a public awareness campaign designed to increase the effectiveness of local commute trip reduction programs and support achievement of the objectives identified in this chapter.
- (4) The task force shall assess the commute trip reduction options available to employers other than major employers and make recommendations to the legislature by October 1, 1992. The recommendations shall include the minimum size of employer who shall be required to implement trip reduction programs and the appropriate methods those employers can use to accomplish trip reduction goals.
- ~~((4))~~ (5) The task force shall review progress toward implementing commute trip reduction plans and programs and the costs and benefits of commute trip reduction plans and programs and shall make recommendations to the legislature by December 1, 1995, ((and)) December 1, 1999, December 1, 2001, December 1, 2003, and December 1, 2005. In assessing the costs and benefits, the task force

shall consider the costs of not having implemented commute trip reduction plans and programs. The task force shall examine other transportation demand management programs nationally and incorporate its findings into its recommendations to the legislature. The recommendations shall address the need for continuation, modification, or termination or any or all requirements of this chapter. The recommendations made December 1, 1995, shall include recommendations regarding extension of the requirements of this chapter to employers with fifty or more full-time employees at a single worksite who begin their regular work day between 6:00 a.m. and 9:00 a.m. on weekdays for more than twelve continuous months.

Sec. 6. RCW 70.94.551 and 1996 c 186 s 516 are each amended to read as follows:

(1) The director of general administration, with the concurrence of an interagency task force established for the purposes of this section, shall coordinate a commute trip reduction plan for state agencies which are phase 1 major employers by January 1, 1993. The task force shall include representatives of the departments of transportation and ecology and such other departments as the director of general administration determines to be necessary to be generally representative of state agencies. The state agency plan shall be consistent with the requirements of RCW 70.94.527 and 70.94.531 and shall be developed in consultation with state employees, local and regional governments, local transit agencies, the business community, and other interested groups. The plan shall consider and recommend policies applicable to all state agencies including but not limited to policies regarding parking and parking charges, employee incentives for commuting by other than single-occupant automobiles, flexible and alternative work schedules, alternative worksites, and the use of state-owned vehicles for car and van pools. The plan shall also consider the costs and benefits to state agencies of achieving commute trip reductions and consider mechanisms for funding state agency commute trip reduction programs. The department shall, within thirty days, submit a summary of its plan along with certification of adoption to the commute trip reduction task force established under RCW 70.94.537.

(2) Not more than three months after the adoption of the commute trip reduction plan, each state agency shall, for each facility which is a major employer, develop a commute trip reduction program. The program shall be designed to meet the goals of the commute trip reduction plan of the county, city, or town or, if there is no local commute trip reduction plan, the state. The program shall be consistent with the policies of the state commute trip reduction plan and RCW 70.94.531. The agency shall submit a description of that program to the local jurisdiction implementing a commute trip reduction plan or, if there is no local commute trip reduction plan, to the department of general administration. The program shall be implemented not more than three months after submission to the department. Annual reports required in RCW 70.94.531(2)(c) shall be submitted to the local jurisdiction implementing a commute trip reduction plan and to the department of

general administration. An agency which is not meeting the applicable commute trip reduction goals shall, to the extent possible, modify its program to comply with the recommendations of the local jurisdiction or the department of general administration.

(3) State agencies sharing a common location may develop and implement a joint commute trip reduction program or may delegate the development and implementation of the commute trip reduction program to the department of general administration.

(4) The department of general administration in consultation with the state technical assistance team shall review the initial commute trip reduction program of each state agency subject to the commute trip reduction plan for state agencies to determine if the program is likely to meet the applicable commute trip reduction goals and notify the agency of any deficiencies. If it is found that the program is not likely to meet the applicable commute trip reduction goals, the team will work with the agency to modify the program as necessary.

(5) For each agency subject to the state agency commute trip reduction plan, the department of general administration in consultation with the technical assistance team shall annually review progress toward meeting the applicable commute trip reduction goals. If it appears an agency is not meeting or is not likely to meet the applicable commute trip reduction goals, the team shall work with the agency to make modifications to the commute trip reduction program.

(6) The department of general administration shall submit an annual progress report for state agencies subject to the state agency commute trip reduction plan to the commute trip reduction task force established under RCW 70.94.537. The report shall be due April 1, 1993, and each April 1st through ~~(2000)~~ 2006. The report shall report progress in attaining the applicable commute trip reduction goals for each commute trip reduction zone and shall highlight any problems being encountered in achieving the goals. The information shall be reported in a form established by the commute trip reduction task force.

Sec. 7. RCW 42.17.310 and 1996 c 305 s 2, 1996 c 253 s 302, 1996 c 191 s 88, and 1996 c 80 s 1 are each reenacted and amended to read as follows:

(1) The following are exempt from public inspection and copying:

(a) Personal information in any files maintained for students in public schools, patients or clients of public institutions or public health agencies, or welfare recipients.

(b) Personal information in files maintained for employees, appointees, or elected officials of any public agency to the extent that disclosure would violate their right to privacy.

(c) Information required of any taxpayer in connection with the assessment or collection of any tax if the disclosure of the information to other persons would (i) be prohibited to such persons by RCW 82.32.330 or (ii) violate the taxpayer's right to privacy or result in unfair competitive disadvantage to the taxpayer.

(d) Specific intelligence information and specific investigative records compiled by investigative, law enforcement, and penology agencies, and state agencies vested with the responsibility to discipline members of any profession, the nondisclosure of which is essential to effective law enforcement or for the protection of any person's right to privacy.

(e) Information revealing the identity of persons who are witnesses to or victims of crime or who file complaints with investigative, law enforcement, or penology agencies, other than the public disclosure commission, if disclosure would endanger any person's life, physical safety, or property. If at the time a complaint is filed the complainant, victim or witness indicates a desire for disclosure or nondisclosure, such desire shall govern. However, all complaints filed with the public disclosure commission about any elected official or candidate for public office must be made in writing and signed by the complainant under oath.

(f) Test questions, scoring keys, and other examination data used to administer a license, employment, or academic examination.

(g) Except as provided by chapter 8.26 RCW, the contents of real estate appraisals, made for or by any agency relative to the acquisition or sale of property, until the project or prospective sale is abandoned or until such time as all of the property has been acquired or the property to which the sale appraisal relates is sold, but in no event shall disclosure be denied for more than three years after the appraisal.

(h) Valuable formulae, designs, drawings, and research data obtained by any agency within five years of the request for disclosure when disclosure would produce private gain and public loss.

(i) Preliminary drafts, notes, recommendations, and intra-agency memorandums in which opinions are expressed or policies formulated or recommended except that a specific record shall not be exempt when publicly cited by an agency in connection with any agency action.

(j) Records which are relevant to a controversy to which an agency is a party but which records would not be available to another party under the rules of pretrial discovery for causes pending in the superior courts.

(k) Records, maps, or other information identifying the location of archaeological sites in order to avoid the looting or depredation of such sites.

(l) Any library record, the primary purpose of which is to maintain control of library materials, or to gain access to information, which discloses or could be used to disclose the identity of a library user.

(m) Financial information supplied by or on behalf of a person, firm, or corporation for the purpose of qualifying to submit a bid or proposal for (i) a ferry system construction or repair contract as required by RCW 47.60.680 through 47.60.750 or (ii) highway construction or improvement as required by RCW 47.28.070.

(n) Railroad company contracts filed prior to July 28, 1991, with the utilities and transportation commission under RCW 81.34.070, except that the summaries of the contracts are open to public inspection and copying as otherwise provided by this chapter.

(o) Financial and commercial information and records supplied by private persons pertaining to export services provided pursuant to chapter 43.163 RCW and chapter 53.31 RCW, and by persons pertaining to export projects pursuant to RCW 43.23.035.

(p) Financial disclosures filed by private vocational schools under chapters 28B.85 and 28C.10 RCW.

(q) Records filed with the utilities and transportation commission or attorney general under RCW 80.04.095 that a court has determined are confidential under RCW 80.04.095.

(r) Financial and commercial information and records supplied by businesses or individuals during application for loans or program services provided by chapters 43.163, 43.160, 43.330, and 43.168 RCW, or during application for economic development loans or program services provided by any local agency.

(s) Membership lists or lists of members or owners of interests of units in timeshare projects, subdivisions, camping resorts, condominiums, land developments, or common-interest communities affiliated with such projects, regulated by the department of licensing, in the files or possession of the department.

(t) All applications for public employment, including the names of applicants, resumes, and other related materials submitted with respect to an applicant.

(u) The residential addresses and residential telephone numbers of employees or volunteers of a public agency which are held by the agency in personnel records, employment or volunteer rosters, or mailing lists of employees or volunteers.

(v) The residential addresses and residential telephone numbers of the customers of a public utility contained in the records or lists held by the public utility of which they are customers.

(w)(i) The federal social security number of individuals governed under chapter 18.130 RCW maintained in the files of the department of health, except this exemption does not apply to requests made directly to the department from federal, state, and local agencies of government, and national and state licensing, credentialing, investigatory, disciplinary, and examination organizations; (ii) the current residential address and current residential telephone number of a health care provider governed under chapter 18.130 RCW maintained in the files of the department, if the provider requests that this information be withheld from public inspection and copying, and provides to the department an accurate alternate or business address and business telephone number. On or after January 1, 1995, the current residential address and residential telephone number of a health care provider governed under RCW 18.130.140 maintained in the files of the department shall automatically be withheld from public inspection and copying

unless the provider specifically requests the information be released, and except as provided for under RCW 42.17.260(9).

(x) Information obtained by the board of pharmacy as provided in RCW 69.45.090.

(y) Information obtained by the board of pharmacy or the department of health and its representatives as provided in RCW 69.41.044, 69.41.280, and 18.64.420.

(z) Financial information, business plans, examination reports, and any information produced or obtained in evaluating or examining a business and industrial development corporation organized or seeking certification under chapter 31.24 RCW.

(aa) Financial and commercial information supplied to the state investment board by any person when the information relates to the investment of public trust or retirement funds and when disclosure would result in loss to such funds or in private loss to the providers of this information.

(bb) Financial and valuable trade information under RCW 51.36.120.

(cc) Client records maintained by an agency that is a domestic violence program as defined in RCW 70.123.020 or 70.123.075 or a rape crisis center as defined in RCW 70.125.030.

(dd) Information that identifies a person who, while an agency employee: (i) Seeks advice, under an informal process established by the employing agency, in order to ascertain his or her rights in connection with a possible unfair practice under chapter 49.60 RCW against the person; and (ii) requests his or her identity or any identifying information not be disclosed.

(ee) Investigative records compiled by an employing agency conducting a current investigation of a possible unfair practice under chapter 49.60 RCW or of a possible violation of other federal, state, or local laws prohibiting discrimination in employment.

(ff) Business related information protected from public inspection and copying under RCW 15.86.110.

(gg) Financial, commercial, operations, and technical and research information and data submitted to or obtained by the clean Washington center in applications for, or delivery of, program services under chapter 70.95H RCW.

(hh) Information and documents created specifically for, and collected and maintained by a quality improvement committee pursuant to RCW 43.70.510, regardless of which agency is in possession of the information and documents.

(ii) Personal information in files maintained in a data base created under RCW 43.07.360.

(jj) The names, residential addresses, residential telephone numbers, and other individually identifiable records held by an agency in relation to a vanpool, carpool, or other ride-sharing program or service. However, these records may be disclosed to other persons who apply for ride-matching services and who need that information in order to identify potential riders or drivers with whom to share rides.

(2) Except for information described in subsection (1)(c)(i) of this section and confidential income data exempted from public inspection pursuant to RCW 84.40.020, the exemptions of this section are inapplicable to the extent that information, the disclosure of which would violate personal privacy or vital governmental interests, can be deleted from the specific records sought. No exemption may be construed to permit the nondisclosure of statistical information not descriptive of any readily identifiable person or persons.

(3) Inspection or copying of any specific records exempt under the provisions of this section may be permitted if the superior court in the county in which the record is maintained finds, after a hearing with notice thereof to every person in interest and the agency, that the exemption of such records is clearly unnecessary to protect any individual's right of privacy or any vital governmental function.

(4) Agency responses refusing, in whole or in part, inspection of any public record shall include a statement of the specific exemption authorizing the withholding of the record (or part) and a brief explanation of how the exemption applies to the record withheld.

Sec. 8. RCW 46.74.010 and 1996 c 244 s 2 are each amended to read as follows:

The definitions set forth in this section shall apply throughout this chapter, unless the context clearly indicates otherwise.

(1) "Commuter ride sharing" means a car pool or van pool arrangement whereby a fixed group not exceeding fifteen persons including the driver, and (a) not fewer than five persons including the driver, or (b) not fewer than four persons including the driver where at least two of those persons are confined to wheelchairs when riding, is transported in a passenger motor vehicle with a gross vehicle weight not exceeding ten thousand pounds, excluding special rider equipment, between their places of abode or termini near such places, and their places of employment or educational or other institutions, in a single daily round trip where the driver is also on the way to or from his or her place of employment or educational or other institution.

(2) "Flexible commuter ride sharing" means a car pool or van pool arrangement whereby a group of at least two but not exceeding fifteen persons including the driver is transported in a passenger motor vehicle with a gross vehicle weight not exceeding ten thousand pounds, excluding special rider equipment, between their places of abode or termini near such places, and their places of employment or educational or other institutions, where the driver is also on the way to or from his or her place of employment or educational or other institution.

(3) "Ride sharing for persons with special transportation needs" means an arrangement whereby a group of persons with special transportation needs, and their attendants, is transported by a public social service agency or a private, nonprofit transportation provider as defined in RCW 81.66.010(3) in a passenger motor vehicle as defined by the department to include small buses, cutaways, and

modified vans not more than twenty-eight feet long: PROVIDED, That the driver need not be a person with special transportation needs.

~~((3))~~ (4) "Ride-sharing operator" means the person, entity, or concern, not necessarily the driver, responsible for the existence and continuance of commuter ride sharing, flexible commuter ride sharing, or ride sharing for persons with special transportation needs. The term "ride-sharing operator" includes but is not limited to an employer, an employer's agent, an employer-organized association, a state agency, a county, a city, a public transportation benefit area, or any other political subdivision that owns or leases a ride-sharing vehicle.

~~((4))~~ (5) "Ride-sharing promotional activities" means those activities involved in forming a commuter ride-sharing arrangement or a flexible commuter ride-sharing arrangement, including but not limited to receiving information from existing and prospective ride-sharing participants, sharing that information with other existing and prospective ride-sharing participants, matching those persons with other existing or prospective ride-sharing participants, and making assignments of persons to ride-sharing arrangements.

(6) "Persons with special transportation needs" means those persons defined in RCW 81.66.010(4).

Sec. 9. RCW 46.74.030 and 1996 c 244 s 3 are each amended to read as follows:

The operator and the driver of a commuter ride-sharing vehicle or a flexible commuter ride-sharing vehicle shall be held to a reasonable and ordinary standard of care, and are not subject to ordinances or regulations which relate exclusively to the regulation of drivers or owners of motor vehicles operated for hire, or other common carriers or public transit carriers. No person, entity, or concern may, as a result of engaging in ride-sharing promotional activities, be liable for civil damages arising directly or indirectly (1) from the maintenance and operation of a commuter ride-sharing or flexible commuter ride-sharing vehicle; or (2) from an intentional act of another person who is participating or proposing to participate in a commuter ride-sharing or flexible commuter ride-sharing arrangement, unless the ride-sharing operator or promoter had prior, actual knowledge that the intentional act was likely to occur and had a reasonable ability to prevent the act from occurring.

Sec. 10. RCW 51.08.013 and 1995 c 179 s I are each amended to read as follows:

(1) "Acting in the course of employment" means the worker acting at his or her employer's direction or in the furtherance of his or her employer's business which shall include time spent going to and from work on the jobsite, as defined in RCW 51.32.015 and 51.36.040, insofar as such time is immediate to the actual time that the worker is engaged in the work process in areas controlled by his or her employer, except parking area. It is not necessary that at the time an injury is sustained by a worker he or she is doing the work on which his or her

compensation is based or that the event is within the time limits on which industrial insurance or medical aid premiums or assessments are paid.

(2) "Acting in the course of employment" does not include:

(a) Time spent going to or coming from the employer's place of business(~~(i) In commuter ride sharing, as defined in RCW 46.74.010(1), notwithstanding any participation by the employer in the ride-sharing arrangement; or (ii) on a public transport system using a pass provided in whole or part by the employer)~~) in an alternative commute mode, notwithstanding that the employer (i) paid directly or indirectly, in whole or in part, the cost of a fare, pass, or other expense associated with the alternative commute mode; (ii) promoted and encouraged employee use of one or more alternative commute modes; or (iii) otherwise participated in the provision of the alternative commute mode.

(b) An employee's participation in social activities, recreational or athletic activities, events, or competitions, and parties or picnics, whether or not the employer pays some or all of the costs thereof, unless: (i) The participation is during the employee's working hours, not including paid leave; (ii) the employee was paid monetary compensation by the employer to participate; or (iii) the employee was ordered or directed by the employer to participate or reasonably believed the employee was ordered or directed to participate.

(3) "Alternative commute mode" means (a) a carpool or vanpool arrangement whereby a group of at least two but not more than fifteen persons including passengers and driver, is transported between their places of abode or termini near those places, and their places of employment or educational or other institutions, where the driver is also on the way to or from his or her place of employment or educational or other institution; (b) a bus, ferry, or other public transportation service; or (c) a nonmotorized means of commuting such as bicycling or walking.

Passed the House March 13, 1997.

Passed the Senate April 18, 1997.

Approved by the Governor May 5, 1997.

Filed in Office of Secretary of State May 5, 1997.

CHAPTER 251

[House Bill 2267]

DISASTER RESPONSE ACCOUNT

AN ACT Relating to the disaster response account; adding a new section to chapter 38.52 RCW; and declaring an emergency.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. Sec. 1. A new section is added to chapter 38.52 RCW to read as follows:

The disaster response account is created in the state treasury. Moneys may be placed in the account from legislative appropriations and transfers, federal appropriations, or any other lawful source. Moneys in the account may be spent

only after appropriation. Expenditures from the account may be used only for support of state agency and local government disaster response and recovery efforts.

NEW SECTION. Sec. 2. This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately.

Passed the House April 14, 1997.

Passed the Senate April 18, 1997.

Approved by the Governor May 5, 1997.

Filed in Office of Secretary of State May 5, 1997.

CHAPTER 252

[Substitute Senate Bill 5110]

PROBATE--REVISIONS

AN ACT Relating to probate; amending RCW 11.02.005, 11.07.010, 11.18.200, 11.28.240, 11.28.270, 11.28.280, 11.40.010, 11.40.020, 11.40.030, 11.40.040, 11.40.060, 11.40.070, 11.40.080, 11.40.090, 11.40.100, 11.40.110, 11.40.120, 11.40.130, 11.40.140, 11.40.150, 11.42.010, 11.42.020, 11.42.030, 11.42.040, 11.42.050, 11.42.060, 11.42.070, 11.42.080, 11.42.090, 11.42.100, 11.42.110, 11.42.120, 11.42.130, 11.42.140, 11.42.150, 11.44.015, 11.44.025, 11.44.035, 11.44.050, 11.44.070, 11.44.085, 11.44.090, 11.48.130, 11.68.050, 11.68.060, 11.68.080, 11.68.090, 11.68.110, 11.76.080, 11.76.095, 11.86.041, 11.95.140, 11.98.070, 11.98.240, 11.96.070, 11.104.010, 11.104.110, 11.108.010, 11.108.020, 11.108.025, 11.108.050, 11.28.237, and 11.108.060; adding new sections to chapter 11.40 RCW; adding new sections to chapter 11.42 RCW; adding new sections to chapter 11.68 RCW; adding a new section to chapter 11.104 RCW; adding a new chapter to Title 11 RCW; creating a new section; and repealing RCW 11.40.011, 11.40.012, 11.40.013, 11.40.014, 11.40.015, 11.42.160, 11.42.170, 11.42.180, 11.44.066, 11.52.010, 11.52.012, 11.52.014, 11.52.016, 11.52.020, 11.52.022, 11.52.024, 11.52.030, 11.52.040, 11.52.050, 11.68.010, 11.68.020, 11.68.030, and 11.68.040.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 11.02.005 and 1994 c 221 s 1 are each amended to read as follows:

When used in this title, unless otherwise required from the context:

(1) "Personal representative" includes executor, administrator, special administrator, and guardian or limited guardian and special representative.

(2) "Net estate" refers to the real and personal property of a decedent exclusive of homestead rights, exempt property, the family allowance and enforceable claims against, and debts of, the deceased or the estate.

(3) "Representation" refers to a method of determining distribution in which the takers are in unequal degrees of kinship with respect to the intestate, and is accomplished as follows: After first determining who, of those entitled to share in the estate, are in the nearest degree of kinship, the estate is divided into equal shares, the number of shares being the sum of the number of persons who survive the intestate who are in the nearest degree of kinship and the number of persons in the same degree of kinship who died before the intestate but who left issue surviving the intestate; each share of a deceased person in the nearest degree shall be divided among those of the deceased person's issue who survive the intestate

and have no ancestor then living who is in the line of relationship between them and the intestate, those more remote in degree taking together the share which their ancestor would have taken had he or she survived the intestate. Posthumous children are considered as living at the death of their parent.

(4) "Issue" includes all the lawful lineal descendants of the ancestor and all lawfully adopted children.

(5) "Degree of kinship" means the degree of kinship as computed according to the rules of the civil law; that is, by counting upward from the intestate to the nearest common ancestor and then downward to the relative, the degree of kinship being the sum of these two counts.

(6) "Heirs" denotes those persons, including the surviving spouse, who are entitled under the statutes of intestate succession to the real and personal property of a decedent on the decedent's death intestate.

(7) "Real estate" includes, except as otherwise specifically provided herein, all lands, tenements, and hereditaments, and all rights thereto, and all interest therein possessed and claimed in fee simple, or for the life of a third person.

(8) "Will" means an instrument validly executed as required by RCW 11.12.020.

(9) "Codicil" means a will that modifies or partially revokes an existing earlier will. A codicil need not refer to or be attached to the earlier will.

(10) "Guardian" or "limited guardian" means a personal representative of the person or estate of an incompetent or disabled person as defined in RCW 11.88.010 and the term may be used in lieu of "personal representative" wherever required by context.

(11) "Administrator" means a personal representative of the estate of a decedent and the term may be used in lieu of "personal representative" wherever required by context.

(12) "Executor" means a personal representative of the estate of a decedent appointed by will and the term may be used in lieu of "personal representative" wherever required by context.

(13) "Special administrator" means a personal representative of the estate of a decedent appointed for limited purposes and the term may be used in lieu of "personal representative" wherever required by context.

(14) "Trustee" means an original, added, or successor trustee and includes the state, or any agency thereof, when it is acting as the trustee of a trust to which chapter 11.98 RCW applies.

(15) "Nonprobate asset" means those rights and interests of a person having beneficial ownership of an asset that pass on the person's death under a written instrument or arrangement other than the person's will. "Nonprobate asset" includes, but is not limited to, a right or interest passing under a joint tenancy with right of survivorship, joint bank account with right of survivorship, payable on death or trust bank account, transfer on death security or security account, deed or conveyance if possession has been postponed until the death of the person, trust of

which the person is grantor and that becomes effective or irrevocable only upon the person's death, community property agreement, individual retirement account or bond, or note or other contract the payment or performance of which is affected by the death of the person. "Nonprobate asset" does not include: A payable-on-death provision of a life insurance policy, annuity, or other similar contract, or of an employee benefit plan; a right or interest passing by descent and distribution under chapter 11.04 RCW; a right or interest if, before death, the person has irrevocably transferred the right or interest, the person has waived the power to transfer it or, in the case of contractual arrangement, the person has waived the unilateral right to rescind or modify the arrangement; or a right or interest held by the person solely in a fiduciary capacity. For the definition of "nonprobate asset" relating to revocation of a provision for a former spouse upon dissolution of marriage or declaration of invalidity of marriage, RCW 11.07.010(5) applies.

(16) "Internal Revenue Code" means the United States Internal Revenue Code of 1986, as amended or renumbered on January 1, ((1995)) 1997.

Words that import the singular number may also be applied to the plural of persons and things.

Words importing the masculine gender only may be extended to females also.

Sec. 2. RCW 11.07.010 and 1994 c 221 s 2 are each amended to read as follows:

(1) This section applies to all nonprobate assets, wherever situated, held at the time of entry by a superior court of this state of a decree of dissolution of marriage or a declaration of invalidity.

(2)(a) If a marriage is dissolved or invalidated, a provision made prior to that event that relates to the payment or transfer at death of the decedent's interest in a nonprobate asset in favor of or granting an interest or power to the decedent's former spouse is revoked. A provision affected by this section must be interpreted, and the nonprobate asset affected passes, as if the former spouse failed to survive the decedent, having died at the time of entry of the decree of dissolution or declaration of invalidity.

(b) This subsection does not apply if and to the extent that:

(i) The instrument governing disposition of the nonprobate asset expressly provides otherwise;

(ii) The decree of dissolution or declaration of invalidity requires that the decedent maintain a nonprobate asset for the benefit of a former spouse or children of the marriage, payable on the decedent's death either outright or in trust, and other nonprobate assets of the decedent fulfilling such a requirement for the benefit of the former spouse or children of the marriage do not exist at the decedent's death; or

(iii) If not for this subsection, the decedent could not have effected the revocation by unilateral action because of the terms of the decree or declaration, or for any other reason, immediately after the entry of the decree of dissolution or declaration of invalidity.

(3)(a) A payor or other third party in possession or control of a nonprobate asset at the time of the decedent's death is not liable for making a payment or transferring an interest in a nonprobate asset to a decedent's former spouse whose interest in the nonprobate asset is revoked under this section, or for taking another action in reliance on the validity of the instrument governing disposition of the nonprobate asset, before the payor or other third party has actual knowledge of the dissolution or other invalidation of marriage. A payor or other third party is liable for a payment or transfer made or other action taken after the payor or other third party has actual knowledge of a revocation under this section.

(b) This section does not require a payor or other third party to pay or transfer a nonprobate asset to a beneficiary designated in a governing instrument affected by the dissolution or other invalidation of marriage, or to another person claiming an interest in the nonprobate asset, if the payor or third party has actual knowledge of the existence of a dispute between the former spouse and the beneficiaries or other persons concerning rights of ownership of the nonprobate asset as a result of the application of this section among the former spouse and the beneficiaries or among other persons, or if the payor or third party is otherwise uncertain as to who is entitled to the nonprobate asset under this section. In such a case, the payor or third party may, without liability, notify in writing all beneficiaries or other persons claiming an interest in the nonprobate asset of either the existence of the dispute or its uncertainty as to who is entitled to payment or transfer of the nonprobate asset. The payor or third party may also, without liability, refuse to pay or transfer a nonprobate asset in such a circumstance to a beneficiary or other person claiming an interest until the time that either:

(i) All beneficiaries and other interested persons claiming an interest have consented in writing to the payment or transfer; or

(ii) The payment or transfer is authorized or directed by a court of proper jurisdiction.

(c) Notwithstanding subsections (1) and (2) of this section and (a) and (b) of this subsection, a payor or other third party having actual knowledge of the existence of a dispute between beneficiaries or other persons concerning rights to a nonprobate asset as a result of the application of this section may condition the payment or transfer of the nonprobate asset on execution, in a form and with security acceptable to the payor or other third party, of a bond in an amount that is double the fair market value of the nonprobate asset at the time of the decedent's death or the amount of an adverse claim, whichever is the lesser, or of a similar instrument to provide security to the payor or other third party, indemnifying the payor or other third party for any liability, loss, damage, costs, and expenses for and on account of payment or transfer of the nonprobate asset.

(d) As used in this subsection, "actual knowledge" means, for a payor or other third party in possession or control of the nonprobate asset at or following the decedent's death, written notice to the payor or other third party, or to an officer of a payor or third party in the course of his or her employment, received after the

decedent's death and within a time that is sufficient to afford the payor or third party a reasonable opportunity to act upon the knowledge. The notice must identify the nonprobate asset with reasonable specificity. The notice also must be sufficient to inform the payor or other third party of the revocation of the provisions in favor of the decedent's spouse by reason of the dissolution or invalidation of marriage, or to inform the payor or third party of a dispute concerning rights to a nonprobate asset as a result of the application of this section. Receipt of the notice for a period of more than thirty days is presumed to be received within a time that is sufficient to afford the payor or third party a reasonable opportunity to act upon the knowledge, but receipt of the notice for a period of less than five business days is presumed not to be a sufficient time for these purposes. These presumptions may be rebutted only by clear and convincing evidence to the contrary.

(4)(a) A person who purchases a nonprobate asset from a former spouse or other person, for value and without actual knowledge, or who receives from a former spouse or other person payment or transfer of a nonprobate asset without actual knowledge and in partial or full satisfaction of a legally enforceable obligation, is neither obligated under this section to return the payment, property, or benefit nor is liable under this section for the amount of the payment or the value of the nonprobate asset. However, a former spouse or other person who, with actual knowledge, not for value, or not in satisfaction of a legally enforceable obligation, receives payment or transfer of a nonprobate asset to which that person is not entitled under this section is obligated to return the payment or nonprobate asset, or is personally liable for the amount of the payment or value of the nonprobate asset, to the person who is entitled to it under this section.

(b) As used in this subsection, "actual knowledge" means, for a person described in (a) of this subsection who purchases or receives a nonprobate asset from a former spouse or other person, personal knowledge or possession of documents relating to the revocation upon dissolution or invalidation of marriage of provisions relating to the payment or transfer at the decedent's death of the nonprobate asset, received within a time after the decedent's death and before the purchase or receipt that is sufficient to afford the person purchasing or receiving the nonprobate asset reasonable opportunity to act upon the knowledge. Receipt of the personal knowledge or possession of the documents for a period of more than thirty days is presumed to be received within a time that is sufficient to afford the payor or third party a reasonable opportunity to act upon the knowledge, but receipt of the notice for a period of less than five business days is presumed not to be a sufficient time for these purposes. These presumptions may be rebutted only by clear and convincing evidence to the contrary.

(5) As used in this section, "nonprobate asset" means those rights and interests of a person having beneficial ownership of an asset that pass on the person's death under only the following written instruments or arrangements other than the decedent's will:

- (a) A payable-on-death provision of a life insurance policy, employee benefit plan, annuity or similar contract, or individual retirement account;
- (b) A payable-on-death, trust, or joint with right of survivorship bank account;
- (c) A trust of which the person is a grantor and that becomes effective or irrevocable only upon the person's death; or
- (d) Transfer on death beneficiary designations of a transfer on death or pay on death security, if such designations are authorized under Washington law.

However, for the general definition of "nonprobate asset" in this title, RCW 11.02.005 applies.

(6) This section is remedial in nature and applies as of July 25, 1993, to decrees of dissolution and declarations of invalidity entered after July 24, 1993, and this section applies as of January 1, 1995, to decrees of dissolution and declarations of invalidity entered before July 25, 1993.

Sec. 3. RCW 11.18.200 and 1994 c 221 s 19 are each amended to read as follows:

(1) Unless expressly exempted by statute, a beneficiary of a nonprobate asset that was subject to satisfaction of the decedent's general liabilities immediately before the decedent's death takes the asset subject to liabilities, claims, estate taxes, and the fair share of expenses of administration reasonably incurred by the personal representative in the transfer of or administration upon the asset. The beneficiary of such an asset is liable to account to the personal representative to the extent necessary to satisfy liabilities, claims, the asset's fair share of expenses of administration, and the asset's share of estate taxes under chapter 83.110 RCW. Before making demand that a beneficiary of a nonprobate asset account to the personal representative, the personal representative shall give notice to the beneficiary, in the manner provided in chapter 11.96 RCW, that the beneficiary is liable to account under this section.

(2) The following rules govern in applying subsection (1) of this section:

(a) A beneficiary of property passing at death under a community property agreement takes the property subject to the decedent's liabilities, claims, estate taxes, and administration expenses as described in subsection (1) of this section. However, assets existing as community or separate property immediately before the decedent's death under the community property agreement are subject to the decedent's liabilities and claims to the same extent that they would have been had they been assets of the probate estate.

(b) A beneficiary of property held in joint tenancy form with right of survivorship, including without limitation United States savings bonds or similar obligations, takes the property subject to the decedent's liabilities, claims, estate taxes, and administration expenses as described in subsection (1) of this section to the extent of the decedent's beneficial ownership interest in the property immediately before death.

(c) A beneficiary of payable-on-death or trust bank accounts, bonds, securities, or similar obligations, including without limitation United States bonds or similar

obligations, takes the property subject to the decedent's liabilities, claims, estate taxes, and administration expenses as described in subsection (1) of this section, to the extent of the decedent's beneficial ownership interest in the property immediately before death.

(d) A beneficiary of deeds or conveyances made by the decedent if possession has been postponed until the death of the decedent takes the property subject to the decedent's liabilities, claims, estate taxes, and administration expenses as described in subsection (1) of this section, to the extent of the decedent's beneficial ownership interest in the property immediately before death.

(e) A trust for the decedent's use of which the decedent is the grantor is subject to the decedent's liabilities, claims, estate taxes, and administration expenses as described in subsection (1) of this section, to the same extent as the trust was subject to claims of the decedent's creditors immediately before death under RCW 19.36.020.

(f) A trust not for the use of the grantor but of which the decedent is the grantor and that becomes effective or irrevocable only upon the decedent's death is subject to the decedent's claims, liabilities, estate taxes, and expenses of administration as described in subsection (1) of this section.

(g) Anything in this section to the contrary notwithstanding, nonprobate assets that existed as community property immediately before the decedent's death are subject to the decedent's liabilities and claims to the same extent that they would have been had they been assets of the probate estate.

(h) The liability of a beneficiary of life insurance is governed by chapter 48.18 RCW.

(i) The liability of a beneficiary of pension or retirement employee benefits is governed by chapter 6.15 RCW.

(j) An inference may not be drawn from (a) through (i) of this subsection that a beneficiary of nonprobate assets other than those assets specifically described in (a) through (i) of this subsection does or does not take the assets subject to claims, liabilities, estate taxes, and administration expenses as described in subsection (1) of this section.

(3) Nothing in this section derogates from the rights of a person interested in the estate to recover tax under chapter 83.110 RCW or from the liability of any beneficiary for estate tax under chapter 83.110 RCW.

(4) Nonprobate assets that may be responsible for the satisfaction of the decedent's general liabilities and claims abate together with the probate assets of the estate in accord with chapter 11.10 RCW.

Sec. 4. RCW 11.28.240 and 1985 c 30 s 5 are each amended to read as follows:

(1) At any time after the issuance of letters testamentary or of administration or certificate of qualification upon the estate of any decedent, any person interested in the estate as an heir, devisee, distributee, legatee or creditor whose claim has been duly served and filed, or the lawyer for the heir, devisee, distributee, legatee,

or creditor may serve upon the personal representative or upon the lawyer for the personal representative, and file with the clerk of the court wherein the administration of the estate is pending, a written request stating that the person desires special notice of any or all of the following named matters, steps or proceedings in the administration of the estate, to wit:

~~((1))~~ (a) Filing of petitions for sales, leases, exchanges or mortgages of any property of the estate.

~~((2))~~ (b) Petitions for any order of solvency or for nonintervention powers.

~~((3))~~ (c) Filing of accounts.

~~((4))~~ (d) Filing of petitions for distribution.

~~((5))~~ (e) Petitions by the personal representative for family allowances and homesteads.

~~((6))~~ (f) The filing of a declaration of completion.

~~((7))~~ (g) The filing of the inventory.

~~((8))~~ (b) Notice of presentation of personal representative's claim against the estate.

~~((9))~~ (i) Petition to continue a going business.

~~((10))~~ (j) Petition to borrow upon the general credit of the estate.

~~((11))~~ (k) Petition for judicial proceedings under chapter 11.96 RCW.

~~((12))~~ (l) Petition to reopen an estate.

~~((13))~~ (m) Intent to distribute estate assets, other than distributions in satisfaction of specific bequests or legacies of specific dollar amounts.

~~((14))~~ (n) Intent to pay attorney's or personal representative's fees.

The requests shall state the post office address of the heir, devisee, distributee, legatee or creditor, or his or her lawyer, and thereafter a brief notice of the filing of any of the petitions, accounts, declaration, inventory or claim, except petitions for sale of perishable property, or other tangible personal property which will incur expense or loss by keeping, shall be addressed to the heir, devisee, distributee, legatee or creditor, or his or her lawyer, at the post office address stated in the request, and deposited in the United States post office, with prepaid postage, at least ten days before the hearing of the petition, account or claim or of the proposed distribution or payment of fees; or personal service of the notices may be made on the heir, devisee, distributee, legatee, creditor, or lawyer, not less than five days before the hearing, and the personal service shall have the same effect as deposit in the post office, and proof of mailing or of personal service must be filed with the clerk before the hearing of the petition, account or claim or of the proposed distribution or payment of fees. If the notice has been regularly given, any distribution or payment of fees and any order or judgment, made in accord therewith is final and conclusive.

(2) Notwithstanding subsection (1) of this section, a request for special notice may not be made by a person, and any request for special notice previously made by a person becomes null and void, when:

(a) That person qualifies to request special notice solely by reason of being a specific legatee, all of the property that person is entitled to receive from the decedent's estate has been distributed to that person, and that person's bequest is not subject to any subsequent abatement for the payment of the decedent's debts, expenses, or taxes;

(b) That person qualifies to request special notice solely by reason of being an heir of the decedent, none of the decedent's property is subject to the laws of descent and distribution, the decedent's will has been probated, and the time for contesting the probate of that will has expired; or

(c) That person qualifies to request special notice solely by reason of being a creditor of the decedent and that person has received all of the property that the person is entitled to receive from the decedent's estate.

Sec. 5. RCW 11.28.270 and 1965 c 145 s 11.28.270 are each amended to read as follows:

If ~~((there be))~~ more than one personal representative of an estate~~((, and))~~ is serving when the letters to ~~((part))~~ any of them ~~((be))~~ are revoked or surrendered~~((;))~~ or ~~((a part))~~ when any part of them dies or in any way becomes disqualified, those who remain shall perform all the duties required by law unless the decedent provided otherwise in a duly probated will or unless the court orders otherwise.

Sec. 6. RCW 11.28.280 and 1974 ex.s. c 117 s 26 are each amended to read as follows:

Except as otherwise provided in RCW 11.28.270, if ~~((the))~~ a personal representative of an estate dies~~((;))~~ or resigns~~((;))~~ or the letters are revoked before the settlement of the estate, letters testamentary or letters of administration of the estate remaining unadministered shall be granted to those to whom ~~((administration))~~ the letters would have been granted if the original letters had not been obtained, or the person obtaining them had renounced administration, and the ~~((administrator de bonis non))~~ successor personal representative shall perform like duties and incur like liabilities as the ~~((former personal representative, and shall serve as administrator with will annexed de bonis non in the event a will has been admitted to probate. Said administrator de bonis non may, upon satisfying the requirements and complying with the procedures provided in chapter 11.68 RCW, administer the estate of the decedent without the intervention of court))~~ preceding personal representative, unless the decedent provided otherwise in a duly probated will or unless the court orders otherwise. A succeeding personal representative may petition for nonintervention powers under chapter 11.68 RCW.

Sec. 7. RCW 11.40.010 and 1995 1st sp.s. c 18 s 58 are each amended to read as follows:

~~((Every personal representative shall, after appointment and qualification, give a notice to the creditors of the deceased, stating such appointment and qualification as personal representative and requiring all persons having claims against the deceased to serve the same on the personal representative or the estate's attorney~~

of record, and file an executed copy thereof with the clerk of the court, within four months after the date of the first publication of such notice described in this section or within four months after the date of the filing of the copy of such notice with the clerk of the court, whichever is the later, or within the time otherwise provided in RCW 11.40.013. The four-month time period after the later of the date of the first publication of the notice to creditors or the date of the filing of such notice with the clerk of the court is referred to in this chapter as the "four-month time limitation." Such notice shall be given as follows:

— (1) The personal representative shall give actual notice, as provided in RCW 11.40.013, to such creditors who become known to the personal representative within such four-month time limitation;

— (2) The personal representative shall cause such notice to be published once in each week for three successive weeks in the county in which the estate is being administered;

— (3) The personal representative shall file a copy of such notice with the clerk of the court; and

— (4) The personal representative shall mail a copy of the notice, including the decedent's social security number, to the state of Washington, department of social and health services, office of financial recovery.

— Except as otherwise provided in RCW 11.40.011 or 11.40.013, any claim not filed within the four-month time limitation shall be forever barred, if not already barred by any otherwise applicable statute of limitations. This bar is effective as to claims against both the decedent's probate assets and nonprobate assets as described in RCW 11.18.200. Proof by affidavit of the giving and publication of such notice shall be filed with the court by the personal representative.

— Acts of a notice agent in complying with chapter 221, Laws of 1994 may be adopted and ratified by the personal representative as if done by the personal representative in complying with this chapter, except that if at the time of the appointment and qualification of the personal representative a notice agent had commenced nonprobate notice to creditors under chapter 11.42 RCW, the personal representative shall give published notice as provided in RCW 11.42.180.)) A person having a claim against the decedent may not maintain an action on the claim unless a personal representative has been appointed and the claimant has presented the claim as set forth in this chapter. However, this chapter does not affect the notice under RCW 82.32.240 or the ability to maintain an action against a notice agent under chapter 11.42 RCW.

Sec. 8. RCW 11.40.020 and 1974 ex.s. c 117 s 34 are each amended to read as follows:

(Every claim shall be signed by the claimant, or his attorney, or any person who is authorized to sign claims on his, her, or its behalf, and shall contain the following information:

— (1) The name and address of the claimant;

— (2) The name, business address (if different from that of the claimant), and nature of authority of any person signing the claim on behalf of the claimant;

— (3) A written statement of the facts or circumstances constituting the basis upon which the claim is submitted;

— (4) The amount of the claim;

— (5) If the claim is secured, unliquidated or contingent, or not yet due, the nature of the security, the nature of the uncertainty, and due date of the claim: PROVIDED HOWEVER, That failure to describe correctly the security, nature of any uncertainty, or the due date of a claim not yet due, if such failure is not substantially misleading, does not invalidate the presentation made:

— Claims need not be supported by affidavit.) A personal representative may give notice to the creditors of the decedent, as directed in RCW 11.40.030, announcing the personal representative's appointment and requiring that persons having claims against the decedent present their claims within the time specified in section 11 of this act or be forever barred as to claims against the decedent's probate and nonprobate assets. If notice is given:

(1) The personal representative shall first file the original of the notice with the court;

(2) The personal representative shall then cause the notice to be published once each week for three successive weeks in a legal newspaper in the county in which the estate is being administered;

(3) The personal representative may, at any time during the probate proceeding, give actual notice to creditors who become known to the personal representative by serving the notice on the creditor or mailing the notice to the creditor at the creditor's last known address, by regular first class mail, postage prepaid; and

(4) The personal representative shall also mail a copy of the notice, including the decedent's social security number, to the state of Washington department of social and health services office of financial recovery.

The personal representative shall file with the court proof by affidavit of the giving and publication of the notice.

Sec. 9. RCW 11.40.030 and 1989 c 333 s 7 are each amended to read as follows:

((1) Unless the personal representative shall, within two months after the expiration of the four-month time limitation, or within two months after receipt of an otherwise timely claim filed after expiration of the four-month time limitation, whichever is later, have obtained an order extending the time for his allowance or rejection of claims timely and properly served and filed, all claims not exceeding one thousand dollars presented within the time and in the manner provided in RCW 11.40.010, 11.40.013, or 11.40.020 as now or hereafter amended, shall be deemed allowed and may not thereafter be rejected, unless the personal representative shall, within two months after the expiration of the four-month time limitation, or as to an otherwise timely claim filed after expiration of the four-month time limitation;

within two months after receipt of such claim, or within any extended time, notify the claimant of its rejection, in whole or in part.

—(2) When a claim exceeding one thousand dollars is presented within the time and in the manner provided in RCW 11.40.010 and 11.40.020 as now or hereafter amended, it shall be the duty of the personal representative to indorse thereon his allowance or rejection. A claimant after a claim has been on file for at least thirty days may notify the personal representative that he will petition the court to have the claim allowed. If the personal representative fails to file an allowance or rejection of such claim twenty days after the receipt of such notice, the claimant may note the matter up for hearing and the court shall hear the matter and determine whether the claim should be allowed or rejected, in whole or in part. If at the hearing the claim is substantially allowed the court may allow petitioner reasonable attorney's fees of not less than one hundred dollars chargeable against the estate.

—(3) If the personal representative shall reject the claim, in whole or in part, he shall notify the claimant of said rejection and file in the office of the clerk, an affidavit showing such notification and the date thereof. Said notification shall be by personal service or certified mail addressed to the claimant at his address as stated in the claim; if a person other than the claimant shall have signed said claim for or on behalf of the claimant, and said person's business address as stated in said claim is different from that of the claimant, notification of rejection shall also be made by personal service or certified mail upon said person; the date of the postmark shall be the date of notification. The notification of rejection shall advise the claimant, and the person making claim on his, her, or its behalf, if any, that the claimant must bring suit in the proper court against the personal representative within thirty days after notification of rejection or before expiration of the time for serving and filing claims against the estate, whichever period is longer, and that otherwise the claim will be forever barred.

—(4) The personal representative may, either before or after rejection of any claim compromise said claim, whether due or not, absolute or contingent, liquidated or unliquidated, if it appears to the personal representative that such compromise is in the best interests of the estate.)) Notice under RCW 11.40.020 must contain the following elements in substantially the following form:

<u>CAPTION</u>)	<u>No.</u>
<u>OF CASE</u>)	<u>PROBATE NOTICE TO</u>
)	<u>CREDITORS</u>
.....))	<u>RCW 11.40.030</u>

The personal representative named below has been appointed as personal representative of this estate. Any person having a claim against the decedent must, before the time the claim would be barred by any otherwise applicable statute of limitations, present the claim in the manner as provided in RCW 11.40.070 by serving on or mailing to the personal representative or the personal representative's attorney at the address stated below a copy of the claim and filing the original of

the claim with the court. The claim must be presented within the later of: (1) Thirty days after the personal representative served or mailed the notice to the creditor as provided under RCW 11.40.020(3); or (2) four months after the date of first publication of the notice. If the claim is not presented within this time frame, the claim is forever barred, except as otherwise provided in section 11 of this act and RCW 11.40.060. This bar is effective as to claims against both the decedent's probate and nonprobate assets.

Date of First

Publication:

Personal Representative:

Attorney for the Personal Representative:

Address for Mailing or Service:

Sec. 10. RCW 11.40.040 and 1994 c 221 s 28 are each amended to read as follows:

((Every claim which has been allowed by the personal representative shall be ranked among the acknowledged debts of the estate to be paid expeditiously in the course of administration.)) (1) For purposes of section 11 of this act, a "reasonably ascertainable" creditor of the decedent is one that the personal representative would discover upon exercise of reasonable diligence. The personal representative is deemed to have exercised reasonable diligence upon conducting a reasonable review of the decedent's correspondence, including correspondence received after the date of death, and financial records, including personal financial statements, loan documents, checkbooks, bank statements, and income tax returns, that are in the possession of or reasonably available to the personal representative.

(2) If the personal representative conducts the review, the personal representative is presumed to have exercised reasonable diligence to ascertain creditors of the decedent and any creditor not ascertained in the review is presumed not reasonably ascertainable within the meaning of section 11 of this act. These presumptions may be rebutted only by clear, cogent, and convincing evidence.

(3) The personal representative may evidence the review and resulting presumption by filing with the court an affidavit regarding the facts referred to in this section. The personal representative may petition the court for an order declaring that the personal representative has made a review and that any creditors not known to the personal representative are not reasonably ascertainable. The petition must be filed under RCW 11.96.070 and the notice specified under RCW 11.96.100 must also be given by publication.

NEW SECTION. Sec. 11. A new section is added to chapter 11.40 RCW to read as follows:

(1) Whether or not notice is provided under RCW 11.40.020, a person having a claim against the decedent is forever barred from making a claim or commencing an action against the decedent, if the claim or action is not already barred by an

otherwise applicable statute of limitations, unless the creditor presents the claim in the manner provided in RCW 11.40.070 within the following time limitations:

(a) If the personal representative provided notice under RCW 11.40.020 (1) and (2) and the creditor was given actual notice as provided in RCW 11.40.020(3), the creditor must present the claim within the later of: (i) Thirty days after the personal representative's service or mailing of notice to the creditor; and (ii) four months after the date of first publication of the notice;

(b) If the personal representative provided notice under RCW 11.40.020 (1) and (2) and the creditor was not given actual notice as provided in RCW 11.40.020(3):

(i) If the creditor was not reasonably ascertainable, as defined in RCW 11.40.040, the creditor must present the claim within four months after the date of first publication of notice;

(ii) If the creditor was reasonably ascertainable, as defined in RCW 11.40.040, the creditor must present the claim within twenty-four months after the decedent's date of death; and

(c) If notice was not provided under this chapter or chapter 11.42 RCW, the creditor must present the claim within twenty-four months after the decedent's date of death.

(2) An otherwise applicable statute of limitations applies without regard to the tolling provisions of RCW 4.16.190.

(3) This bar is effective as to claims against both the decedent's probate and nonprobate assets.

Sec. 12. RCW 11.40.060 and 1974 ex.s. c 117 s 37 are each amended to read as follows:

~~((When a claim is rejected by the personal representative, the holder must bring suit in the proper court against the personal representative within thirty days after notification of the rejection or before expiration of the time for serving and filing claims against the estate, whichever period is longer, otherwise the claim shall be forever barred.))~~ The time limitations for presenting claims under this chapter do not accrue to the benefit of any liability or casualty insurer. Claims against the decedent or the decedent's marital community that can be fully satisfied by applicable insurance coverage or proceeds need not be presented within the time limitation of section 11 of this act, but the amount of recovery cannot exceed the amount of the insurance. The claims may at any time be presented as provided in RCW 11.40.070, subject to the otherwise relevant statutes of limitations, and do not constitute a cloud, lien, or encumbrance upon the title to the decedent's probate or nonprobate assets nor delay or prevent the conclusion of probate proceedings or the transfer or distribution of assets of the estate. This section does not serve to extend any otherwise relevant statutes of limitations.

Sec. 13. RCW 11.40.070 and 1965 c 145 s 11.40.070 are each amended to read as follows:

~~((No claim shall be allowed by the personal representative or court which is barred by the statute of limitations.))~~ (1) The claimant, the claimant's attorney, or the claimant's agent shall sign the claim and include in the claim the following information:

(a) The name and address of the claimant;

(b) The name, address, if different from that of the claimant, and nature of authority of an agent signing the claim on behalf of the claimant;

(c) A statement of the facts or circumstances constituting the basis of the claim;

(d) The amount of the claim; and

(e) If the claim is secured, unliquidated, contingent, or not yet due, the nature of the security, the nature of the uncertainty, or the date when it will become due.

Failure to describe correctly the information in (c), (d), or (e) of this subsection, if the failure is not substantially misleading, does not invalidate the claim.

(2) A claim does not need to be supported by affidavit.

(3) A claim must be presented within the time limits set forth in section 11 of this act by: (a) Serving on or mailing to, by regular first class mail, the personal representative or the personal representative's attorney a copy of the signed claim; and (b) filing the original of the signed claim with the court. A claim is deemed presented upon the later of the date of postmark or service on the personal representative, or the personal representative's attorney, and filing with the court.

(4) Notwithstanding any other provision of this chapter, if a claimant makes a written demand for payment within the time limits set forth in section 11 of this act, the personal representative may waive formal defects and elect to treat the demand as a claim properly filed under this chapter if: (a) The claim was due; (b) the amount paid is the amount of indebtedness over and above all payments and offsets; (c) the estate is solvent; and (d) the payment is made in good faith. Nothing in this chapter limits application of the doctrines of waiver, estoppel, or detrimental claims or any other equitable principle.

Sec. 14. RCW 11.40.080 and 1994 c 221 s 29 are each amended to read as follows:

~~((No holder of any claim against a decedent shall maintain an action thereon, unless the claim shall have been first presented as provided in this chapter. Nothing in this chapter affects RCW 82.32.240.))~~ (1) The personal representative shall allow or reject all claims presented in the manner provided in RCW 11.40.070. The personal representative may allow or reject a claim in whole or in part.

(2) If the personal representative has not allowed or rejected a claim within the later of four months from the date of first publication of the notice to creditors or thirty days from presentation of the claim, the claimant may serve written notice on the personal representative that the claimant will petition the court to have the claim allowed. If the personal representative fails to notify the claimant of the

allowance or rejection of the claim within twenty days after the personal representative's receipt of the claimant's notice, the claimant may petition the court for a hearing to determine whether the claim should be allowed or rejected, in whole or in part. If the court substantially allows the claim, the court may allow the petitioner reasonable attorneys' fees chargeable against the estate.

Sec. 15. RCW 11.40.090 and 1965 c 145 s 11.40.090 are each amended to read as follows:

~~((The time during which there shall be a vacancy in the administration shall not be included in any limitations herein prescribed.))~~ (1) If the personal representative allows a claim, the personal representative shall notify the claimant of the allowance by personal service or regular first class mail to the address stated on the claim.

(2) A claim that on its face does not exceed one thousand dollars presented in the manner provided in RCW 11.40.070 must be deemed allowed and may not thereafter be rejected unless the personal representative has notified the claimant of rejection of the claim within the later of six months from the date of first publication of the notice to creditors and two months from the personal representative's receipt of the claim. The personal representative may petition for an order extending the period for automatic allowance of the claims.

(3) Allowed claims must be ranked among the acknowledged debts of the estate to be paid expeditiously in the course of administration.

(4) A claim may not be allowed if it is barred by a statute of limitations.

Sec. 16. RCW 11.40.100 and 1974 ex.s. c 117 s 47 are each amended to read as follows:

~~((If any action be pending against the testator or intestate at the time of his death, the plaintiff shall within four months after first publication of notice to creditors, or the filing of a copy of such notice, whichever is later, serve on the personal representative a motion to have such personal representative, as such, substituted as defendant in such action, and, upon the hearing of such motion, such personal representative shall be so substituted, unless, at or prior to such hearing, the claim of plaintiff, together with costs, be allowed by the personal representative and court. After the substitution of such personal representative, the court shall proceed to hear and determine the action as in other civil cases.))~~ (1) If the personal representative rejects a claim, in whole or in part, the claimant must bring suit against the personal representative within thirty days after notification of rejection or the claim is forever barred. The personal representative shall notify the claimant of the rejection and file an affidavit with the court showing the notification and the date of the notification. The personal representative shall notify the claimant of the rejection by personal service or certified mail addressed to the claimant or the claimant's agent, if applicable, at the address stated in the claim. The date of service or of the postmark is the date of notification. The notification must advise the claimant that the claimant must bring suit in the proper court against the

personal representative within thirty days after notification of rejection or the claim will be forever barred.

(2) The personal representative may, before or after rejection of any claim, compromise the claim, whether due or not, absolute or contingent, liquidated, or unliquidated, if it appears to the personal representative that the compromise is in the best interests of the estate.

Sec. 17. RCW 11.40.110 and 1974 ex.s. c 117 s 38 are each amended to read as follows:

~~((Whenever any claim shall have been filed and presented to a personal representative, and a part thereof shall be allowed, the amount of such allowance shall be stated in the indorsement. If the creditor shall refuse to accept the amount so allowed in satisfaction of his claim, he shall recover no costs in any action he may bring against the personal representative unless he shall recover a greater amount than that offered to be allowed, exclusive of interest and costs:))~~ If an action is pending against the decedent at the time of the decedent's death, the plaintiff shall, within four months after appointment of the personal representative, serve on the personal representative a petition to have the personal representative substituted as defendant in the action. Upon hearing on the petition, the personal representative shall be substituted, unless, at or before the hearing, the claim of the plaintiff, together with costs, is allowed.

Sec. 18. RCW 11.40.120 and 1965 c 145 s 11.40.120 are each amended to read as follows:

The effect of any judgment rendered against ~~((any))~~ a personal representative shall be only to establish the amount of the judgment as an allowed claim.

Sec. 19. RCW 11.40.130 and 1965 c 145 s 11.40.130 are each amended to read as follows:

~~((When any judgment has been rendered against the testator or intestate in his lifetime, no execution shall issue thereon after his death, but it shall be presented to the personal representative, as any other claim, but need not be supported by the affidavit of the claimant, and if justly due and unsatisfied, shall be paid in due course of administration: PROVIDED, HOWEVER, That if it be a lien on any property of the deceased, the same may be sold for the satisfaction thereof, and the officer making the sale shall account to the personal representative for any surplus in his hands:))~~ If a judgment was entered against the decedent during the decedent's lifetime, an execution may not issue on the judgment after the death of the decedent. The judgment must be presented in the manner provided in RCW 11.40.070, but if the judgment is a lien on any property of the decedent, the property may be sold for the satisfaction of the judgment and the officer making the sale shall account to the personal representative for any surplus.

NEW SECTION. **Sec. 20.** A new section is added to chapter 11.40 RCW to read as follows:

If a creditor's claim is secured by any property of the decedent, this chapter does not affect the right of a creditor to realize on the creditor's security, whether or not the creditor presented the claim in the manner provided in RCW 11.40.070.

Sec. 21. RCW 11.40.140 and 1965 c 145 s 11.40.140 are each amended to read as follows:

~~((If the personal representative is himself a creditor of the testator or intestate, his claim, duly authenticated by affidavit, shall be filed and presented for allowance or rejection to the judge of the court, and its allowance by the judge shall be sufficient evidence of its correctness. This section shall apply to nonintervention and all other wills.))~~ If the personal representative has a claim against the decedent, the personal representative must present the claim in the manner provided in RCW 11.40.070 and petition the court for allowance or rejection. The petition must be filed under RCW 11.96.070. This section applies whether or not the personal representative is acting under nonintervention powers.

Sec. 22. RCW 11.40.150 and 1965 c 145 s 11.40.150 are each amended to read as follows:

~~((In case of resignation, death or removal for any cause of any personal representative, and the appointment of another or others, after notice has been given by publication as required by RCW 11.40.010, by such personal representative first appointed, to persons to file their claims against the decedent, it shall be the duty of the successor or personal representative to cause notice of such resignation, death or removal and such new appointment to be published two successive weeks in a legal newspaper published in the county in which the estate is being administered, but the time between the resignation, death or removal and such publication shall be added to the time within which claims shall be filed as fixed by the published notice to creditors unless such time shall have expired before such resignation or removal or death: PROVIDED, HOWEVER, That no such notice shall be required if the period for filing claims was fully expired during the time that the former personal representative was qualified:))~~ (1) If a personal representative has given notice under RCW 11.40.020 and then resigns, dies, or is removed, the successor personal representative shall:

(a) Publish notice of the vacancy and succession for two successive weeks in the legal newspaper in which notice was published under RCW 11.40.020 if the vacancy occurred within twenty-four months after the decedent's date of death; and

(b) Provide actual notice of the vacancy and succession to a creditor if: (i) The creditor filed a claim and the claim had not been accepted or rejected by the prior personal representative; or (ii) the creditor's claim was rejected and the vacancy occurred within thirty days after rejection of the claim.

(2) The time between the resignation, death, or removal and first publication of the vacancy and succession or, in the case of actual notice, the mailing of the notice of vacancy and succession must be added to the time within which a claim must be presented or a suit on a rejected claim must be filed. This section does not extend the twenty-four month self-executing bar under section 11 of this act.

NEW SECTION. **Sec. 23.** A new section is added to chapter 11.40 RCW to read as follows:

If a notice agent had commenced nonprobate notice to creditors under chapter 11.42 RCW, the appointment of the personal representative does not affect the filing and publication of notice to creditors and does not affect actual notice to creditors given by the notice agent. The personal representative is presumed to have adopted or ratified all acts of the notice agent unless, within thirty days of appointment, the personal representative provides notice of rejection or nullification to the affected claimant or claimants by personal service or certified mail addressed to the claimant or claimant's agent, if applicable, at the address stated on the claim. The personal representative shall also provide notice under RCW 11.42.150.

Sec. 24. RCW 11.42.010 and 1994 c 221 s 31 are each amended to read as follows:

(1) Subject to the conditions stated in this ~~((section))~~ chapter, and if no personal representative has been appointed ~~((and qualified in the decedent's estate))~~ in ~~((Washington, the following members of a group, defined as the "qualified group," are qualified to give "nonprobate notice to creditors" of the decedent:~~

~~— (a) Decedent's surviving spouse;~~
~~— (b) The person appointed in an agreement made under chapter 11.96 RCW to give nonprobate notice to creditors of the decedent;~~
~~— (c) The trustee, except a testamentary trustee under the will of the decedent not probated in another state, having authority over any of the property of the decedent;~~
 and

~~— (d) A person who has received any property of the decedent by reason of the decedent's death:~~

~~— (2) The "included property" means the property of the decedent that was subject to satisfaction of the decedent's general liabilities immediately before the decedent's death and that either:~~

~~— (a) Constitutes a nonprobate asset; or~~
~~— (b) Has been received, or is entitled to be received, either under chapter 11.62 RCW or by the personal representative of the decedent's probate estate administered outside the state of Washington; or both:~~

~~— (3) The qualified person shall give the nonprobate notice to creditors. The "qualified person" must be:~~

~~— (a) The person in the qualified group who has received, or is entitled to receive, by reason of the decedent's death, all, or substantially all, of the included property; or~~

~~— (b) If there is no person in (a) of this subsection, then the person who has been appointed by those persons, including any successors of those persons, in the qualified group who have received, or are entitled to receive, by reason of the decedent's death, all, or substantially all, of the included property:~~

~~—(4) The requirement in subsection (3) of this section of the receipt of all, or substantially all, of the included property is satisfied if:~~

~~—(a) The person described in subsection (3)(a) of this section at the time of the filing of the declaration and oath referred to in subsection (5) of this section in reasonable good faith believed that the person had received, or was entitled to receive, by reason of the decedent's death, all, or substantially all, of the included property; or~~

~~—(b) The persons described in subsection (3)(b) of this section at the time of their entry into the agreement under chapter 11.96 RCW in which they appoint the person to give the nonprobate notice to creditors in reasonable good faith believed that they had received, or were entitled to receive, by reason of the decedent's death, all, or substantially all, of the included property.~~

~~—(5) The "notice agent" means the qualified person who:~~

~~—(a) Files a declaration and oath with the clerk of the superior court in a county in which probate may be commenced regarding the decedent as provided in RCW 11.96.050(2);~~

~~—(b) Pays a filing fee to the clerk equal in amount to the filing fee charged by the clerk for the probate of estates; and~~

~~—(c) Receives from the clerk a cause number.~~

~~The county in which the notice agent files the declaration is the "notice county." The declaration and oath must be made in affidavit form or under penalty of perjury under the laws of the state in the form provided in RCW 9A.72.085 and must state that the person making the declaration believes in reasonable good faith that the person is qualified under this chapter to act as the notice agent and that the person faithfully will execute the duties of the notice agent as provided in this chapter.~~

~~—(6) The following persons may not act as notice agent:~~

~~—(a) Corporations, trust companies, and national banks, except:~~

~~—(i) Professional service corporations that are regularly organized under the laws of this state whose shareholder or shareholders are exclusively attorneys; and~~

~~—(ii) Other corporations, trust companies, and national banks that are authorized to do trust business in this state;~~

~~—(b) Minors;~~

~~—(c) Persons of unsound mind; or~~

~~—(d) Persons who have been convicted of a felony or of a misdemeanor involving moral turpitude.~~

~~—(7) A person who has given notice under this chapter and who thereafter becomes of unsound mind or is convicted of a crime or misdemeanor involving moral turpitude is no longer qualified to act as notice agent under this chapter. The disqualification does not bar another person, otherwise qualified, from acting as notice agent under this chapter.~~

~~—(8) A nonresident may act as notice agent if the nonresident appoints an agent who is a resident of the notice county or who is attorney of record for the notice~~

~~agent upon whom service of all papers may be made. The appointment must be made in writing and filed by the clerk of the notice county with the other papers relating to the notice given under this chapter.~~

~~— (9) The powers and authority of a notice agent cease, and the office of notice agent becomes vacant, upon the appointment and qualification of a personal representative for the estate of the decedent. Except as provided in RCW 11.42.180, the cessation of the powers and authority does not affect a published notice under this chapter if the publication commenced before the cessation and does not affect actual notice to creditors given by the notice agent before the cessation.)~~ this state, a beneficiary or trustee who has received or is entitled to receive by reason of the decedent's death substantially all of the decedent's probate and nonprobate assets, is qualified to give nonprobate notice to creditors under this chapter.

If no one beneficiary or trustee has received or is entitled to receive substantially all of the assets, then those persons, who in the aggregate have received or are entitled to receive substantially all of the assets, may, under an agreement under RCW 11.96.170, appoint a person who is then qualified to give nonprobate notice to creditors under this chapter.

(2) A person or group of persons is deemed to have received substantially all of the decedent's probate and nonprobate assets if the person or the group, at the time of the filing of the declaration and oath referred to in subsection (3) of this section, in reasonable good faith believed that the person or the group had received, or was entitled to receive by reason of the decedent's death, substantially all of the decedent's probate and nonprobate assets.

(3)(a) The "notice agent" means the qualified person who:

(i) Pays a filing fee to the clerk of the superior court in a county in which probate may be commenced regarding the decedent, the "notice county", and receives a cause number; and

(ii) Files a declaration and oath with the clerk.

(b) The declaration and oath must be made in affidavit form or under penalty of perjury and must state that the person making the declaration believes in reasonable good faith that the person is qualified under this chapter to act as the notice agent and that the person will faithfully execute the duties of the notice agent as provided in this chapter.

(4) The following persons are not qualified to act as notice agent:

(a) Corporations, trust companies, and national banks, except: (i) Such entities as are authorized to do trust business in this state; and (ii) professional service corporations that are regularly organized under the laws of this state whose shareholder or shareholders are exclusively attorneys;

(b) Minors;

(c) Persons of unsound mind;

(d) Persons who have been convicted of a felony or of a misdemeanor involving moral turpitude; and

(e) Persons who have given notice under this chapter and who thereafter become of unsound mind or are convicted of a felony or misdemeanor involving moral turpitude. This disqualification does not bar another person, otherwise qualified, from acting as successor notice agent.

(5) A nonresident may act as notice agent if the nonresident appoints an agent who is a resident of the notice county or who is attorney of record for the notice agent upon whom service of all papers may be made. The appointment must be made in writing and filed with the court.

Sec. 25. RCW 11.42.020 and 1995 1st sp.s. c 18 s 59 are each amended to read as follows:

(1) The notice agent may give nonprobate notice to the creditors of the decedent if:

(a) As of the date of the filing ~~((of a copy))~~ of the notice to creditors with the ~~((clerk of the superior))~~ court ~~((for the notice county))~~, the notice agent has no knowledge of another person acting as notice agent or of the appointment ((and qualification)) of a personal representative in the decedent's estate in the state of Washington ~~((or of another person becoming a notice agent)); and~~

(h) According to the records of the ~~((clerk of the superior))~~ court ~~((for the notice county as of 8:00 a.m.))~~ as are available on the date of the filing of the notice to creditors, no cause number regarding the decedent has been issued to any other notice agent and no personal representative of the decedent's estate had been appointed ((and qualified and no cause number regarding the decedent had been issued to any other notice agent by the clerk under RCW 11.42.010)).

(2) ~~((The notice must state that all persons having claims against the decedent shall: (a) Serve the same on the notice agent if the notice agent is a resident of the state of Washington upon whom service of all papers may be made, or on the nonprobate resident agent for the notice agent, if any, or on the attorneys of record of the notice agent at their respective address in the state of Washington; and (b) file an executed copy of the notice with the clerk of the superior court for the notice county, within: (i)(A) Four months after the date of the first publication of the notice described in this section; or (B) four months after the date of the filing of the copy of the notice with the clerk of the superior court for the notice county, whichever is later; or (ii) the time otherwise provided in RCW 11.42.050. The four-month time period after the later of the date of the first publication of the notice to creditors or the date of the filing of the notice with the clerk of the court is referred to in this chapter as the "four-month time limitation."))~~

~~— (3) The notice agent shall declare in the notice in affidavit form or under the penalty of perjury under the laws of the state of Washington as provided in RCW 9A.72.085 that: (a) The notice agent is entitled to give the nonprobate notice under subsection (1) of this section; and (b) the notice is being given by the notice agent as permitted by this section.~~

~~— (4) The notice agent shall sign the notice and file it with the clerk of the superior court for the notice county. The notice must be given as follows:~~

~~— (a) The notice agent shall give actual notice as to creditors of the decedent who become known to the notice agent within the four-month time limitation as required in RCW 11.42.050;~~

~~— (b) The notice agent shall cause the notice to be published once in each week for three successive weeks in the notice county;~~

~~— (c) The notice agent shall file a copy of the notice with the clerk of the superior court for the notice county; and~~

~~— (d) The notice agent shall mail a copy of the notice, including the decedent's social security number, to the state of Washington, department of social and health services, office of financial recovery;~~

~~— (5) A claim not filed within the four-month time limitation is forever barred, if not already barred by an otherwise applicable statute of limitations, except as provided in RCW 11.42.030 or 11.42.050. The bar is effective to bar claims against both the probate estate of the decedent and nonprobate assets that were subject to satisfaction of the decedent's general liabilities immediately before the decedent's death. If a notice to the creditors of a decedent is published by more than one notice agent and the notice agents are not acting jointly, the four-month time limitation means the four-month time limitation that applies to the notice agent who first publishes the notice. Proof by affidavit or perjury declaration made under RCW 9A.72.085 of the giving and publication of the notice must be filed with the clerk of the superior court for the notice county by the notice agent.) The notice agent must give notice to the creditors of the decedent, as directed in RCW 11.42.030, announcing that the notice agent has elected to give nonprobate notice to creditors and requiring that persons having claims against the decedent present their claims within the time specified in RCW 11.42.050 or be forever barred as to claims against the decedent's probate and nonprobate assets.~~

(a) The notice agent shall first file the original of the notice with the court.

(b) The notice agent shall then cause the notice to be published once each week for three successive weeks in a legal newspaper in the notice county.

(c) The notice agent may at any time give actual notice to creditors who become known to the notice agent by serving the notice on the creditor or mailing the notice to the creditor at the creditor's last known address, by regular first class mail, postage prepaid.

(d) The notice agent shall also mail a copy of the notice, including the decedent's social security number, to the state of Washington department of social and health services' office of financial recovery.

The notice agent shall file with the court proof by affidavit of the giving and publication of the notice.

Sec. 26. RCW 11.42.030 and 1994 c 221 s 33 are each amended to read as follows:

~~((The time limitations under this chapter for serving and filing claims do not accrue to the benefit of a liability or casualty insurer as to claims against either the~~

decedent or the marital community of which the decedent was a member, or both, and:

— (1) The claims, subject to applicable statutes of limitation, may at any time be: (a) Served on the duly acting notice agent, the duly acting resident agent for the notice agent, or on the attorney for either of them; and (b) filed with the clerk of the superior court for the notice county; or

— (2) If there is no duly acting notice agent or resident agent for the notice agent, the claimant as a creditor shall proceed as provided in chapter 11.40 RCW. However, if no personal representative ever has been appointed for the decedent, a personal representative must be appointed as provided in chapter 11.28 RCW and the estate opened, in which case the claimant then shall proceed as provided in chapter 11.40 RCW.

— A claim may be served and filed as provided in this section, notwithstanding that there is no duly acting notice agent and that no personal representative previously has been appointed. However, the amount of recovery under the claim may not exceed the amount of applicable insurance coverages and proceeds, and the claim so served and filed may not constitute a cloud or lien upon the title to the assets of the decedent or delay or prevent the transfer or distribution of assets of the decedent. This section does not serve to extend the applicable statute of limitations regardless of whether a declaration and oath has been filed by a notice agent as provided in RCW 11.42.010.)) Notice under RCW 11.42.020 must contain the following elements in substantially the following form:

)	
<u>CAPTION</u>)	<u>No.</u>
<u>OF CASE</u>)	<u>NONPROBATE</u>
)	<u>NOTICE TO CREDITORS</u>
)	<u>RCW 11.42.030</u>
)	
.....)	

The notice agent named below has elected to give notice to creditors of the above-named decedent. As of the date of the filing of a copy of this notice with the court, the notice agent has no knowledge of any other person acting as notice agent or of the appointment of a personal representative of the decedent's estate in the state of Washington. According to the records of the court as are available on the date of the filing of this notice with the court, a cause number regarding the decedent has not been issued to any other notice agent and a personal representative of the decedent's estate has not been appointed.

Any person having a claim against the decedent must, before the time the claim would be barred by any otherwise applicable statute of limitations, present the claim in the manner as provided in RCW 11.42.070 by serving on or mailing to the notice agent or the notice agent's attorney at the address stated below a copy of the claim and filing the original of the claim with the court. The claim must be presented within the later of: (1) Thirty days after the notice agent served or mailed the notice to the creditor as provided under RCW 11.42.020(2)(c); or (2)

four months after the date of first publication of the notice. If the claim is not presented within this time frame, the claim is forever barred, except as otherwise provided in RCW 11.42.050 and 11.42.060. This bar is effective as to claims against both the decedent's probate and nonprobate assets.

Date of First
Publication:

The notice agent declares under penalty of perjury under the laws of the state of Washington on _____, [year], at [city] _____, [state] that the foregoing is true and correct.

Signature of Notice Agent

Notice Agent:

Attorney for the Notice Agent:

Address for Mailing or Service:

Sec. 27. RCW 11.42.040 and 1994 c 221 s 34 are each amended to read as follows:

~~(The notice agent shall exercise reasonable diligence to discover, within the four-month time limitation, reasonably ascertainable creditors of the decedent. The notice agent is deemed to have exercised reasonable diligence to ascertain the creditors upon:~~

~~— (1) Conducting, within the four-month time limitation, a reasonable review of the decedent's correspondence including correspondence received after the date of death and financial records including checkbooks, bank statements, income tax returns, and similar materials, that are in the possession of, or reasonably available to, the notice agent; and~~

~~— (2) Having made, with regard to claimants, inquiry of the nonprobate takers of the decedent's property and of the presumptive heirs, devisees, and legatees of the decedent, all of whose names and addresses are known, or in the exercise of reasonable diligence should have been known, to the notice agent.~~

~~If the notice agent conducts the review and makes an inquiry, the notice agent is presumed to have exercised reasonable diligence to ascertain creditors of the decedent, and creditors not ascertained in the review or in an inquiry are presumed not reasonably ascertainable. These presumptions may be rebutted only by clear, cogent, and convincing evidence. The notice agent may evidence the review and inquiry by filing an affidavit or declaration under penalty of perjury form as provided in RCW 9A.72.085 to the effect in the nonprobate proceeding in the notice county. The notice agent also may petition the superior court of the notice county for an order declaring that the notice agent has made a review and inquiry and that only creditors known to the notice agent after the review and inquiry are reasonably ascertainable. The petition and hearing must be under the procedures provided in chapter 11.96 RCW, and the notice specified under RCW 11.96.100 must also be given by publication:)) (1) For purposes of RCW 11.42.050, a~~

"reasonably ascertainable" creditor of the decedent is one that the notice agent would discover upon exercise of reasonable diligence. The notice agent is deemed to have exercised reasonable diligence upon conducting a reasonable review of the decedent's correspondence, including correspondence received after the date of death, and financial records, including personal financial statements, loan documents, checkbooks, bank statements, and income tax returns, that are in the possession of or reasonably available to the notice agent.

(2) If the notice agent conducts the review, the notice agent is presumed to have exercised reasonable diligence to ascertain creditors of the decedent and any creditor not ascertained in the review is presumed not reasonably ascertainable within the meaning of RCW 11.42.050. These presumptions may be rebutted only by clear, cogent, and convincing evidence.

(3) The notice agent may evidence the review and resulting presumption by filing with the court an affidavit regarding the facts referred to in this section. The notice agent may petition the court for an order declaring that the notice agent has made a review and that any creditors not known to the notice agent are not reasonably ascertainable. The petition must be filed under RCW 11.96.070, and the notice specified under RCW 11.96.100 must also be given by publication.

Sec. 28. RCW 11.42.050 and 1994 c 221 s 35 are each amended to read as follows:

~~((The actual notice described in RCW 11.42.020(4)(a), as to a creditor becoming known to the notice agent within the four-month time limitation, must be given the creditor by personal service or regular first class mail, addressed to the creditor's last known address, postage prepaid. The actual notice must be given before the later of the expiration of the four-month time limitation or thirty days after a creditor became known to the notice agent within the four-month time limitation. A known creditor is barred unless the creditor has filed a claim, as provided in this chapter, within the four-month time limitation or within thirty days following the date of actual notice to that creditor, whichever is later. If notice is given by mail, the date of mailing is the date of notice. This bar is effective as to claims against the included property as defined in RCW 11.42.010.)) (1) If a notice agent provides notice under RCW 11.42.020, any person having a claim against the decedent is forever barred from making a claim or commencing an action against the decedent if the claim or action is not already barred by an otherwise applicable statute of limitations, unless the creditor presents the claim in the manner provided in RCW 11.42.070 within the following time limitations:~~

(a) If the notice agent provided notice under RCW 11.42.020(2) (a) and (b) and the creditor was given actual notice as provided in RCW 11.42.020(2)(c), the creditor must present the claim within the later of: (i) Thirty days after the notice agent's service or mailing of notice to the creditor; and (ii) four months after the date of first publication of the notice;

(b) If the notice agent provided notice under RCW 11.42.020(2) (a) and (b) and the creditor was not given actual notice as provided in RCW 11.42.020(2)(c);

(i) If the creditor was not reasonably ascertainable, as defined in RCW 11.42.040, the creditor must present the claim within four months after the date of first publication of the notice;

(ii) If the creditor was reasonably ascertainable, as defined in RCW 11.42.040, the creditor must present the claim within twenty-four months after the decedent's date of death.

(2) Any otherwise applicable statute of limitations applies without regard to the tolling provisions of RCW 4.16.190.

(3) This bar is effective as to claims against both the decedent's probate and nonprobate assets.

Sec. 29. RCW 11.42.060 and 1994 c 221 s 36 are each amended to read as follows:

~~((1) Whether or not notice under RCW 11.42.020 has been given or should have been given, if no personal representative has been appointed and qualified, a person having a claim against the decedent who has not filed the claim within eighteen months from the date of the decedent's death is forever barred from making a claim against the decedent, or commencing an action against the decedent, if the claim or action is not already barred by any otherwise applicable statute of limitations. However, this eighteen-month limitation does not apply to:~~

~~—(a) Claims described in RCW 11.42.030;~~

~~—(b) A claim if, during the eighteen-month period following the date of death, partial performance has been made on the obligation underlying the claim, and the notice agent has not given the actual notice described in RCW 11.42.020(4)(a); or~~

~~—(c) Claims if, within twelve months after the date of death:~~

~~—(i) No notice agent has given the published notice described in RCW 11.42.020(4)(b); and~~

~~—(ii) No personal representative has given the published notice described in RCW 11.40.010(2).~~

~~—Any otherwise applicable statute of limitations applies without regard to the tolling provisions of RCW 4.16.190.~~

~~—(2) Claims referred to in this section must be filed if there is no duly appointed, qualified, and acting personal representative and there is a duly declared and acting notice agent or resident agent for the notice agent. The claims, subject to applicable statutes of limitation, may at any time be served on the duly declared and acting notice agent or resident agent for the notice agent, or on the attorney for either of them:~~

~~—(3) A claim to be filed under this chapter if there is no duly appointed, qualified, and acting personal representative but there is a duly declared and acting notice agent or resident agent for the notice agent and which claim is not otherwise barred under this chapter must be made in the form and manner provided under RCW 11.42.020, as if the notice under that section had been given.)~~ The time limitations for presenting claims under this chapter do not accrue to the benefit of any liability or casualty insurer. Claims against the decedent or the decedent's

marital community that can be fully satisfied by applicable insurance coverage or proceeds need not be presented within the time limitation of RCW 11.42.050, but the amount of recovery cannot exceed the amount of the insurance. If a notice agent provides notice under RCW 11.42.020, the claims may at any time be presented as provided in RCW 11.42.070, subject to the otherwise relevant statutes of limitations, and does not constitute a cloud, lien, or encumbrance upon the title to the decedent's probate or nonprobate assets nor delay or prevent the transfer or distribution of the decedent's assets. This section does not serve to extend any otherwise relevant statutes of limitations.

Sec. 30. RCW 11.42.070 and 1994 c 221 s 37 are each amended to read as follows:

((Notice under RCW 11.42.020 must be in substantially the following form:

In the Matter of _____)
_____) No.
_____)
_____) NONPROBATE NOTICE TO CREDITORS
_____ Deceased.)
.....)

....., the undersigned Notice Agent, has elected to give notice to creditors of the decedent above named under RCW 11.42.020. As of the date of the filing of a copy of this notice with the Clerk of this Court, the Notice Agent has no knowledge of the appointment and qualification of a personal representative in the decedent's estate in the state of Washington or of any other person becoming a Notice Agent. According to the records of the Clerk of this Court as of 8:00 a.m. on the date of the filing of this notice with the Clerk, no personal representative of the decedent's estate had been appointed and qualified and no cause number regarding the decedent had been issued to any other Notice Agent by the Clerk of this Court under RCW 11.42.010.

Persons having claims against the decedent named above must, before the time the claims would be barred by any otherwise applicable statute of limitations, serve their claims on: The Notice Agent if the Notice Agent is a resident of the state of Washington upon whom service of all papers may be made; the Nonprobate Resident Agent for the Notice Agent, if any; or the attorneys of record for the Notice Agent at the respective address in the state of Washington listed below, and file an executed copy of the claim with the Clerk of this Court within four months after the date of first publication of this notice, or within four months after the date of the filing of the copy of this notice with the Clerk of the Court, whichever is later, or, except under those provisions included in RCW 11.42.030 or 11.42.050, the claim will be forever barred. This bar is effective as to all assets of the decedent that were subject to satisfaction of the decedent's general liabilities immediately before the decedent's death regardless of whether those assets are or would be assets of the decedent's probate estate or nonprobate assets of the decedent.

— Date of filing of this notice with the

Clerk of the Court:

— Date of first publication of this notice:

— The Notice Agent declares under penalty of perjury under the laws of the State of Washington on, 19... at [City], [State] that the foregoing is true and correct:

.....
 Notice Agent [signature] — Nonprobate Resident Agent
 [if appointed]
 [address in Washington, if any] — [address in Washington]

.....
 Attorney for Notice Agent
 [address in Washington]

{(telephone)} (1) The claimant, the claimant's attorney, or the claimant's agent shall sign the claim and include in the claim the following information:

(a) The name and address of the claimant;

(b) The name, address, if different from that of the claimant, and nature of authority of an agent signing the claim on behalf of the claimant;

(c) A statement of the facts or circumstances constituting the basis of the claim;

(d) The amount of the claim; and

(e) If the claim is secured, unliquidated, contingent, or not yet due, the nature of the security, the nature of the uncertainty, or the date when it will become due.

Failure to describe correctly the information in (c), (d), or (e) of this subsection, if the failure is not substantially misleading, does not invalidate the claim.

(2) A claim does not need to be supported by affidavit.

(3) A claim must be presented within the time limits set forth in RCW 11.42.050 by: (a) Serving on or mailing to, by regular first class mail, the notice agent or the notice agent's attorney a copy of the signed claim; and (b) filing the original of the signed claim with the court. A claim is deemed presented upon the later of the date of postmark or service on the notice agent, or the notice agent's attorney, and filing with the court.

(4) Notwithstanding any other provision of this chapter, if a claimant makes a written demand for payment within the time limits set forth in RCW 11.42.050, the notice agent may waive formal defects and elect to treat the demand as a claim properly filed under this chapter if: (a) The claim was due; (b) the amount paid was the amount of indebtedness over and above all payments and offsets; (c) the estate is solvent; and (d) the payment is made in good faith. Nothing in this chapter limits application of the doctrines of waiver, estoppel, or detrimental claims or any other equitable principle.

Sec. 31. RCW 11.42.080 and 1994 c 221 s 38 are each amended to read as follows:

~~((RCW 11.40.020 applies to claims subject to this chapter.))~~ (1) The notice agent shall allow or reject all claims presented in the manner provided in RCW 11.42.070. The notice agent may allow or reject a claim, in whole or in part.

(2) If the notice agent has not allowed or rejected a claim within the later of four months from the date of first publication of the notice to creditors and thirty days from presentation of the claim, the claimant may serve written notice on the notice agent that the claimant will petition the court to have the claim allowed. If the notice agent fails to notify the claimant of the allowance or rejection of the claim within twenty days after the notice agent's receipt of the claimant's notice, the claimant may petition the court for a hearing to determine whether the claim should be allowed or rejected, in whole or in part. If the court substantially allows the claim, the court may allow the petitioner reasonable attorneys' fees chargeable against the decedent's assets received by the notice agent or by those appointing the notice agent.

NEW SECTION. Sec. 32. A new section is added to chapter 11.42 RCW to read as follows:

(1) The decedent's nonprobate and probate assets that were subject to the satisfaction of the decedent's general liabilities immediately before the decedent's death are liable for claims. The decedent's probate assets may be liable, whether or not there is a probate administration of the decedent's estate.

(2) The notice agent may pay a claim allowed by the notice agent or a judgment on a claim first prosecuted against a notice agent only out of assets received as a result of the death of the decedent by the notice agent or by those appointing the notice agent, except as may be provided by agreement under RCW 11.96.170 or by court order under RCW 11.96.070.

Sec. 33. RCW 11.42.090 and 1994 c 221 s 39 are each amended to read as follows:

~~((1) Property of the decedent that was subject to the satisfaction of the decedent's general liabilities immediately before the decedent's death is liable for claims. The property includes, but is not limited to, property of the decedent that is includable in the decedent's probate estate, whether or not there is a probate administration of the decedent's estate.~~

~~—(2) A claim approved by the notice agent, and a judgment on a claim first prosecuted against a notice agent, may be paid only out of assets received as a result of the death of the decedent by the notice agent or by those appointing the notice agent under chapter 11.96 RCW, except as may be provided by agreement under RCW 11.96.170 or by court order under RCW 11.96.070.))~~ (1) If the notice agent allows a claim, the notice agent shall notify the claimant of the allowance by personal service or regular first class mail to the address stated on the claim. A claim may not be allowed if it is barred by a statute of limitations.

(2) The notice agent shall pay claims allowed in the following order from the assets of the decedent that are subject to the payment of claims as provided in section 32 of this act:

(a) Costs of administering the assets subject to the payment of claims, including a reasonable fee to the notice agent, any resident agent for the notice agent, reasonable attorneys' fees for the attorney for each of them, filing fees, publication costs, mailing costs, and similar costs and fees;

(b) Funeral expenses in a reasonable amount;

(c) Expenses of the last sickness in a reasonable amount;

(d) Wages due for labor performed within sixty days immediately preceding the death of the decedent;

(e) Debts having preference by the laws of the United States;

(f) Taxes, debts, or dues owing to the state;

(g) Judgments rendered against the decedent in the decedent's lifetime that are liens upon real estate on which executions might have been issued at the time of the death of the decedent and debts secured by mortgages in the order of their priority; and

(h) All other demands against the assets subject to the payment of claims.

(3) The notice agent may not pay a claim of the notice agent or other person who has received property by reason of the decedent's death unless all other claims that have been filed under this chapter, and all debts having priority to the claim, are paid in full or otherwise settled by agreement, regardless of whether the other claims are allowed or rejected.

Sec. 34. RCW 11.42.100 and 1994 c 221 s 40 are each amended to read as follows:

~~((1) The notice agent shall approve or reject claims no later than by the end of a period that is two months after the end of the four-month time limitation defined as the "review period."~~

~~—(2) The notice agent may approve a claim, in whole or in part.~~

~~—(3) If the notice agent rejects a claim, in whole or in part, the notice agent shall notify the claimant of the rejection and file in the office of the clerk of the court in the notice county an affidavit or declaration under penalty of perjury under RCW 9A.72.085 showing the notification and the date of the notification. The notification must be by personal service or certified mail addressed to the claimant at the claimant's address as stated in the claim. If a person other than the claimant signed the claim for or on behalf of the claimant, and the person's business address as stated in the claim is different from that of the claimant, notification of the rejection also must be made by personal service or certified mail upon that person. The date of the postmark is the date of the notification. The notification of the rejection must advise the claimant, and the person making claim on his, her, or its behalf, if any, that the claimant must bring suit in the proper court in the notice county against the notice agent. (a) Within thirty days after notification of rejection if the notification is made during or after the review period; or (b) before~~

~~expiration of thirty days after the end of the four-month time limitation, if the notification is made during the four-month time limitation, and that otherwise the claim is forever barred:~~

~~—(4) A claimant whose claim either has been rejected by the notice agent or has not been acted upon within twenty days of written demand for the action having been given to the notice agent by the claimant during or after the review period must commence an action against the notice agent in the proper court in the notice county to enforce the claim of the claimant within the earlier of:~~

~~—(a) If the notice of the rejection of the claim has been sent as provided in subsection (3) of this section: The time for filing an action on a rejected claim is as provided in subsection (3) of this section; or~~

~~—(b) If written demand for approval or rejection is made on the notice agent before the claim is rejected: Within thirty days following the end of the twenty-day written demand period where the demand period ends during or after the review period; otherwise the claim is forever barred.~~

~~—(5) The notice agent may, either before or after rejection of a claim, compromise the claim, whether due or not, absolute or contingent, liquidated or unliquidated:~~

~~—(6) A personal representative of the decedent's estate may revoke either or both of: (a) The rejection of a claim that has been rejected by the notice agent; or (b) the approval of a claim that has been either approved or compromised by the notice agent, or both:~~

~~—(7) If a notice agent pays a claim that subsequently is revoked by a personal representative of the decedent, the notice agent may file a claim in the decedent's estate for the notice agent's payment, and the claim may be allowed or rejected as other claims, at the election of the personal representative:~~

~~—(8) If the notice agent has not received substantially all assets of the decedent that are liable for claims, then although an action may be commenced on a rejected claim by a creditor against the notice agent, the notice agent, notwithstanding any provision in this chapter, may only make an appearance in the litigation. The notice agent may not answer the action, but must, instead, cause a petition to be filed for the appointment of a personal representative of the decedent within thirty days of the service of the creditor's summons and complaint on the notice agent. A judgment may not be entered in an action brought by a creditor against the notice agent earlier than twenty days after the duly appointed, qualified, and acting personal representative of the decedent has been substituted in that action for the notice agent.)~~

(1) If the notice agent rejects a claim, in whole or in part, the claimant must bring suit against the notice agent within thirty days after notification of rejection or the claim is forever barred. The notice agent shall notify the claimant of the rejection and file an affidavit with the court showing the notification and the date of the notification. The notice agent shall notify the claimant of the rejection by personal service or certified mail addressed to the

claimant or claimant's agent, if applicable, at the address stated in the claim. The date of service or of the postmark is the date of notification. The notification must advise the claimant that the claimant must bring suit in the proper court against the notice agent within thirty days after notification of rejection or the claim will be forever barred.

(2) If a claimant brings suit against the notice agent on a rejected claim and the notice agent has not received substantially all assets of the decedent that are liable for claims, the notice agent may only make an appearance in the action and may not answer the action but must cause a petition to be filed for the appointment of a personal representative within thirty days after service of the creditor's action on the notice agent. Under these circumstances, a judgment may not be entered in an action brought by a creditor against the notice agent earlier than twenty days after the personal representative has been substituted in that action for the notice agent.

(3) The notice agent may, before or after rejection of any claim, compromise the claim, whether due or not, absolute or contingent, liquidated, or unliquidated.

Sec. 35. RCW 11.42.110 and 1994 c 221 s 41 are each amended to read as follows:

~~((If a claim has been filed and presented to a notice agent, and a part of the claim is allowed, the amount of the allowance must be stated in the indorsement. If the creditor refuses to accept the amount so allowed in satisfaction of the claim, the creditor may not recover costs in an action the creditor may bring against the notice agent and against any substituted personal representative unless the creditor recovers a greater amount than that offered to be allowed, exclusive of interest and costs.))~~ The effect of a judgment rendered against the notice agent shall be only to establish the amount of the judgment as an allowed claim.

Sec. 36. RCW 11.42.120 and 1994 c 221 s 42 are each amended to read as follows:

~~((A debt of a decedent for whose estate no personal representative has been appointed must be paid in the following order by the notice agent from the assets of the decedent that are subject to the payment of claims as provided in RCW 11.42.090:~~

~~— (1) Costs of administering the assets subject to the payment of claims, including a reasonable fee to the notice agent, the resident agent for the notice agent, if any, reasonable attorneys' fees for the attorney for each of them, filing fees, publication costs, mailing costs, and similar costs and fees.~~

~~— (2) Funeral expenses in a reasonable amount.~~

~~— (3) Expenses of the last sickness in a reasonable amount.~~

~~— (4) Wages due for labor performed within sixty days immediately preceding the death of the decedent.~~

~~— (5) Debts having preference by the laws of the United States.~~

~~— (6) Taxes or any debts or dues owing to the state.~~

~~— (7) Judgments rendered against the decedent in the decedent's lifetime that are liens upon real estate on which executions might have been issued at the time of~~

the death of the decedent and debts secured by mortgages in the order of their priority. However, the real estate is subject to the payment of claims as provided in RCW 11.42.100.

~~— (8) All other demands against the assets subject to the payment of claims as provided in RCW 11.42.100.~~

~~— A claim of the notice agent or other person who has received property by reason of the decedent's death may not be paid by the notice agent unless all other claims that have been filed under this chapter, and all debts having priority to the claim, are paid in full or otherwise settled by agreement, regardless of whether the other claims are allowed or rejected, or partly allowed or partly rejected. In the event of the probate of the decedent's estate, the personal representative's payment from estate assets of the claim of the notice agent or other person who has received property by reason of the decedent's death is not affected by the priority payment provisions of this section.))~~ If a judgment was entered against the decedent during the decedent's lifetime, an execution may not issue on the judgment after the death of the decedent. If a notice agent is acting, the judgment must be presented in the manner provided in RCW 11.42.070, but if the judgment is a lien on any property of the decedent, the property may be sold for the satisfaction of the judgment and the officer making the sale shall account to the notice agent for any surplus.

NEW SECTION. Sec. 37. A new section is added to chapter 11.42 RCW to read as follows:

If a creditor's claim is secured by any property of the decedent, this chapter does not affect the right of the creditor to realize on the creditor's security, whether or not the creditor presented the claim in the manner provided in RCW 11.42.070.

Sec. 38. RCW 11.42.130 and 1994 c 221 s 43 are each amended to read as follows:

~~((The notice agent may not allow a claim that is barred by the statute of limitations.))~~ A claim of the notice agent or other person who has received property by reason of the decedent's death must be paid as set forth in RCW 11.42.090(3).

Sec. 39. RCW 11.42.140 and 1994 c 221 s 45 are each amended to read as follows:

~~((The time during which there is a vacancy in the office of notice agent is not included in a limitation prescribed in this chapter.))~~ (1) If a notice agent has given notice under RCW 11.42.020 and the notice agent resigns, dies, or is removed or a personal representative is appointed, the successor notice agent or the personal representative shall:

(a) Publish notice of the vacancy and succession for two successive weeks in the legal newspaper in which notice was published under RCW 11.42.020, if the vacancy occurred within twenty-four months after the decedent's date of death; and

(b) Provide actual notice of the vacancy and succession to a creditor if: (i) The creditor filed a claim and the claim had not been allowed or rejected by the prior notice agent; or (ii) the creditor's claim was rejected and the vacancy occurred within thirty days after rejection of the claim.

(2) The time between the resignation, death, or removal of the notice agent or appointment of a personal representative and the first publication of the vacancy and succession or, in the case of actual notice, the mailing of the notice of vacancy and succession must be added to the time within which a claim must be presented or a suit on a rejected claim must be filed. This section does not extend the twenty-four-month self-executing bar under RCW 11.42.050.

Sec. 40. RCW 11.42.150 and 1994 c 221 s 44 are each amended to read as follows:

~~((A holder of a claim against a decedent may not maintain an action on the claim against a notice agent, unless the claim has been first presented as provided in this chapter. This chapter does not affect RCW 82.32.240:))~~ (1) The powers and authority of a notice agent immediately cease, and the office of notice agent becomes vacant, upon appointment of a personal representative for the estate of the decedent. Except as provided in RCW 11.42.140(2), the cessation of the powers and authority does not affect the filing and publication of notice to creditors and does not affect actual notice to creditors given by the notice agent.

(2) As set forth in section 23 of this act, a personal representative may adopt, ratify, nullify, or reject any actions of the notice agent.

(3) If a personal representative is appointed and the personal representative does not nullify the allowance of a claim that the notice agent allowed and paid, the person or persons whose assets were used to pay the claim may petition for reimbursement from the estate to the extent the payment was not in accordance with chapter 11.10 RCW.

Sec. 41. RCW 11.44.015 and 1967 c 168 s 9 are each amended to read as follows:

(1) Within three months after ((his)) appointment, unless a longer time shall be granted by the court, every personal representative shall make and ((return upon oath into the court)) verify by affidavit a true inventory and appraisement of all of the property of the estate passing under the will or by laws of intestacy and which shall have come to ((his)) the personal representative's possession or knowledge, including a statement of all encumbrances, liens, or other secured charges against any item. The personal representative shall determine the fair net value, as of the date of the decedent's death, of each item contained in the inventory after deducting the encumbrances, liens, and other secured charges on the item. Such property shall be classified as follows:

~~((1))~~ (a) Real property, by legal description ((and assessed valuation of land and improvements thereon));

~~((2))~~ (b) Stocks and bonds;

~~((3))~~ (c) Mortgages, notes, and other written evidences of debt;

~~((4))~~ (d) Bank accounts and money;

~~((5))~~ (e) Furniture and household goods;

~~((6))~~ (f) All other personal property accurately identified, including the decedent's proportionate share in any partnership, but no inventory of the partnership property shall be required of the personal representative.

(2) The inventory and appraisement may, but need not be, filed in the probate cause, but upon receipt of a written request for a copy of the inventory and appraisement from any heir, legatee, devisee, unpaid creditor who has filed a claim, or beneficiary of a nonprobate asset from whom contribution is sought under RCW 11.18.200, or from the department of revenue, the personal representative shall furnish to the person, within ten days of receipt of a request, a true and correct copy of the inventory and appraisement.

Sec. 42. RCW 11.44.025 and 1974 ex.s. c 117 s 48 are each amended to read as follows:

Whenever any property of the estate not mentioned in the inventory and appraisement comes to the knowledge of a personal representative, ~~((he))~~ the personal representative shall cause the ~~((same))~~ property to be inventoried and appraised and shall make and ~~((return upon oath into the court))~~ verify by affidavit a true inventory and appraisement of ~~((said))~~ the property within thirty days after the discovery thereof, unless a longer time shall be granted by the court, and shall provide a copy of the inventory and appraisement to every person who has properly requested a copy of the inventory and appraisement under RCW 11.44.015(2).

Sec. 43. RCW 11.44.035 and 1965 c 145 s 11.44.035 are each amended to read as follows:

In an action against the personal representative where ~~((his))~~ the administration of the estate, or any part thereof, is put in issue and the inventory and appraisement of the estate ~~((returned))~~ by ~~((him, or the appraisal thereof))~~ the personal representative is given in evidence, the same may be contradicted or avoided by evidence. Any party in interest in the estate may challenge the inventory ~~((or))~~ and appraisement at any stage of the probate proceedings.

Sec. 44. RCW 11.44.050 and 1965 c 145 s 11.44.050 are each amended to read as follows:

If any personal representative shall neglect or refuse to ~~((return))~~ make the inventory and appraisement within the period prescribed, or within such further time as the court may allow, or to provide a copy as provided under RCW 11.44.015, 11.44.025, or 11.44.035, the court may revoke the letters testamentary or of administration; and the personal representative shall be liable on his or her bond to any party interested for the injury sustained by the estate through his or her neglect.

Sec. 45. RCW 11.44.070 and 1974 ex.s. c 117 s 50 are each amended to read as follows:

The personal representative may employ a qualified and disinterested person to assist in ascertaining the fair market value as of the date of the decedent's death of any asset the value of which may be subject to reasonable doubt. Different

persons may be employed to appraise different kinds of assets included in the estate. The amount of the fee to be paid to any persons assisting the personal representative in any appraisal shall be determined by the personal representative: PROVIDED HOWEVER, That the reasonableness of any such compensation shall, at the time of hearing on any final account as provided in chapter 11.76 RCW or on a request or petition under RCW 11.68.100 or 11.68.110, be reviewed by the court in accordance with the provisions of RCW 11.68.100, and if the court determines the compensation to be unreasonable, a personal representative may be ordered to make appropriate refund.

Sec. 46. RCW 11.44.085 and 1965 c 145 s 11.44.085 are each amended to read as follows:

The naming or the appointment of any person as personal representative shall not operate as a discharge from any just claim which the testator or intestate had against the personal representative, but the claim shall be included in the inventory and appraisal and the personal representative shall be liable to the same extent as ((he)) the personal representative would have been had he or she not been appointed personal representative.

Sec. 47. RCW 11.44.090 and 1965 c 145 s 11.44.090 are each amended to read as follows:

The discharge or bequest in a will of any debt or demand of the testator against any executor named in ((his)) the testator's will or against any person shall not be valid against the creditors of the deceased, but shall be construed as a specific bequest of such debt or demand, and the amount thereof shall be included in the inventory and appraisal, and shall, if necessary, be applied in payment of ((his)) the testator's debts; if not necessary for that purpose, it shall be paid in the same manner and proportions as other specific legacies.

NEW SECTION. Sec. 48. (1) Subject to section 50 of this act, the surviving spouse of a decedent may petition the court for an award from the property of the decedent. If the decedent is survived by children of the decedent who are not also the children of the surviving spouse, on petition of such a child the court may divide the award between the surviving spouse and all or any of such children as it deems appropriate. If there is not a surviving spouse, the minor children of the decedent may petition for an award.

(2) The award may be made from either the community property or separate property of the decedent. Unless otherwise ordered by the court, the probate and nonprobate assets of the decedent abate in accordance with chapter 11.10 RCW in satisfaction of the award.

(3) The award may be made whether or not probate proceedings have been commenced in the state of Washington. The court may not make this award unless the petition for the award is filed before the earliest of:

(a) Eighteen months from the date of the decedent's death if within twelve months of the decedent's death either:

(i) A personal representative has been appointed; or

(ii) A notice agent has filed a declaration and oath as required in RCW 11.42.010(3)(a)(ii); or

(b) The termination of any probate proceeding for the decedent's estate that has been commenced in the state of Washington; or

(c) Six years from the date of the death of the decedent.

NEW SECTION. Sec. 49. The amount of the basic award shall be the amount specified in RCW 6.13.030(2) with regard to lands. If an award is divided between a surviving spouse and the decedent's children who are not the children of the surviving spouse, the aggregate amount awarded to all the claimants under this section shall be the amount specified in RCW 6.13.030(2) with respect to lands. The amount of the basic award may be increased or decreased in accordance with sections 51 and 52 of this act.

NEW SECTION. Sec. 50. (1) The court may not make an award unless the court finds that the funeral expenses, expenses of last sickness, and expenses of administration have been paid or provided for.

(2) The court may not make an award to a surviving spouse or child who has participated, either as a principal or as an accessory before the fact, in the willful and unlawful killing of the decedent.

NEW SECTION. Sec. 51. (1) If it is demonstrated to the satisfaction of the court with clear, cogent, and convincing evidence that a claimant's present and reasonably anticipated future needs during the pendency of any probate proceedings in the state of Washington with respect to basic maintenance and support will not otherwise be provided for from other resources, and that the award would not be inconsistent with the decedent's intentions, the amount of the award may be increased in an amount the court determines to be appropriate.

(2) In determining the needs of the claimant, the court shall consider, without limitation, the resources available to the claimant and the claimant's dependents, and the resources reasonably expected to be available to the claimant and the claimant's dependents during the pendency of the probate, including income related to present or future employment and benefits flowing from the decedent's probate and nonprobate estate.

(3) In determining the intentions of the decedent, the court shall consider, without limitation:

(a) Provisions made for the claimant by the decedent under the terms of the decedent's will or otherwise;

(b) Provisions made for third parties or other entities under the decedent's will or otherwise that would be affected by an increased award;

(c) If the claimant is the surviving spouse, the duration and status of the marriage of the decedent to the claimant at the time of the decedent's death;

(d) The effect of any award on the availability of any other resources or benefits to the claimant;

(e) The size and nature of the decedent's estate; and

(f) Oral or written statements made by the decedent that are otherwise admissible as evidence.

The fact that the decedent has named beneficiaries other than the claimant as recipients of the decedent's estate is not of itself adequate to evidence such an intent as would prevent the award of an amount in excess of that provided for in RCW 6.13.030(2) with respect to lands.

(4)(a) A petition for an increased award may only be made if a petition for an award has been granted under section 48 of this act. The request for an increased award may be made in conjunction with the petition for an award under section 48 of this act.

(b) Subject to (a) of this subsection, a request for an increased award may be made at any time during the pendency of the probate proceedings. A request to modify an increased award may also be made at any time during the pendency of the probate proceedings by a person having an interest in the decedent's estate that will be directly affected by the requested modification.

NEW SECTION. Sec. 52. (1) The court may decrease the amount of the award below the amount provided in section 49 of this act in the exercise of its discretion if the recipient is entitled to receive probate or nonprobate property, including insurance, by reason of the death of the decedent. In such a case the award must be decreased by no more than the value of such other property as is received by reason of the death of the decedent. The court shall consider the factors presented in section 51(2) of this act in determining the propriety of the award and the proper amount of the award, if any.

(2) An award to a surviving spouse is also discretionary and the amount otherwise allowable may be reduced if: (a) The decedent is survived by children who are not the children of the surviving spouse and the award would decrease amounts otherwise distributable to such children; or (b) the award would have the effect of reducing amounts otherwise distributable to any of the decedent's minor children. In either case the court shall consider the factors presented in section 51 (2) and (3) of this act and whether the needs of the minor children with respect to basic maintenance and support are and will be adequately provided for, both during and after the pendency of any probate proceedings if such proceedings are pending, considering support from any source, including support from the surviving spouse.

NEW SECTION. Sec. 53. (1) The award has priority over all other claims made in the estate. In determining which assets must be made available to satisfy the award, the claimant is to be treated as a general creditor of the estate, and unless otherwise ordered by the court the assets shall abate in satisfaction of the award in accordance with chapter 11.10 RCW.

(2) If the property awarded is being purchased on contract or is subject to any encumbrance, for purposes of the award the property must be valued net of the balance due on the contract and the amount of the encumbrance. The property awarded will continue to be subject to any such contract or encumbrance, and any award in excess of the basic award under section 48 of this act, whether of

community property or the decedent's separate property, is not immune from any lien for costs of medical expenses recoverable under RCW 43.20B.080.

NEW SECTION. Sec. 54. (1) Except as provided in subsection (2) of this section, property awarded and cash paid under this chapter is immune from all debts, including judgments and judgment liens, of the decedent and of the surviving spouse existing at the time of death.

(2) Both the decedent's and the surviving spouse's interests in any community property awarded to the spouse under this chapter are immune from the claims of creditors.

NEW SECTION. Sec. 55. (1) This section applies if the party entitled to petition for an award holds exempt property that is in an aggregate amount less than that specified in RCW 6.13.030(2) with respect to lands.

(2) For purposes of this section, the party entitled to petition for an award is referred to as the "claimant." If multiple parties are entitled to petition for an award, all of them are deemed a "claimant" and may petition for an exemption of additional assets as provided in this section, if the aggregate amount of exempt property to be held by all the claimants after the making of the award does not exceed the amount specified in RCW 6.13.030(2) with respect to lands.

(3) A claimant may petition the court for an order exempting other assets from the claims of creditors so that the aggregate amount of exempt property held by the claimants equals the amount specified in RCW 6.13.030(2) with respect to lands. The petition must:

(a) Set forth facts to establish that the petitioner is entitled to petition for an award under section 48 of this act;

(b) State the nature and value of those assets then held by all claimants that are exempt from the claims of creditors; and

(c) Describe the nonexempt assets then held by the claimants, including any interest the claimants may have in any probate or nonprobate property of the decedent.

(4) Notice of a petition for an order exempting assets from the claims of creditors must be given in accordance with RCW 11.96.100.

(5) At the hearing on the petition, the court shall order that certain assets of the claimants are exempt from the claims of creditors so that the aggregate amount of exempt property held by the claimants after the entry of the order is in the amount specified in RCW 6.13.030(2) with respect to lands. In the order the court shall designate those assets of the claimants that are so exempt.

NEW SECTION. Sec. 56. The petition for an award, for an increased or modified award, or for the exemption of assets from the claims of creditors as authorized by this chapter must be made to the court of the county in which the probate is being administered. If probate proceedings have not been commenced in the state of Washington, the petition must be made to the court of a county in which the decedent's estate could be administered under RCW 11.96.050 if the decedent held personal property subject to probate in the county of the decedent's

domicile. The petition and the hearing must conform to RCW 11.96.070. Notice of the hearing on the petition must be given in accordance with RCW 11.96.100.

NEW SECTION. Sec. 57. If an award provided by this chapter will exhaust the estate, and probate proceedings have been commenced in the state of Washington, the court in the order of award or allowance shall order the estate closed, discharge the personal representative, and exonerate the personal representative's bond, if any.

Sec. 58. RCW 11.48.130 and 1965 c 145 s 11.48.130 are each amended to read as follows:

The court (~~shall have power to~~) may authorize the personal representative, without the necessary nonintervention powers, to compromise and compound any claim owing the estate. Unless the court has restricted the power to compromise or compound claims owing to the estate, a personal representative with nonintervention powers may compromise and compound a claim owing the estate without the intervention of the court.

NEW SECTION. Sec. 59. A new section is added to chapter 11.68 RCW to read as follows:

(1) A personal representative may petition the court for nonintervention powers, whether the decedent died testate or intestate.

(2) Unless the decedent has specified in the decedent's will, if any, that the court not grant nonintervention powers to the personal representative, the court shall grant nonintervention powers to a personal representative who petitions for the powers if the court determines that the decedent's estate is solvent, taking into account probate and nonprobate assets, and that:

(a) The petitioning personal representative was named in the decedent's probated will as the personal representative;

(b) The decedent died intestate, the petitioning personal representative is the decedent's surviving spouse, the decedent's estate is composed of community property only, and the decedent had no issue: (i) Who is living or in gestation on the date of the petition; (ii) whose identity is reasonably ascertainable on the date of the petition; and (iii) who is not also the issue of the petitioning spouse; or

(c) The personal representative was not a creditor of the decedent at the time of the decedent's death and the administration and settlement of the decedent's will or estate with nonintervention powers would be in the best interests of the decedent's beneficiaries and creditors. However, the administration and settlement of the decedent's will or estate with nonintervention powers will be presumed to be in the beneficiaries' and creditors' best interest until a person entitled to notice under section 61 of this act rebuts that presumption by coming forward with evidence that the grant of nonintervention powers would not be in the beneficiaries' or creditors' best interests.

(3) The court may base its findings of facts necessary for the grant of nonintervention powers on: (a) Statements of witnesses appearing before the court; (b) representations contained in a verified petition for nonintervention powers, in

an inventory made and returned upon oath into the court, or in an affidavit filed with the court; or (c) other proof submitted to the court.

NEW SECTION. Sec. 60. A new section is added to chapter 11.68 RCW to read as follows:

A hearing on a petition for nonintervention powers may be held at the time of the appointment of the personal representative or at any later time.

NEW SECTION. Sec. 61. A new section is added to chapter 11.68 RCW to read as follows:

(1) Advance notice of the hearing on a petition for nonintervention powers referred to in section 59 of this act is not required in those circumstances in which the court is required to grant nonintervention powers under section 59(2) (a) and (b) of this act.

(2) In all other cases, if the petitioner wishes to obtain nonintervention powers, the personal representative shall give notice of the petitioner's intention to apply to the court for nonintervention powers to all heirs, all beneficiaries of a gift under the decedent's will, and all persons who have requested, and who are entitled to, notice under RCW 11.28.240, except that:

(a) A person is not entitled to notice if the person has, in writing, either waived notice of the hearing or consented to the grant of nonintervention powers; and

(b) An heir who is not also a beneficiary of a gift under a will is not entitled to notice if the will has been probated and the time for contesting the validity of the will has expired.

(3) The notice required by this section must be either personally served or sent by regular mail at least ten days before the date of the hearing, and proof of mailing of the notice must be by affidavit filed in the cause. The notice must contain the decedent's name, the probate cause number, the name and address of the personal representative, and must state in substance as follows:

(a) The personal representative has petitioned the superior court of the state of Washington for county, for the entry of an order granting nonintervention powers and a hearing on that petition will be held on, the day of,, at o'clock, . . M.;

(b) The petition for an order granting nonintervention powers has been filed with the court;

(c) Following the entry by the court of an order granting nonintervention powers, the personal representative is entitled to administer and close the decedent's estate without further court intervention or supervision; and

(d) A person entitled to notice has the right to appear at the time of the hearing on the petition for an order granting nonintervention powers and to object to the granting of nonintervention powers to the personal representative.

(4) If notice is not required, or all persons entitled to notice have either waived notice of the hearing or consented to the entry of an order granting nonintervention powers as provided in this section, the court may hear the petition for an order granting nonintervention powers at any time.

Sec. 62. RCW 11.68.050 and 1977 ex.s. c 234 s 21 are each amended to read as follows:

(1) If at the time set for the hearing upon ((the) a petition for ((the entry of an order of solvency)) nonintervention powers, any person entitled to notice of the hearing on the petition under ((the provisions of RCW 11.68.040 as now or hereafter amended;)) section 61 of this act shall appear and object to the granting of nonintervention powers to the personal representative of the estate, the court shall consider ((said objections, if any, and the entry of an order of solvency shall be discretionary with the court upon being satisfied by proof as required in RCW 11.68.010 as now or hereafter amended. If an order of solvency is entered)) the objections, if any, in connection with its determination under section 59(2)(c) of this act of whether a grant of nonintervention powers would be in the best interests of the decedent's beneficiaries.

(2) The nonintervention powers of a personal representative may not be restricted at a hearing on a petition for nonintervention powers in which the court is required to grant nonintervention powers under section 59(2) (a) and (b) of this act, unless a will specifies that the nonintervention powers of a personal representative may be restricted when the powers are initially granted. In all other cases, including without limitation any hearing on a petition that alleges that the personal representative has breached its duties to the beneficiaries of the estate, the court may restrict the powers of the personal representative in such manner as the court determines((- If no objection is made at the time of the hearing by any person entitled to notice thereof, the court shall enter an order of solvency upon being satisfied by proof as required in RCW 11.68.010 as now or hereafter amended)) to be in the best interests of the decedent's beneficiaries.

Sec. 63. RCW 11.68.060 and 1977 ex.s. c 234 s 22 are each amended to read as follows:

If((- after the entry of an order of solvency;)) any personal representative of the estate of the decedent ((shall)) dies, resigns, or otherwise becomes disabled from any cause from acting as the nonintervention personal representative, ((the successor personal representative, other than a creditor of a decedent not designated as a personal representative in the decedent's will, shall administer the estate of the decedent without the intervention of court after notice and hearing as required by RCW 11.68.040 and 11.68.050 as now or hereafter amended, unless at the time of said hearing objections to the granting of nonintervention powers to such successor personal representative shall be made by an heir, legatee, devisee, or other person entitled to notice pursuant to RCW 11.28.240 as now existing or hereafter amended, and unless the court, after hearing said objections shall refuse to grant nonintervention powers to such successor personal representative. If no heir, legatee, devisee, or other person entitled to notice shall appear at the time of the hearing to object to the granting of nonintervention powers to such successor personal representative, the court shall enter an order granting nonintervention powers to)) the successor personal representative, or a person who has petitioned

to be appointed as a successor personal representative, may petition the court for nonintervention powers, and the court shall act, in accordance with sections 59 through 61 of this act and RCW 11.68.050.

NEW SECTION. Sec. 64. A new section is added to chapter 11.68 RCW to read as follows:

A beneficiary whose interest in an estate has not been fully paid or distributed may petition the court for an order directing the personal representative to deliver a report of the affairs of the estate signed and verified by the personal representative. The petition may be filed at any time after one year from the day on which the report was last delivered, or, if none, then one year after the order appointing the personal representative. Upon hearing of the petition after due notice as required in chapter 11.96 RCW, the court may, for good cause shown, order the personal representative to deliver to the petitioner the report for any period not covered by a previous report. The report for the period shall include such of the following as the court may order: A description of the amount and nature of all property, real and personal, that has come into the hands of the personal representative; a statement of all property collected and paid out or distributed by the personal representative; a statement of claims filed and allowed against the estate and those rejected; any estate, inheritance, or fiduciary income tax returns filed by the personal representative; and such other information as the order may require. This subsection does not limit any power the court might otherwise have at any time during the administration of the estate to require the personal representative to account or furnish other information to any person interested in the estate.

Sec. 65. RCW 11.68.080 and 1977 ex.s. c 234 s 24 are each amended to read as follows:

~~((After such notice as the court may require, the order of solvency shall be vacated or restricted upon the petition of any personal representative, heir, legatee, devisee, or creditor, if supported by proof satisfactory to the court that said estate has become insolvent:~~

~~— If, after hearing, the court shall vacate or restrict the prior order of solvency, the court shall endorse the term "Vacated" or "Powers restricted" upon the original order of solvency))~~ (1) Within ten days after the personal representative has received from alleged creditors under chapter 11.40 RCW claims that have an aggregate face value that, when added to the other debts and to the taxes and expenses of greater priority under applicable law, would appear to cause the estate to be insolvent, the personal representative shall notify in writing all beneficiaries under the decedent's will and, if any of the decedent's property will pass according to the laws of intestate succession, all heirs, together with any unpaid creditors, other than a creditor whose claim is then barred under chapter 11.40 RCW or the otherwise applicable statute of limitations, that the estate might be insolvent. The personal representative shall file a copy of the written notice with the court.

(2) Within ten days after an estate becomes insolvent, the personal representative shall petition under chapter 11.96 RCW for a determination of whether the court should reaffirm, rescind, or restrict in whole or in part any prior grant of nonintervention powers. Notice of the hearing must be given in accordance with RCW 11.96.100 and 11.96.110.

(3) If, upon a petition under chapter 11.96 RCW of any personal representative, beneficiary under the decedent's will, heir if any of the decedent's property passes according to the laws of intestate succession, or any unpaid creditor with a claim that has been accepted or judicially determined to be enforceable, the court determines that the decedent's estate is insolvent, the court shall reaffirm, rescind, or restrict in whole or in part any prior grant of nonintervention powers to the extent necessary to protect the best interests of the beneficiaries and creditors of the estate.

(4) If the court rescinds or restricts a prior grant of nonintervention powers, the court shall endorse the term "powers rescinded" or "powers restricted" upon the prior order together with the date of ((said)) the endorsement.

Sec. 66. RCW 11.68.090 and 1988 c 29 s 3 are each amended to read as follows:

(1) Any personal representative acting under nonintervention powers may borrow money on the general credit of the estate and may mortgage, encumber, lease, sell, exchange, convey, and otherwise ((do anything a trustee may do)) have the same powers, and be subject to the same limitations of liability, that a trustee has under RCW 11.98.070 and chapters 11.100 and 11.102 RCW with regard to the assets of the estate, both real and personal, all without an order of court and without notice, approval, or confirmation, and in all other respects administer and settle the estate of the decedent without intervention of court. ((Any party to any such transaction and his or her successors in interest shall be entitled to have it conclusively presumed that the transaction is necessary for the administration of the decedent's estate.)) Except as otherwise specifically provided in this ((chapter)) title or by order of court, ((chapter 11.76 RCW shall not apply to the administration of an estate by)) a personal representative acting under nonintervention powers may exercise the powers granted to a personal representative under chapter 11.76 RCW but is not obligated to comply with the duties imposed on personal representatives by that chapter. A party to such a transaction and the party's successors in interest are entitled to have it conclusively presumed that the transaction is necessary for the administration of the decedent's estate.

(2) Except as otherwise provided in chapter 11.108 RCW or elsewhere in order to preserve a marital deduction from estate taxes, a testator may by a will relieve the personal representative from any or all of the duties, restrictions, and liabilities imposed: Under common law; by chapters 11.— (sections 48 through 57 of this act), 11.56, 11.100, 11.102, and 11.104 RCW; or by RCW 11.28.270 and 11.28.280, section 67 of this act, and RCW 11.98.070. In addition, a testator may likewise alter or deny any or all of the privileges and powers conferred by this title.

and may add duties, restrictions, liabilities, privileges, or powers to those imposed or granted by this title. If any common law or any statute referenced earlier in this subsection is in conflict with a will, the will controls whether or not specific reference is made in the will to this section. However, notwithstanding the rest of this subsection, a personal representative may not be relieved of the duty to act in good faith and with honest judgment.

NEW SECTION. Sec. 67. A new section is added to chapter 11.68 RCW to read as follows:

All of the provisions of RCW 11.98.016 regarding the exercise of powers by co-trustees of a trust shall apply to the co-personal representatives of an estate in which the co-personal representatives have been granted nonintervention powers, as if, for purposes of the interpretation of that law, co-personal representatives were co-trustees and an estate were a trust.

Sec. 68. RCW 11.68.110 and 1990 c 180 s 5 are each amended to read as follows:

(1) If a personal representative who has acquired nonintervention powers does not apply to the court for either of the final decrees provided for in RCW 11.68.100 as now or hereafter amended, the personal representative shall, when the administration of the estate has been completed, file a declaration ((to that effect, which declaration shall)) that must state as follows:

((1)) (a) The date of the decedent's death(;) and the decedent's residence at the time of death(;);

(b) Whether or not the decedent died testate or intestate(, and if);

(c) If the decedent died testate, the date of the decedent's last will and testament and the date of the order ((admitting the will to probate)) probating the will;

((2)) (d) That each creditor's claim which was justly due and properly presented as required by law has been paid or otherwise disposed of by agreement with the creditor, and that the amount of estate taxes due as the result of the decedent's death has been determined, settled, and paid;

((3)) (e) That the personal representative has completed the administration of the decedent's estate without court intervention, and the estate is ready to be closed;

((4)) (f) If the decedent died intestate, the names, addresses (if known), and relationship of each heir of the decedent, together with the distributive share of each heir; and

((5)) (g) The amount of fees paid or to be paid to each of the following: ((a)) (i) Personal representative or representatives(, (b)); (ii) lawyer or lawyers(, (c)); (iii) appraiser or appraisers(,); and ((d)) (iv) accountant or accountants; and that the personal representative believes the fees to be reasonable and does not intend to obtain court approval of the amount of the fees or to submit an estate accounting to the court for approval.

(2) Subject to the requirement of notice as provided in this section, unless an heir, devisee, or legatee of a decedent petitions the court either for an order requiring the personal representative to obtain court approval of the amount of fees paid or to be paid to the personal representative, lawyers, appraisers, or accountants, or for an order requiring an accounting, or both, within thirty days from the date of filing a declaration of completion of probate, the personal representative will be automatically discharged without further order of the court and the representative's powers will cease thirty days after the filing of the declaration of completion of probate, and the declaration of completion of probate shall, at that time, be the equivalent of the entry of a decree of distribution in accordance with chapter 11.76 RCW for all legal intents and purposes.

(3) Within five days of the date of the filing of the declaration of completion, the personal representative or the personal representative's lawyer shall mail a copy of the declaration of completion to each heir, legatee, or devisee of the decedent ((f)), who has not waived notice of ((said)) the filing, in writing, filed in the cause((?)), or who, not having waived notice, either has not received the full amount of the distribution to which the heir, legatee, or devisee is entitled or has a property right that might be affected adversely by the discharge of the personal representative under this section, together with a notice which shall be substantially as follows:

CAPTION
OF
CASE

NOTICE OF FILING OF
DECLARATION OF COMPLETION
OF PROBATE

NOTICE IS GIVEN that the attached Declaration of Completion of Probate was filed by the undersigned in the above-entitled court on the day of, 19. . .; unless you shall file a petition in the above-entitled court requesting the court to approve the reasonableness of the fees, or for an accounting, or both, and serve a copy thereof upon the personal representative or the personal representative's lawyer, within thirty days after the date of the filing, the amount of fees paid or to be paid will be deemed reasonable, the acts of the personal representative will be deemed approved, the personal representative will be automatically discharged without further order of the court, and the Declaration of Completion of Probate will be final and deemed the equivalent of a Decree of Distribution entered under chapter 11.76 RCW.

If you file and serve a petition within the period specified, the undersigned will request the court to fix a time and place for the hearing of your petition, and you will be notified of the time and place thereof, by mail, or personal service, not less than ten days before the hearing on the petition.

Dated this day of, 19. . .

.....
Personal Representative

(4) If all heirs, devisees, and legatees of the decedent entitled to notice under this section waive, in writing, the notice required by this section, the personal representative will be automatically discharged without further order of the court and the declaration of completion of probate will become effective as a decree of distribution upon the date of filing thereof. In those instances where the personal representative has been required to furnish bond, and a declaration of completion is filed pursuant to this section, any bond furnished by the personal representative shall be automatically discharged upon the discharge of the personal representative.

NEW SECTION. Sec. 69. A new section is added to chapter 11.68 RCW to read as follows:

If the declaration of completion of probate and the notice of filing of declaration of completion of probate state that the personal representative intends to make final distribution within five business days after the final date on which a beneficiary could petition for an order to approve fees or to require an accounting, which date is referred to in this section as the "effective date of the declaration of completion," and if the notice of filing of declaration of completion of probate sent to each beneficiary who has not received everything to which that beneficiary is entitled from the decedent's estate specifies the amount of the minimum distribution to be made to that beneficiary, the personal representative retains, for five business days following the effective date of the declaration of completion, the power to make the stated minimum distributions. In this case, the personal representative is discharged from all claims other than those relating to the actual distribution of the reserve, at the effective date of the declaration of completion. The personal representative is only discharged from liability for the distribution of the reserve when the whole reserve has been distributed and each beneficiary has received at least the distribution which that beneficiary's notice stated that the beneficiary would receive.

NEW SECTION. Sec. 70. A new section is added to chapter 11.68 RCW to read as follows:

(1) The personal representative retains the powers to: Deal with the taxing authority of any federal, state, or local government; hold a reserve in an amount not to exceed three thousand dollars, for the determination and payment of any additional taxes, interest, and penalties, and of all reasonable expenses related directly or indirectly to such determination or payment; pay from the reserve the reasonable expenses, including compensation for services rendered or goods provided by the personal representative or by the personal representative's employees, independent contractors, and other agents, in addition to any taxes, interest, or penalties assessed by a taxing authority; receive and hold any credit, including interest, from any taxing authority; and distribute the residue of the reserve to the intended beneficiaries of the reserve; if:

(a) In lieu of the statement set forth in RCW 11.68.110(1)(e), the declaration of completion of probate states that:

The personal representative has completed the administration of the decedent's estate without court intervention, and the estate is ready to be closed, except for the determination of taxes and of interest and penalties thereon as permitted under this section;

and

(b) The notice of the filing of declaration of completion of probate must be in substantially the following form:

CAPTION OF CASE NOTICE OF FILING OF DECLARATION OF COMPLETION OF PROBATE

NOTICE IS GIVEN that the attached Declaration of Completion of Probate was filed by the undersigned in the above-entitled court on the . . . day of; unless you file a petition in the above-entitled court requesting the court to approve the reasonableness of the fees, or for an accounting, or both, and serve a copy thereof upon the personal representative or the personal representative's lawyer, within thirty days after the date of the filing:

(i) The schedule of fees set forth in the Declaration of Completion of Probate will be deemed reasonable;

(ii) The Declaration of Completion of Probate will be final and deemed the equivalent of a Decree of Distribution entered under chapter 11.76 RCW;

(iii) The acts that the personal representative performed before the Declaration of Completion of Probate was filed will be deemed approved, and the personal representative will be automatically discharged without further order of the court with respect to all such acts; and

(iv) The personal representative will retain the power to deal with the taxing authorities, together with \$. . . for the determination and payment of all remaining tax obligations. Only that portion of the reserve that remains after the settlement of any tax liability, and the payment of any expenses associated with such settlement, will be distributed to the persons legally entitled to the reserve.

(2) If the requirements in subsection (1) of this section are met, the personal representative is discharged from all claims other than those relating to the settlement of any tax obligations and the actual distribution of the reserve, at the effective date of the declaration of completion. The personal representative is discharged from liability from the settlement of any tax obligations and the distribution of the reserve, and the personal representative's powers cease, thirty days after the personal representative:

(a) Has mailed to those persons who would have shared in the distribution of the reserve had the reserve remained intact; and

(b) Has filed with the court copies of checks or receipts showing how the reserve was in fact distributed, unless a person with an interest in the reserve petitions the court earlier within the thirty-day period for an order requiring an accounting of the reserve or an order determining the reasonableness, or lack of reasonableness, of distributions made from the reserve. If the personal representative has been required to furnish a bond, any bond furnished by the personal representative is automatically discharged upon the final discharge of the personal representative.

Sec. 71. RCW 11.76.080 and 1977 ex.s. c 80 s 15 are each amended to read as follows:

If there be any alleged ~~((incompetent or disabled))~~ incapacitated person as defined in RCW 11.88.010 interested in the estate who has no legally appointed guardian or limited guardian, the court:

(1) At any stage of the proceeding in its discretion and for such purpose or purposes as it shall indicate, may~~(;)~~ appoint; and

(2) For hearings held ~~((pursuant to RCW 11.52.010, 11.52.020, 11.68.040))~~ under sections 48 and 61 of this act, RCW 11.68.100, and 11.76.050~~((, each as now or hereafter amended;))~~ or for entry of an order adjudicating testacy or intestacy and heirship when no personal representative is appointed to administer the estate of the decedent, shall appoint some disinterested person as guardian ad litem to represent ~~((such))~~ the allegedly ~~((incompetent or disabled))~~ incapacitated person with reference to any petition, proceeding report, or adjudication of testacy or intestacy without the appointment of a personal representative to administer the estate of decedent in which the alleged ~~((incompetent or disabled))~~ incapacitated person may have an interest, who, on behalf of the alleged ~~((incompetent or disabled))~~ incapacitated person, may contest the same as any other person interested might contest it, and who shall be allowed by the court reasonable compensation for his or her services: PROVIDED, HOWEVER, That where a surviving spouse is the sole beneficiary under the terms of a will, the court may grant a motion by the personal representative to waive the appointment of a guardian ad litem for a person who is the minor child of ~~((such))~~ the surviving spouse and the decedent and who is ~~((incompetent))~~ incapacitated solely for the reason of his or her being under eighteen years of age.

Sec. 72. RCW 11.76.095 and 1991 c 193 s 28 are each amended to read as follows:

When a decree of distribution is made by the court in administration upon a decedent's estate or when distribution is made by a personal representative under a nonintervention will and distribution is ordered under such decree or authorized under such nonintervention will to a person under the age of eighteen years, it shall be required that:

(1) The money be deposited in a bank or trust company or be invested in an account in an insured financial institution for the benefit of the minor subject to withdrawal only upon the order of the court in the original probate proceeding, or

upon said minor's attaining the age of eighteen years and furnishing proof thereof satisfactory to the depository;

(2) A general guardian shall be appointed and qualify and the money or property be paid or delivered to such guardian prior to the discharge of the personal representative in the original probate proceeding; or

~~(3) ((The provisions of RCW 11.76.090 are complied with; or~~
~~—(4))) A custodian be selected and the money or property be transferred to the custodian subject to chapter ~~((11.93))~~ 11.114 RCW.~~

Sec. 73. RCW 11.86.041 and 1991 c 7 s 1 are each amended to read as follows:

(1) Unless the instrument creating an interest directs to the contrary, the interest disclaimed shall pass as if the beneficiary had died immediately prior to the date of the transfer of the interest. The disclaimer shall relate back to this date for all purposes.

(2) ~~Unless the ((disclaimer directs to the contrary, the beneficiary may receive another interest in the property subject to the disclaimer))~~ beneficiary is the surviving spouse of a deceased creator of the interest, the beneficiary shall also be deemed to have disclaimed all interests in the property, including all beneficial interests in any trust into which the disclaimed property may pass. This subsection applies unless the disclaimer specifically refers to this subsection and states to the contrary.

(3) Any future interest taking effect in possession or enjoyment after termination of the interest disclaimed takes effect as if the beneficiary had died prior to the date of the beneficiary's final ascertainment as a beneficiary and the indefeasible vesting of the interest.

(4) The disclaimer is binding upon the beneficiary and all persons claiming through or under the beneficiary.

(5) Unless the instrument creating the interest directs to the contrary, a beneficiary whose interest in a devise or bequest under a will has been disclaimed shall be deemed to have died for purposes of RCW 11.12.110.

(6) In the case of a disclaimer that results in property passing to a trust over which the disclaimant has any power to direct the beneficial enjoyment of the disclaimed property, the disclaimant shall also be deemed to have disclaimed any power to direct the beneficial enjoyment of the disclaimed property, unless the power is limited by an ascertainable standard for the health, education, support, or maintenance of any person as described in section 2041 or 2514 of the Internal Revenue Code and the applicable regulations adopted under those sections. This subsection applies unless the disclaimer specifically refers to this subsection and states to the contrary. This subsection shall not be deemed to otherwise prevent such a disclaimant from acting as trustee or executor over disclaimed property.

Sec. 74. RCW 11.95.140 and 1993 c 339 s 11 are each amended to read as follows:

(1)(a) RCW 11.95.100 and 11.95.110 respectively apply to a power of appointment created:

(i) Under a will, codicil, trust agreement, or declaration of trust, deed, power of attorney, or other instrument executed after July 25, 1993, unless the terms of the instrument refer specifically to RCW 11.95.100 or 11.95.110 respectively and provide expressly to the contrary; or

(ii) Under a testamentary trust, trust agreement, or declaration of trust executed before July 25, 1993, unless:

(A) The trust is revoked, or amended to provide otherwise, and the terms of any amendment specifically refer to RCW 11.95.100 or 11.95.110, respectively, and provide expressly to the contrary;

(B) All parties in interest, as defined in RCW 11.98.240(3), elect affirmatively, in the manner prescribed in RCW 11.98.240(4), not to be subject to the application of this subsection. The election must be made by the later of September 1, 2000, or three years after the date on which the trust becomes irrevocable; or

(C) A person entitled to judicial proceedings for a declaration of rights or legal relations under RCW 11.96.070 obtains a judicial determination, under chapter 11.96 RCW, that the application of this subsection (1)(a)(ii) to the trust is inconsistent with the provisions or purposes of the will or trust.

(b) Notwithstanding (a) of this subsection, for the purposes of this section a codicil to a will, an amendment to a trust, or an amendment to another instrument that created the power of appointment in question shall not be deemed to cause that instrument to be executed after July 25, 1993, unless the codicil(;) or amendment(~~(, or other instrument)~~) clearly shows an intent to have RCW 11.95.100 or 11.95.110 apply.

(2) Notwithstanding subsection (1) of this section, RCW 11.95.100 through 11.95.150 shall apply to a power of appointment created under a will, codicil, trust agreement, or declaration of trust, deed, power of attorney, or other instrument executed prior to July 25, 1993, if the person who created the power of appointment had on July 25, 1993, the power to revoke, amend, or modify the instrument creating the power of appointment, unless:

(a) The terms of the instrument specifically refer to RCW 11.95.100 or 11.95.110 respectively and provide expressly to the contrary; or

(b) The person creating the power of appointment was not competent, on July 25, 1993, to revoke, amend, or modify the instrument creating the power of appointment and did not regain his or her competence to revoke, amend, or modify the instrument creating the power of appointment on or before his or her death or before the time at which the instrument could no longer be revoked, amended, or modified by the person.

Sec. 75. RCW 11.98.070 and 1989 c 40 s 7 are each amended to read as follows:

A trustee, or the trustees jointly, of a trust, in addition to the authority otherwise given by law, have discretionary power to acquire, invest, reinvest, exchange, sell, convey, control, divide, partition, and manage the trust property in accordance with the standards provided by law, and in so doing may:

(1) Receive property from any source as additions to the trust or any fund of the trust to be held and administered under the provisions of the trust;

(2) Sell on credit;

(3) Grant, purchase or exercise options;

(4) Sell or exercise subscriptions to stock or other corporate securities and to exercise conversion rights;

(5) Deposit stock or other corporate securities with any protective or other similar committee;

(6) Assent to corporate sales, leases, and encumbrances;

(7) Vote trust securities in person or by proxy with power of substitution; and enter into voting trusts;

(8) Register and hold any stocks, securities, or other property in the name of a nominee or nominees without mention of the trust relationship, provided the trustee or trustees are liable for any loss occasioned by the acts of any nominee, except that this subsection shall not apply to situations covered by RCW 11.98.070(31);

(9) Grant leases of trust property, with or without options to purchase or renew, to begin within a reasonable period and for terms within or extending beyond the duration of the trust, for any purpose including exploration for and removal of oil, gas and other minerals; enter into community oil leases, pooling and unitization agreements;

(10) Subdivide, develop, dedicate to public use, make or obtain the vacation of public plats, adjust boundaries, partition real property, and on exchange or partition to adjust differences in valuation by giving or receiving money or money's worth;

(11) Compromise or submit claims to arbitration;

(12) Borrow money, secured or unsecured, from any source, including a corporate trustee's banking department, or from the individual trustee's own funds;

(13) Make loans, either secured or unsecured, at such interest as the trustee may determine to any person, including any beneficiary of a trust, except that no trustee who is a beneficiary of a trust may participate in decisions regarding loans to such beneficiary from the trust, unless the loan is as described in RCW 83.110.020(2), and then only to the extent of the loan, and also except that if a beneficiary or the grantor of a trust has the power to change a trustee of the trust, the power to loan shall be limited to loans at a reasonable rate of interest and for adequate security;

(14) Determine the hazards to be insured against and maintain insurance for them;

(15) Select any part of the trust estate in satisfaction of any partition or distribution, in kind, in money or both; make nonpro rata distributions of property in kind; allocate particular assets or portions of them or undivided interests in them to any one or more of the beneficiaries without regard to the income tax basis of specific property allocated to any beneficiary and without any obligation to make an equitable adjustment;

(16) Pay any income or principal distributable to or for the use of any beneficiary, whether that beneficiary is under legal disability, to the beneficiary or for the beneficiary's use to the beneficiary's parent, guardian, custodian under the uniform gifts to minors act of any state, person with whom he resides, or third person;

(17) Change the character of or abandon a trust asset or any interest in it;

(18) Mortgage, pledge the assets or the credit of the trust estate, or otherwise encumber trust property, including future income, whether an initial encumbrance or a renewal or extension of it, for a term within or extending beyond the term of the trust, in connection with the exercise of any power vested in the trustee;

(19) Make ordinary or extraordinary repairs or alterations in buildings or other trust property, demolish any improvements, raze existing structures, and make any improvements to trust property;

(20) Create restrictions, easements, including easements to public use without consideration, and other servitudes;

(21) Manage any business interest, including any farm or ranch interest, regardless of form, received by the trustee from the trustor of the trust, as a result of the death of a person, or by gratuitous transfer from any other transferor, and with respect to the business interest, have the following powers:

(a) To hold, retain, and continue to operate that business interest solely at the risk of the trust, without need to diversify and without liability on the part of the trustee for any resulting losses;

(b) To enlarge or diminish the scope or nature or the activities of any business;

(c) To authorize the participation and contribution by the business to any employee benefit plan, whether or not qualified as being tax deductible, as may be desirable from time to time;

(d) To use the general assets of the trust for the purpose of the business and to invest additional capital in or make loans to such business;

(e) To endorse or guarantee on behalf of the trust any loan made to the business and to secure the loan by the trust's interest in the business or any other property of the trust;

(f) To leave to the discretion of the trustee the manner and degree of the trustee's active participation in the management of the business, and the trustee is authorized to delegate all or any part of the trustee's power to supervise, manage, or operate to such persons as the trustee may select, including any partner, associate, director, officer, or employee of the business; and also including electing or employing directors, officers, or employees of the trustee to take part in the

management of the business as directors or officers or otherwise, and to pay that person reasonable compensation for services without regard to the fees payable to the trustee;

(g) To engage, compensate, and discharge or to vote for the engaging, compensating, and discharging of managers, employees, agents, lawyers, accountants, consultants, or other representatives, including anyone who may be a beneficiary of the trust or any trustee;

(h) To cause or agree that surplus be accumulated or that dividends be paid;

(i) To accept as correct financial or other statements rendered by any accountant for any sole proprietorship or by any partnership or corporation as to matters pertaining to the business except upon actual notice to the contrary;

(j) To treat the business as an entity separate from the trust, and in any accounting by the trustee it is sufficient if the trustee reports the earning and condition of the business in a manner conforming to standard business accounting practice;

(k) To exercise with respect to the retention, continuance, or disposition of any such business all the rights and powers that the trustor of the trust would have if alive at the time of the exercise, including all powers as are conferred on the trustee by law or as are necessary to enable the trustee to administer the trust in accordance with the instrument governing the trust, subject to any limitations provided for in the instrument; and

(l) To satisfy contractual and tort liabilities arising out of an unincorporated business, including any partnership, first out of the business and second out of the estate or trust, but in no event may there be a liability of the trustee, except as provided in RCW 11.98.110 (2) and (4), and if the trustee is liable, the trustee is entitled to indemnification from the business and the trust, respectively;

(22) Participate in the establishment of, and thereafter in the operation of, any business or other enterprise according to subsection (21) of this section except that the trustee shall not be relieved of the duty to diversify;

(23) Cause or participate in, directly or indirectly, the formation, reorganization, merger, consolidation, dissolution, or other change in the form of any corporate or other business undertaking where trust property may be affected and retain any property received pursuant to the change;

(24) Limit participation in the management of any partnership and act as a limited or general partner;

(25) Charge profits and losses of any business operation, including farm or ranch operation, to the trust estate as a whole and not to the trustee; make available to or invest in any business or farm operation additional moneys from the trust estate or other sources;

(26) Pay reasonable compensation to the trustee or co-trustees considering all circumstances including the time, effort, skill, and responsibility involved in the performance of services by the trustee;

(27) Employ persons, including lawyers, accountants, investment advisors, or agents, even if they are associated with the trustee, to advise or assist the trustee in the performance of the trustee's duties; or to perform any act, regardless of whether the act is discretionary, and to act without independent investigation upon their recommendations, except that:

(a) A trustee may not delegate all of the trustee's duties and responsibilities((; and except that this employment does not relieve the trustee of liability for the discretionary acts of a person, which if done by the trustee, would result in liability to the trustee, or of the duty to select and retain a person with reasonable care));

(b) This power to employ and to delegate duties does not relieve the trustee of liability for such person's discretionary acts, that, if done by the trustee, would result in liability to the trustee;

(c) This power to employ and to delegate duties does not relieve the trustee of the duty to select and retain a person with reasonable care;

(d) The trustee, or a successor trustee, may sue the person to collect any damages suffered by the trust estate even though the trustee might not be personally liable for those damages, subject to the statutes of limitation that would have applied had the claim been one against the trustee who was serving when the act or failure to act occurred;

(28) Appoint an ancillary trustee or agent to facilitate management of assets located in another state or foreign country;

(29) Retain and store such items of tangible personal property as the trustee selects and pay reasonable storage charges thereon from the trust estate;

(30) Issue proxies to any adult beneficiary of a trust for the purpose of voting stock of a corporation acting as the trustee of the trust;

(31) Place all or any part of the securities at any time held by the trustee in the care and custody of any bank, trust company, or member firm of the New York Stock Exchange with no obligation while the securities are so deposited to inspect or verify the same and with no responsibility for any loss or misapplication by the bank, trust company, or firm, so long as the bank, trust company, or firm was selected and retained with reasonable care, and have all stocks and registered securities placed in the name of the bank, trust company, or firm, or in the name of its nominee, and to appoint such bank, trust company, or firm agent as attorney to collect, receive, receipt for, and disburse any income, and generally may perform, but is under no requirement to perform, the duties and services incident to a so-called "custodian" account;

(32) Determine at any time that the corpus of any trust is insufficient to implement the intent of the trust, and upon this determination by the trustee, terminate the trust by distribution of the trust to the current income beneficiary or beneficiaries of the trust or their legal representatives, except that this determination may only be made by the trustee if the trustee is neither the grantor nor the beneficiary of the trust, and if the trust has no charitable beneficiary; and

(33) ((Rely with acquittance on advice of counsel on questions of law; and

—(34)) Continue to be a party to any existing voting trust agreement or enter into any new voting trust agreement or renew an existing voting trust agreement with respect to any assets contained in trust.

See. 76. RCW 11.98.240 and 1994 c 221 s 66 are each amended to read as follows:

(1)(a)((~~+~~)) RCW 11.98.200 and 11.98.210 respectively apply to:

(i) A trust established under a will, codicil, trust agreement, declaration of trust, deed, or other instrument executed after July 25, 1993, unless the instrument's terms refer specifically to RCW 11.98.200 or 11.98.210 respectively and provide expressly to the contrary. However, except for RCW 11.98.200(3), the 1994 c 221 amendments to RCW 11.98.200 apply to a trust established under a will, codicil, trust agreement, declaration of trust, deed, or other instrument executed after January 1, 1995, unless the instrument's terms refer specifically to RCW 11.98.200 and provide expressly to the contrary.

(ii) ~~((Notwithstanding (a)(i) of this subsection, for the purposes of this subsection a codicil to a will or an amendment to a trust does not cause that instrument to be executed after July 25, 1993, unless the codicil or amendment clearly shows an intent to have RCW 11.98.200 or 11.98.210 apply.))~~ A trust created under a will, codicil, trust agreement, declaration of trust, deed, or other instrument executed before July 25, 1993, unless:

(A) The trust is revoked or amended and the terms of the amendment refer specifically to RCW 11.98.200 and provide expressly to the contrary;

(B) All parties in interest, as defined in subsection (3) of this section elect affirmatively, in the manner prescribed in subsection (4) of this section, not to be subject to the application of this subsection. The election must be made by the later of September 1, 2000, or three years after the date on which the trust becomes irrevocable; or

(C) A person entitled to judicial proceedings for a declaration of rights or legal relations under RCW 11.96.070 obtains a judicial determination, under chapter 11.96 RCW, that the application of this subsection (1)(a)(ii) to the trust is inconsistent with the provisions or purposes of the will or trust.

(b) Notwithstanding (a) of this subsection, RCW 11.98.200 and 11.98.210 respectively apply to a trust established under a will or codicil of a decedent dying on or after July 25, 1993, and to an inter vivos trust to which the trustor had on or after July 25, 1993, the power to terminate, revoke, amend, or modify, unless:

(i) The terms of the instrument specifically refer to RCW 11.98.200 or 11.98.210 respectively and provide expressly to the contrary; or

(ii) The decedent or the trustor was not competent, on July 25, 1993, to change the disposition of his or her property, or to terminate, revoke, amend, or modify the trust, and did not regain his or her competence to dispose, terminate, revoke, amend, or modify before the date of the decedent's death or before the trust could not otherwise be revoked, terminated, amended, or modified by the decedent or trustor.

(2) RCW 11.98.200 neither creates a new cause of action nor impairs an existing cause of action that, in either case, relates to a power proscribed under RCW 11.98.200 that was exercised before July 25, 1993. RCW 11.98.210 neither creates a new cause of action nor impairs an existing cause of action that, in either case, relates to a power proscribed, limited, or qualified under RCW 11.98.210.

(3) For the purpose of subsection (1)(a)(ii) of this section, "parties in interest" means those persons identified as "required parties to the dispute" under RCW 11.96.170(6)(b).

(4) The affirmative election required under subsection (1)(a)(ii)(B) of this section must be made in the following manner:

(a) If the trust is revoked or amended, through a revocation of or an amendment to the trust; or

(b) Through a nonjudicial dispute resolution agreement described in RCW 11.96.170.

Sec. 77. RCW 11.96.070 and 1994 c 221 s 55 are each amended to read as follows:

(1) A person with an interest in or right respecting the administration, settlement, or disposition of an interest in a trust or in the estate of an incapacitated, missing, or deceased person may have a judicial proceeding for the declaration of rights or legal relations under this title including but not limited to the following:

(a) The ascertaining of any class of creditors, devisees, legatees, heirs, next of kin, or others;

(b) The ordering of the personal representatives or trustees to do or abstain from doing any particular act in their fiduciary capacity;

(c) The determination of any question arising in the administration of the estate or trust, including without limitation questions of construction of wills and other writings;

(d) The grant to the personal representatives or trustees of any necessary or desirable powers not otherwise granted in the instrument or given by law that the court determines are not inconsistent with the provisions or purposes of the will or trust;

(e) The modification of the will or the trust instrument in the manner required to qualify the gift thereunder for the charitable estate tax deduction permitted by federal law, including the addition of mandatory governing instrument requirements for a charitable remainder trust as required by final regulations and rulings of the United States internal revenue service, in any case in which all parties interested in the trust have submitted written agreements to the proposed changes or written disclaimer of interest;

(f) The modification of the will or the trust instrument in the manner required to qualify any gift thereunder for the benefit of a surviving spouse who is not a citizen of the United States for the estate tax marital deduction permitted by federal law, including the addition of mandatory governing instrument requirements for a qualified domestic trust under section 2056A of the internal revenue code as

required by final regulations and rulings of the United States treasury department or internal revenue service, in any case in which all parties interested in the trust have submitted written agreements to the proposed changes or written disclaimer of interest;

(g) The determination of the persons entitled to notice under RCW 11.96.100 and 11.96.110 for the purposes of any judicial proceeding under this subsection (1) and for the purposes of an agreement under RCW 11.96.170; or

(h) The resolution of any other matter that arises under this title and references this section.

(2) Any person with an interest in or right respecting the administration of a nonprobate asset under this title may have a judicial proceeding for the declaration of rights or legal relations under this title with respect to the nonprobate asset, including without limitation the following:

(a) The ascertaining of any class of creditors or others for purposes of chapter 11.18 or 11.42 RCW;

(b) The ordering of a qualified person, the notice agent, or resident agent, as those terms are defined in chapter 11.42 RCW, or any combination of them, to do or abstain from doing any particular act with respect to a nonprobate asset;

(c) The ordering of a custodian of any of the decedent's records relating to a nonprobate asset to do or abstain from doing any particular act with respect to those records;

(d) The determination of any question arising in the administration under chapter 11.18 or 11.42 RCW of a nonprobate asset;

(e) The determination of the persons entitled to notice under RCW 11.96.100 and 11.96.110 for the purposes of any judicial proceeding under this subsection (2) and for the purposes of an agreement under RCW 11.96.170; and

(f) The determination of any questions relating to the abatement, rights of creditors, or other matter relating to the administration, settlement, or final disposition of a nonprobate asset under this title.

(3) The provisions of this chapter apply to disputes arising in connection with estates of incapacitated persons unless otherwise covered by chapters 11.88 and 11.92 RCW. The provisions of this chapter shall not supersede the otherwise applicable provisions and procedures of chapter 11.24, 11.28, 11.40, (~~11.52,~~) 11.42, 11.56, or 11.60 RCW with respect to any rights or legal obligations that are subject to those chapters.

(4) For the purposes of this section, "a person with an interest in or right respecting the administration, settlement, or disposition of an interest in a trust or in the estate of an incapacitated, missing, or deceased person" includes but is not limited to:

(a) The trustor if living, trustee, beneficiary, or creditor of a trust and, for a charitable trust, the attorney general if acting within the powers granted under RCW 11.110.120;

(b) The personal representative, heir, devisee, legatee, and creditor of an estate;

(c) The guardian, guardian ad litem, and ward of a guardianship, and a creditor of an estate subject to a guardianship; and

(d) Any other person with standing to sue with respect to any of the matters for which judicial proceedings are authorized in subsection (1) of this section.

(5) For the purposes of this section, "any person with an interest in or right respecting the administration of a nonprobate asset under this title" includes but is not limited to:

(a) The notice agent, the resident agent, or a qualified person, as those terms are defined in chapter 11.42 RCW;

(b) The recipient of the nonprobate asset with respect to any matter arising under this title;

(c) Any other person with standing to sue with respect to any matter for which judicial proceedings are authorized in subsection (2) of this section; and

(d) The legal representatives of any of the persons named in this subsection.

Sec. 78. RCW 11.104.010 and 1985 c 30 s 84 are each amended to read as follows:

As used in this chapter:

(1) "Income beneficiary" means the person to whom income is presently payable or for whom it is accumulated for distribution as income;

(2) Except as provided in RCW 11.104.110, "inventory value" means the cost of property purchased by the trustee and the cost or adjusted basis for federal income tax purposes of other property at the time it became subject to the trust, but in the case of a trust asset that is included on any death tax return the trustee may, but need not, use the value finally determined for the purposes of the federal estate tax if applicable, otherwise for another estate or inheritance tax;

(3) "Remainderman" means the person entitled to principal, including income which has been accumulated and added to principal.

NEW SECTION. **Sec. 79.** A new section is added to chapter 11.104 RCW to read as follows:

(1) Notwithstanding any contrary provision of this chapter, if the trust instrument adopts this section by specific reference, an increase in the value of the following investments, over the value of the investments at the time of acquisition by the trust, is distributable as income when it becomes available for distribution:

(a) A zero coupon bond;

(b) An annuity contract before annuitization;

(c) A life insurance contract before the death of the insured;

(d) An interest in a common trust fund as defined in section 584 of the Internal Revenue Code;

(e) An interest in a partnership as defined in section 7701 of the Internal Revenue Code; or

(f) Any other obligation for the payment of money that is payable at a future time in accordance with a fixed, variable, or discretionary schedule of appreciation in excess of the price at which it was issued.

(2) The increase in value of the investments described in subsection (1) of this section is allocable to the beneficiary who is the beneficiary to whom income may be distributed at the time when the trustee receives cash on account of the investment, notwithstanding RCW 11.104.070.

(3) For purposes of this section, the increase in value of an investment described in subsection (1) of this section is available for distribution only when the trustee receives cash on account of the investment.

Sec. 80. RCW 11.104.110 and 1971 c 74 s 11 are each amended to read as follows:

~~((Except as provided in RCW 11.104.090 and 11.104.100, if the principal consists of property subject to depletion, including leaseholds, patents, copyrights, royalty rights, and rights to receive payments on a contract for deferred compensation, receipts from the property, not in excess of five percent per year of its inventory value, are income, and the balance is principal:))~~ (1) Subject to subsection (3) of this section, if the principal of a trust includes a deferred payment right including the right to receive deferred compensation, the proceeds of the right or the amount of deferred compensation, on receipt, are income to the extent determinable without reference to this section, or if not so determinable, are income up to five percent of the inventory value of the right or amount, determined separately for each year in which the right or amount is subject to the trust. The remainder of the proceeds or amount is principal. If not otherwise determinable, the allocation to income is computed in the same manner in which interest under a loan of the initial inventory amount would be computed, at five percent interest compounded annually, as if annual payments were made by the borrower to the lender.

(2) If income is determined under this section, for the first year, inventory value is determined as provided by this chapter or by this section for deferred compensation. For each year after the first year, the inventory value is:

(a) Reduced to the extent that the proceeds of the right or amount received during the preceding year were allocated to principal; and

(b) Increased to the extent that the proceeds received during the preceding year were less than five percent of the inventory value of that year.

(3) While the deferred payment right is under administration in a decedent's estate, income and principal are determined by using the fiscal year of the estate and ending on the date the trust is funded with the right. After the administration of the estate, the fiscal year of the trust is used. The five percent allocation to income is prorated for any year that is less than twelve months.

(4) The proceeds of a deferred payment right include all receipts relating to the right, whether or not the receipts are periodic. After the proceeds are received by the trustee and allocated in accordance with this section, this section does not apply

to the proceeds except to the extent the proceeds include a continuing deferred payment right or right to receive deferred compensation.

(5) In this section:

(a) "Deferred compensation" means an amount receivable under an arrangement for the payment of compensation in a year after the year in which the compensation was earned, whether the obligation to pay is funded or unfunded and includes the right to payment:

(i) Of benefits under a nonqualified plan of deferred compensation or similar arrangement or agreement; or

(ii) Of benefits under an employee benefit plan as defined in this section;

(b) "Deferred payment right" means a depletable asset, other than natural resources governed by RCW 11.104.090 or timber governed by RCW 11.104.100, consisting of the right to property under a contract, account, or other arrangement that is payable not earlier than twelve months after the date the right becomes subject to the trust. A deferred payment right includes the right to receive a periodic, annuity, installment, or single-sum future payment:

(i) Under a leasehold, patent, copyright, or royalty;

(ii) Of income in respect of a decedent under section 691 of the Internal Revenue Code of 1986; or

(iii) Of death benefits;

(c) "Employee benefit plan" means any of the following, whether funded by a trust, custodian account, annuity, or retirement bond:

(i) A plan, individual retirement account, or deferred compensation plan or arrangement that is described in RCW 49.64.020, section 401(a), 403(a), 403(b), 408, or 457 of the Internal Revenue Code of 1986, as amended, or in section 409 of the Internal Revenue Code in effect before January 1, 1984; or

(ii) An employee benefit plan established or maintained by:

(A) The government of the United States;

(B) The state of Washington;

(C) A state or territory of the United States;

(D) The District of Columbia; or

(E) A political subdivision, agency, or instrumentality of the entities in (c)(ii)(A) through (D) of this subsection; and

(d) "Year" means the fiscal year of the estate or trust for federal income tax purposes.

(6) The deferred compensation payable consisting of the account balance or accrued benefit as of the date of death of the owner of such amount receivable or, if elected, the alternate valuation date for federal estate tax purposes, shall be the inventory value of the deferred compensation as used in this chapter as of that date.

Sec. 8I. RCW 11.108.010 and 1993 c 73 s 2 are each amended to read as follows:

Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter.

(1) The term "pecuniary bequest" means a gift in a governing instrument which either is expressly stated as a fixed dollar amount or is a gift of a dollar amount determinable by the governing instrument, and a gift expressed in terms of a "sum" or an "amount," unless the context dictates otherwise, is a gift of a dollar amount.

(2) As the context might require, the term "marital deduction" means either the federal estate tax deduction or the federal gift tax deduction allowed for transfers to spouses under the Internal Revenue Code.

(3) The term "maximum marital deduction" means the maximum amount qualifying for the marital deduction.

(4) The term "marital deduction gift" means a gift intended to qualify for the marital deduction as indicated by a preponderance of the evidence including the governing instrument and extrinsic evidence whether or not the governing instrument is found to be ambiguous.

(5) The term "governing instrument" includes ~~((a)), but is not limited to:~~ Will and codicils(,); ((irrevocable, and)) revocable trusts and amendments or addenda to revocable trusts; irrevocable trusts; beneficiary designations under life insurance policies, annuities, employee benefit plans, and individual retirement accounts; payable-on-death, trust, or joint with right of survivorship bank or brokerage accounts; transfer on death designations or transfer on death or pay on death securities; and documents exercising powers of appointment.

(6) The term "fiduciary" means trustee or personal representative. Reference to a fiduciary in the singular includes the plural where the context requires.

(7) The term "gift" refers to all legacies, devises, and bequests made in a governing instrument.

(8) The term "transferor" means the testator, grantor, or other person making a gift.

(9) The term "spouse" includes the transferor's surviving spouse in the case of a deceased transferor.

Sec. 82. RCW 11.108.020 and 1993 c 73 s 3 are each amended to read as follows:

(1) If a governing instrument contains a marital deduction gift, the governing instrument shall be construed to comply with the marital deduction provisions of the Internal Revenue Code in every respect.

(2) If a governing instrument contains a marital deduction gift, ((the governing instrument, including any power, duty, or discretionary authority given to the fiduciary, shall be construed to comply with the marital deduction provisions of the Internal Revenue Code in order to conform to that intent. Whether the governing instrument contains a marital deduction gift depends upon the intent of the testator, grantor, or other transferor at the time the governing instrument is executed. If the testator, grantor, or other transferor has adequately evidenced an intention to make a marital deduction gift, the fiduciary shall not take any action or have any power that may impair that deduction, but this does not require the fiduciary to make the

~~election under section 2056(b)(7) of the Internal Revenue Code that is referred to in RCW 11.108.025)) any fiduciary operating under the governing instrument has all the powers, duties, and discretionary authority necessary to comply with the marital deduction provisions of the Internal Revenue Code. The fiduciary shall not take any action or have any power that may impair that deduction, but this does not require the fiduciary to make the elections under either section 2056(b)(7) or 2523(f) of the Internal Revenue Code that is referred to in RCW 11.108.025.~~

Sec. 83. RCW 11.108.025 and 1993 c 73 s 4 are each amended to read as follows:

Unless a governing instrument directs to the contrary:

(1) The fiduciary shall have the power to make elections, in whole or in part, to qualify property for the marital deduction as qualified terminable interest property under section 2056(b)(7) or 2523(f) of the Internal Revenue Code or, if the surviving spouse is not a citizen of the United States, under section 2056A of the Internal Revenue Code. Further, the fiduciary shall have the power to make generation-skipping transfer tax allocations under section 2632 of the Internal Revenue Code.

(2) The fiduciary making an election under section 2056(b)(7), 2523(f), or 2056A of the Internal Revenue Code or making an allocation under section 2632 of the Internal Revenue Code may benefit personally from the election or allocation, with no duty to reimburse any other person interested in the election or allocation. The fiduciary shall have no duty to make any equitable adjustment and shall have no duty to treat interested persons impartially in respect of the election or allocation.

(3) The fiduciary of a trust, if an election is made under section 2056(b)(7), 2523(f), or 2056A of the Internal Revenue Code, if an allocation is made under section 2632 of the Internal Revenue Code, or if division of a trust is of benefit to the persons interested in the trust, may divide the trust into two or more separate trusts, of equal or unequal value, ~~((provided that))~~ if:

(a) The terms of the separate trusts which result are substantially identical to the terms of the trust before division~~((, and provided further,))~~;

(b) In the case of a trust otherwise qualifying for the marital deduction under the Internal Revenue Code, ((that)) the division shall not prevent a separate trust for which the election is made from qualifying for the marital deduction; and

(c) The allocation of assets shall be based upon the fair market value of the assets at the time of the division.

Sec. 84. RCW 11.108.050 and 1993 c 73 s 5 are each amended to read as follows:

~~((+))~~ If a governing instrument ~~((indicates the testator's intention to make))~~ contains a marital deduction gift in trust, then in addition to the other provisions of this ~~((section))~~ chapter, each of the following ~~((also))~~ applies to the trust~~((; provided, however, that such provisions shall not apply to any trust which provides for the entire then remaining trust estate to be paid on the termination of the income~~

~~interest to the estate of the spouse of the trust's creator, or to a charitable beneficiary, contributions to which are tax deductible for federal income tax purposes:~~

~~— (a) The only income beneficiary of a marital deduction trust is the testator's surviving spouse;~~

~~— (b) The income beneficiary is entitled to all of the trust income until the trust terminates;~~

~~— (c) The trust income is payable to the income beneficiary not less frequently than annually; and~~

~~— (d) Except in the case of a marital deduction gift in trust, described in subsection (2) of this section, or property that has or would otherwise have qualified for the marital deduction only as the result of an election under section 2056(b)(7) of the Internal Revenue Code, upon termination of the trust, all of the remaining trust assets, including accrued or undistributed income, pass either to the income beneficiary or under the exercise of a general power of appointment granted to the income beneficiary in favor of the income beneficiary's estate or to any other person or entity in trust or outright. The general power of appointment is exercisable by the income beneficiary alone and in all events.~~

~~— (2) If a governing instrument indicates the testator's intention to make a marital deduction gift in trust and the surviving spouse is not a citizen of the United States, subsection (1)(a), (b), and (c) of this section and each of the following shall apply to the trust:~~

~~— (a) At least one trustee of the trust shall be an individual citizen of the United States or a domestic corporation, and no distribution, other than a distribution of income, may be made from the trust unless a trustee who is an individual citizen of the United States or a domestic corporation has the right to withhold from the distribution the tax imposed under section 2056A of the Internal Revenue Code on the distribution;~~

~~— (b) The trust shall meet such requirements as the secretary of the treasury of the United States may by regulations prescribe to ensure collection of estate tax, under section 2056A(b) of the Internal Revenue Code; and~~

~~— (c) (a) and (b) of this subsection shall no longer apply to the trust if the surviving spouse becomes a citizen of the United States and (i) the surviving spouse is a resident of the United States at all times after the testator's death and before becoming a citizen, or (ii) no tax has been imposed on the trust under section 2056A(b)(1)(A) of the Internal Revenue Code before the surviving spouse becomes a citizen, or (iii) the surviving spouse makes an election under section 2056A(b)(12)(C) of the Internal Revenue Code regarding tax imposed on distributions from the trust before becoming a citizen.~~

~~— (3) The exercise of the general power of appointment provided in this section shall be done only by the income beneficiary in the manner provided by RCW 11.95.060) to the extent necessary to qualify the gift for the marital deduction:~~

(1) If the transferor's spouse is a citizen of the United States at the time of the transfer:

(a) The transferor's spouse is entitled to all of the income from the trust, payable annually or at more frequent intervals, during the spouse's life;

(b) During the life of the transferor's spouse, a person may not appoint or distribute any part of the trust property to a person other than the transferor's spouse;

(c) The transferor's spouse may compel the trustee of the trust to make any unproductive property of the trust productive, or to convert the unproductive property into productive property, within a reasonable time; and

(d) The transferor's spouse may, alone and in all events, dispose of all of the trust property, including accrued or undistributed income, remaining after the spouse's death under a testamentary general power of appointment, as defined in section 2041 of the Internal Revenue Code. However, this subsection (1)(d) does not apply to: (i) A marital deduction gift in trust which is described in subsection (2) of this section; (ii) that portion of a marital deduction gift in trust that has qualified for the marital deduction as a result of an election under section 2056(b)(7) or 2523(f) of the Internal Revenue Code; and (iii) that portion of marital deduction gift in trust that would have qualified for the marital deduction but for the fiduciary's decision not to make the election under section 2056(b)(7) or 2523(f) of the Internal Revenue Code;

(2) If the transferor's spouse is not a citizen of the United States at the time of the transfer, then to the extent necessary to qualify the gift for the marital deduction, subsection (1)(a), (b), and (c) of this section and each of the following applies to the trust:

(a) At least one trustee of the trust must be an individual citizen of the United States or a domestic corporation, and a distribution, other than a distribution of income, may not be made from the trust unless a trustee who is an individual citizen of the United States or a domestic corporation has the right to withhold from the distribution the tax imposed under section 2056A of the Internal Revenue Code on the distribution;

(b) The trust must meet such requirements as the secretary of the treasury of the United States by regulations prescribes to ensure collection of estate tax, under section 2056A(b) of the Internal Revenue Code; and

(c) Subsection (2)(a) and (b) of this section no longer apply to the trust if the transferor's spouse becomes a citizen of the United States and: (i) The transferor's spouse was a resident of the United States at all times after the transferor's death and before becoming a citizen; (ii) tax has not been imposed on the trust under section 2056A(b)(1)(A) of the Internal Revenue Code before the transferor's spouse becomes a citizen; or (iii) the transferor's spouse makes an election under section 2056A(b)(12)(C) of the Internal Revenue Code regarding tax imposed on distributions from the trust before becoming a citizen; and

(3) Subsection (1) of this section does not apply to:

(a) A trust: (i) That provides for a life estate or term of years for the exclusive benefit of the transferor's spouse, with the remainder payable to the such spouse's

estate; or (ii) created exclusively for the benefit of the estate of the transferor's spouse; and

(b) An interest of the transferor's spouse in a charitable remainder annuity trust or charitable remainder unitrust described in section 664 of the Internal Revenue Code, if the transferor's spouse is the only noncharitable beneficiary.

Sec. 85. RCW 11.28.237 and 1994 c 221 s 24 are each amended to read as follows:

(1) Within twenty days after appointment, the personal representative of the estate of a decedent shall cause written notice of his or her appointment and the pendency of said probate proceedings, to be served personally or by mail to each heir, legatee and devisee of the estate and each beneficiary or transferee of a nonprobate asset of the decedent whose names and addresses are known to him or her, and proof of such mailing or service shall be made by affidavit and filed in the cause.

(2) If the personal representative does not otherwise give notice to creditors under chapter 11.40 RCW within thirty days after appointment, the personal representative shall cause written notice of his or her appointment and the pendency of the probate proceedings to be mailed to the state of Washington department of social and health services office of financial recovery, and proof of the mailing shall be made by affidavit and filed in the cause.

Sec. 86. RCW 11.108.060 and 1989 c 35 s 1 are each amended to read as follows:

((If a governing instrument contains a marital deduction gift, whether outright or in trust and whether there is a specific reference to this section, any survivorship requirement expressed in the governing instrument in excess of six months, other than survival by a spouse of a common disaster resulting in the death of the decedent, does not apply to property passing under a marital deduction gift, and in addition, is limited to a six-month period beginning with the testator's death.)) For an estate that exceeds the amount exempt from tax by virtue of the unified credit under section 2010 of the Internal Revenue Code, if taking into account applicable adjusted taxable gifts as defined in section 2001(b) of the Internal Revenue Code, any marital deduction gift that is conditioned upon the transferor's spouse surviving the transferor for a period of more than six months, is governed by the following:

(1) A survivorship requirement expressed in the governing instrument in excess of six months, other than survival by a spouse of a common disaster resulting in the death of the transferor, does not apply to property passing under the marital deduction gift, and for the gift, the survivorship requirement is limited to a six-month period beginning with the transferor's death.

(2) The property that is the subject of the marital deduction gift must be held in a trust meeting the requirements of section 2056(b)(7) of the Internal Revenue Code the corpus of which must: (a) Pass as though the spouse failed to survive the transferor if the spouse, in fact, fails to survive the term specified in the governing instrument; and (b) pass to the spouse under the terms of the governing instrument if the spouse, in fact, survives the term specified in the governing instrument.

NEW SECTION. Sec. 87. The following acts or parts of acts are each repealed:

- (1) RCW 11.40.011 and 1989 c 333 s 2, 1983 c 201 s 1, & 1967 ex.s. c 106 s 3;
- (2) RCW 11.40.012 and 1989 c 333 s 3;
- (3) RCW 11.40.013 and 1994 c 221 s 26 & 1989 c 333 s 4;
- (4) RCW 11.40.014 and 1989 c 333 s 5;
- (5) RCW 11.40.015 and 1994 c 221 s 27 & 1989 c 333 s 6;
- (6) RCW 11.42.160 and 1994 c 221 s 46;
- (7) RCW 11.42.170 and 1994 c 221 s 47;
- (8) RCW 11.42.180 and 1994 c 221 s 48;
- (9) RCW 11.44.066 and 1990 c 180 s 1 & 1974 ex.s. c 117 s 49;
- (10) RCW 11.52.010 and 1987 c 442 s 1116, 1984 c 260 s 17, 1974 ex.s. c 117 s 7, 1971 ex.s. c 12 s 2, 1967 c 168 s 12, & 1965 c 145 s 11.52.010;
- (11) RCW 11.52.012 and 1985 c 194 s 1, 1984 c 260 s 18, 1977 ex.s. c 234 s 9, 1974 ex.s. c 117 s 8, & 1965 c 145 s 11.52.012;
- (12) RCW 11.52.014 and 1965 c 145 s 11.52.014;
- (13) RCW 11.52.016 and 1988 c 202 s 18, 1972 ex.s. c 80 s 1, & 1965 c 145 s 11.52.016;
- (14) RCW 11.52.020 and 1985 c 194 s 2, 1984 c 260 s 19, 1974 ex.s. c 117 s 9, 1971 ex.s. c 12 s 3, 1967 c 168 s 13, & 1965 c 145 s 11.52.020;
- (15) RCW 11.52.022 and 1985 c 194 s 3, 1984 c 260 s 20, 1977 ex.s. c 234 s 10, 1974 ex.s. c 117 s 10, 1971 ex.s. c 12 s 4, & 1965 c 145 s 11.52.022;
- (16) RCW 11.52.024 and 1972 ex.s. c 80 s 2 & 1965 c 145 s 11.52.024;
- (17) RCW 11.52.030 and 1965 c 145 s 11.52.030;
- (18) RCW 11.52.040 and 1965 c 145 s 11.52.040;
- (19) RCW 11.52.050 and 1967 c 168 s 14;
- (20) RCW 11.68.010 and 1994 c 221 s 50, 1977 ex.s. c 234 s 18, 1974 ex.s. c 117 s 13, 1969 c 19 s 1, & 1965 c 145 s 11.68.010;
- (21) RCW 11.68.020 and 1974 ex.s. c 117 s 14 & 1965 c 145 s 11.68.020;
- (22) RCW 11.68.030 and 1977 ex.s. c 234 s 19, 1974 ex.s. c 117 s 15, & 1965 c 145 s 11.68.030; and
- (23) RCW 11.68.040 and 1977 ex.s. c 234 s 20, 1974 ex.s. c 117 s 16, & 1965 c 145 s 11.68.040.

NEW SECTION. Sec. 88. Sections 48 through 57 of this act constitute a new chapter in Title 11 RCW.

NEW SECTION. Sec. 89. Sections 1 through 73 of this act apply to estates of decedents dying after December 31, 1997.

Passed the Senate April 19, 1997.

Passed the House April 8, 1997.

Approved by the Governor May 5, 1997.

Filed in Office of Secretary of State May 5, 1997.

CHAPTER 253

[Substitute Senate Bill 5177]

LANE TRAVEL FOR HEAVY VEHICLES—LIMITATIONS

AN ACT Relating to proper lane travel for heavy vehicles; and amending RCW 46.61.100.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 46.61.100 and 1986 c 93 s 2 are each amended to read as follows:

(1) Upon all roadways of sufficient width a vehicle shall be driven upon the right half of the roadway, except as follows:

(a) When overtaking and passing another vehicle proceeding in the same direction under the rules governing such movement;

(b) When an obstruction exists making it necessary to drive to the left of the center of the highway; provided, any person so doing shall yield the right of way to all vehicles traveling in the proper direction upon the unobstructed portion of the highway within such distance as to constitute an immediate hazard;

(c) Upon a roadway divided into three marked lanes and providing for two-way movement traffic under the rules applicable thereon; or

(d) Upon a street or highway restricted to one-way traffic.

(2) Upon all roadways having two or more lanes for traffic moving in the same direction, all vehicles shall be driven in the right-hand lane then available for traffic, except (a) when overtaking and passing another vehicle proceeding in the same direction, (b) when traveling at a speed greater than the traffic flow, (c) when moving left to allow traffic to merge, or (d) when preparing for a left turn at an intersection, exit, or into a private road or driveway when such left turn is legally permitted. On any such roadway, a ~~((motor truck))~~ vehicle or combination over ten thousand pounds shall be driven only in the right-hand lane except under the conditions enumerated in (a) through (d) of this subsection.

(3) No vehicle towing a trailer or no vehicle or combination over ten thousand pounds may be driven in the left-hand lane of a limited access roadway having three or more lanes for traffic moving in one direction except when preparing for a left turn at an intersection, exit, or into a private road or driveway when a left turn is legally permitted. This subsection does not apply to a vehicle using a high-occupancy vehicle lane. A high-occupancy vehicle lane is not considered the left-hand lane of a roadway. The department of transportation, in consultation with the Washington state patrol, shall adopt rules specifying (a) those circumstances where it is permissible for other vehicles to use the left lane in case of emergency or to facilitate the orderly flow of traffic, and (b) those segments of limited access roadway to be exempt from this subsection due to the operational characteristics of the roadway.

(4) It is a traffic infraction to drive continuously in the left lane of a multilane roadway when it impedes the flow of other traffic.

((4)) (5) Upon any roadway having four or more lanes for moving traffic and providing for two-way movement of traffic, a vehicle shall not be driven to the left of the center line of the roadway except when authorized by official traffic control devices designating certain lanes to the left side of the center of the roadway for use by traffic not otherwise permitted to use such lanes, or except as permitted under subsection (1)(b) of this section. However, this subsection shall not be construed as prohibiting the crossing of the center line in making a left turn into or from an alley, private road or driveway.

Passed the Senate April 21, 1997.

Passed the House April 10, 1997.

Approved by the Governor May 5, 1997.

Filed in Office of Secretary of State May 5, 1997.

CHAPTER 254

[Substitute Senate Bill 5218]

RESTRICTING POSTRETIREMENT EMPLOYMENT OF PUBLIC EMPLOYEES

AN ACT Relating to restrictions on postretirement employment; amending RCW 41.26.490, 41.32.010, 41.32.480, 41.32.570, 41.32.800, 41.32.860, 41.40.150, 41.40.690, and 41.50.130; reenacting and amending RCW 41.40.010 and 41.40.023; adding new sections to chapter 41.32 RCW; adding a new section to chapter 41.40 RCW; adding a new section to chapter 41.50 RCW; and creating new sections.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. Sec. 1. (1) This act, which defines separation from service and restrictions concerning postretirement employment, is intended to clarify existing statutory provisions regarding these issues. As a result of this act, the legal standard for determining separation from service and the impact to a retiree's benefit should they return to work following retirement, are either the same as under the prior law, or less restrictive. Accordingly, this act does not constitute a diminution of benefits and applies to all members of the affected retirement systems.

(2) This act, which addresses the determination of employee status, is intended to clarify existing law. The clarifications are consistent with long-standing common law of the state of Washington and long-standing department of retirement systems' interpretations of the appropriate standard to be used in determining employee status. Accordingly, sections 3(49) and 10(22) of this act do not constitute a diminution of benefits and apply to all members of the teachers' retirement system and the public employees' retirement system.

Sec. 2. RCW 41.26.490 and 1977 ex.s. c 294 s 10 are each amended to read as follows:

Any member or beneficiary eligible to receive a retirement allowance under the provisions of RCW 41.26.430, 41.26.470, or 41.26.510 shall be eligible to commence receiving a retirement allowance after having filed written application with the department.

(1) Retirement allowances paid to members under the provisions of RCW 41.26.430 shall accrue from the first day of the calendar month immediately following such member's separation from ~~((employment))~~ service.

(2) Retirement allowances paid to vested members no longer in service, but qualifying for such an allowance pursuant to RCW 41.26.430, shall accrue from the first day of the calendar month immediately following such qualification.

(3) Disability allowances paid to disabled members under the provisions of RCW 41.26.470 shall accrue from the first day of the calendar month immediately following such member's separation from ~~((employment))~~ service for disability.

(4) Retirement allowances paid as death benefits under the provisions of RCW 41.26.510 shall accrue from the first day of the calendar month immediately following the member's death.

(5) A person is separated from service on the date a person has terminated all employment with an employer.

Sec. 3. RCW 41.32.010 and 1996 c 39 s 1 are each amended to read as follows:

As used in this chapter, unless a different meaning is plainly required by the context:

(1)(a) "Accumulated contributions" for plan I members, means the sum of all regular annuity contributions and, except for the purpose of withdrawal at the time of retirement, any amount paid under RCW 41.50.165(2) with regular interest thereon.

(b) "Accumulated contributions" for plan II members, means the sum of all contributions standing to the credit of a member in the member's individual account, including any amount paid under RCW 41.50.165(2), together with the regular interest thereon.

(2) "Actuarial equivalent" means a benefit of equal value when computed upon the basis of such mortality tables and regulations as shall be adopted by the director and regular interest.

(3) "Annuity" means the moneys payable per year during life by reason of accumulated contributions of a member.

(4) "Member reserve" means the fund in which all of the accumulated contributions of members are held.

(5)(a) "Beneficiary" for plan I members, means any person in receipt of a retirement allowance or other benefit provided by this chapter.

(b) "Beneficiary" for plan II and plan III members, means any person in receipt of a retirement allowance or other benefit provided by this chapter resulting from service rendered to an employer by another person.

(6) "Contract" means any agreement for service and compensation between a member and an employer.

(7) "Creditable service" means membership service plus prior service for which credit is allowable. This subsection shall apply only to plan I members.

(8) "Dependent" means receiving one-half or more of support from a member.

(9) "Disability allowance" means monthly payments during disability. This subsection shall apply only to plan I members.

(10)(a) "Earnable compensation" for plan I members, means:

(i) All salaries and wages paid by an employer to an employee member of the retirement system for personal services rendered during a fiscal year. In all cases where compensation includes maintenance the employer shall fix the value of that part of the compensation not paid in money.

(ii) "Earnable compensation" for plan I members also includes the following actual or imputed payments, which are not paid for personal services:

(A) Retroactive payments to an individual by an employer on reinstatement of the employee in a position, or payments by an employer to an individual in lieu of reinstatement in a position which are awarded or granted as the equivalent of the salary or wages which the individual would have earned during a payroll period shall be considered earnable compensation and the individual shall receive the equivalent service credit.

(B) If a leave of absence, without pay, is taken by a member for the purpose of serving as a member of the state legislature, and such member has served in the legislature five or more years, the salary which would have been received for the position from which the leave of absence was taken shall be considered as compensation earnable if the employee's contribution thereon is paid by the employee. In addition, where a member has been a member of the state legislature for five or more years, earnable compensation for the member's two highest compensated consecutive years of service shall include a sum not to exceed thirty-six hundred dollars for each of such two consecutive years, regardless of whether or not legislative service was rendered during those two years.

(iii) For members employed less than full time under written contract with a school district, or community college district, in an instructional position, for which the member receives service credit of less than one year in all of the years used to determine the earnable compensation used for computing benefits due under RCW 41.32.497, 41.32.498, and 41.32.520, the member may elect to have earnable compensation defined as provided in RCW 41.32.345. For the purposes of this subsection, the term "instructional position" means a position in which more than seventy-five percent of the member's time is spent as a classroom instructor (including office hours), a librarian, or a counselor. Earnable compensation shall be so defined only for the purpose of the calculation of retirement benefits and only as necessary to insure that members who receive fractional service credit under RCW 41.32.270 receive benefits proportional to those received by members who have received full-time service credit.

(iv) "Earnable compensation" does not include:

(A) Remuneration for unused sick leave authorized under RCW 41.04.340, 28A.400.210, or 28A.310.490;

(B) Remuneration for unused annual leave in excess of thirty days as authorized by RCW 43.01.044 and 43.01.041.

(b) "Earnable compensation" for plan II and plan III members, means salaries or wages earned by a member during a payroll period for personal services, including overtime payments, and shall include wages and salaries deferred under provisions established pursuant to sections 403(b), 414(h), and 457 of the United States Internal Revenue Code, but shall exclude lump sum payments for deferred annual sick leave, unused accumulated vacation, unused accumulated annual leave, or any form of severance pay.

"Earnable compensation" for plan II and plan III members also includes the following actual or imputed payments which, except in the case of (b)(ii)(B) of this subsection, are not paid for personal services:

(i) Retroactive payments to an individual by an employer on reinstatement of the employee in a position or payments by an employer to an individual in lieu of reinstatement in a position which are awarded or granted as the equivalent of the salary or wages which the individual would have earned during a payroll period shall be considered earnable compensation, to the extent provided above, and the individual shall receive the equivalent service credit.

(ii) In any year in which a member serves in the legislature the member shall have the option of having such member's earnable compensation be the greater of:

(A) The earnable compensation the member would have received had such member not served in the legislature; or

(B) Such member's actual earnable compensation received for teaching and legislative service combined. Any additional contributions to the retirement system required because compensation earnable under (b)(ii)(A) of this subsection is greater than compensation earnable under (b)(ii)(B) of this subsection shall be paid by the member for both member and employer contributions.

(11) "Employer" means the state of Washington, the school district, or any agency of the state of Washington by which the member is paid.

(12) "Fiscal year" means a year which begins July 1st and ends June 30th of the following year.

(13) "Former state fund" means the state retirement fund in operation for teachers under chapter 187, Laws of 1923, as amended.

(14) "Local fund" means any of the local retirement funds for teachers operated in any school district in accordance with the provisions of chapter 163, Laws of 1917 as amended.

(15) "Member" means any teacher included in the membership of the retirement system. Also, any other employee of the public schools who, on July 1, 1947, had not elected to be exempt from membership and who, prior to that date, had by an authorized payroll deduction, contributed to the member reserve.

(16) "Membership service" means service rendered subsequent to the first day of eligibility of a person to membership in the retirement system: PROVIDED, That where a member is employed by two or more employers the individual shall receive no more than one service credit month during any calendar month in which

multiple service is rendered. The provisions of this subsection shall apply only to plan I members.

(17) "Pension" means the moneys payable per year during life from the pension reserve.

(18) "Pension reserve" is a fund in which shall be accumulated an actuarial reserve adequate to meet present and future pension liabilities of the system and from which all pension obligations are to be paid.

(19) "Prior service" means service rendered prior to the first date of eligibility to membership in the retirement system for which credit is allowable. The provisions of this subsection shall apply only to plan I members.

(20) "Prior service contributions" means contributions made by a member to secure credit for prior service. The provisions of this subsection shall apply only to plan I members.

(21) "Public school" means any institution or activity operated by the state of Washington or any instrumentality or political subdivision thereof employing teachers, except the University of Washington and Washington State University.

(22) "Regular contributions" means the amounts required to be deducted from the compensation of a member and credited to the member's individual account in the member reserve. This subsection shall apply only to plan I members.

(23) "Regular interest" means such rate as the director may determine.

(24)(a) "Retirement allowance" for plan I members, means monthly payments based on the sum of annuity and pension, or any optional benefits payable in lieu thereof.

(b) "Retirement allowance" for plan II and plan III members, means monthly payments to a retiree or beneficiary as provided in this chapter.

(25) "Retirement system" means the Washington state teachers' retirement system.

(26)(a) "Service" for plan I members means the time during which a member has been employed by an employer for compensation.

(i) If a member is employed by two or more employers the individual shall receive no more than one service credit month during any calendar month in which multiple service is rendered.

(ii) As authorized by RCW 28A.400.300, up to forty-five days of sick leave may be creditable as service solely for the purpose of determining eligibility to retire under RCW 41.32.470.

(iii) As authorized in RCW 41.32.065, service earned in an out-of-state retirement system that covers teachers in public schools may be applied solely for the purpose of determining eligibility to retire under RCW 41.32.470.

(b) "Service" for plan II and plan III members, means periods of employment by a member for one or more employers for which earnable compensation is earned subject to the following conditions:

(i) A member employed in an eligible position or as a substitute shall receive one service credit month for each month of September through August of the

following year if he or she earns earnable compensation for eight hundred ten or more hours during that period and is employed during nine of those months, except that a member may not receive credit for any period prior to the member's employment in an eligible position except as provided in RCW 41.32.812 and 41.50.132;

(ii) If a member is employed either in an eligible position or as a substitute teacher for nine months of the twelve month period between September through August of the following year but earns earnable compensation for less than eight hundred ten hours but for at least six hundred thirty hours, he or she will receive one-half of a service credit month for each month of the twelve month period;

(iii) All other members in an eligible position or as a substitute teacher shall receive service credit as follows:

(A) A service credit month is earned in those calendar months where earnable compensation is earned for ninety or more hours;

(B) A half-service credit month is earned in those calendar months where earnable compensation is earned for at least seventy hours but less than ninety hours; and

(C) A quarter-service credit month is earned in those calendar months where earnable compensation is earned for less than seventy hours.

(iv) Any person who is a member of the teachers' retirement system and who is elected or appointed to a state elective position may continue to be a member of the retirement system and continue to receive a service credit month for each of the months in a state elective position by making the required member contributions.

(v) When an individual is employed by two or more employers the individual shall only receive one month's service credit during any calendar month in which multiple service for ninety or more hours is rendered.

(vi) As authorized by RCW 28A.400.300, up to forty-five days of sick leave may be creditable as service solely for the purpose of determining eligibility to retire under RCW 41.32.470. For purposes of plan II and plan III "forty-five days" as used in RCW 28A.400.300 is equal to two service credit months. Use of less than forty-five days of sick leave is creditable as allowed under this subsection as follows:

(A) Less than eleven days equals one-quarter service credit month;

(B) Eleven or more days but less than twenty-two days equals one-half service credit month;

(C) Twenty-two days equals one service credit month;

(D) More than twenty-two days but less than thirty-three days equals one and one-quarter service credit month;

(E) Thirty-three or more days but less than forty-five days equals one and one-half service credit month.

(vii) As authorized in RCW 41.32.065, service earned in an out-of-state retirement system that covers teachers in public schools may be applied solely for the purpose of determining eligibility to retire under RCW 41.32.470.

(viii) The department shall adopt rules implementing this subsection.

(27) "Service credit year" means an accumulation of months of service credit which is equal to one when divided by twelve.

(28) "Service credit month" means a full service credit month or an accumulation of partial service credit months that are equal to one.

(29) "Teacher" means any person qualified to teach who is engaged by a public school in an instructional, administrative, or supervisory capacity. The term includes state, educational service district, and school district superintendents and their assistants and all employees certificated by the superintendent of public instruction; and in addition thereto any full time school doctor who is employed by a public school and renders service of an instructional or educational nature.

(30) "Average final compensation" for plan II and plan III members, means the member's average earnable compensation of the highest consecutive sixty service credit months prior to such member's retirement, termination, or death. Periods constituting authorized leaves of absence may not be used in the calculation of average final compensation except under RCW 41.32.810(2).

(31) "Retiree" means any person ~~((in receipt of))~~ who has begun accruing a retirement allowance or other benefit provided by this chapter resulting from service rendered to an employer while a member. ~~((A person is in receipt of a retirement allowance as defined in subsection (24) of this section or other benefit as provided by this chapter when the department mails, causes to be mailed, or otherwise transmits the retirement allowance warrant.))~~

(32) "Department" means the department of retirement systems created in chapter 41.50 RCW.

(33) "Director" means the director of the department.

(34) "State elective position" means any position held by any person elected or appointed to state-wide office or elected or appointed as a member of the legislature.

(35) "State actuary" or "actuary" means the person appointed pursuant to RCW 44.44.010(2).

(36) "Substitute teacher" means:

(a) A teacher who is hired by an employer to work as a temporary teacher, except for teachers who are annual contract employees of an employer and are guaranteed a minimum number of hours; or

(b) Teachers who either (i) work in ineligible positions for more than one employer or (ii) work in an ineligible position or positions together with an eligible position.

(37)(a) "Eligible position" for plan II members from June 7, 1990, through September 1, 1991, means a position which normally requires two or more uninterrupted months of creditable service during September through August of the following year.

(b) "Eligible position" for plan II and plan III on and after September 1, 1991, means a position that, as defined by the employer, normally requires five or more

months of at least seventy hours of earnable compensation during September through August of the following year.

(c) For purposes of this chapter an employer shall not define "position" in such a manner that an employee's monthly work for that employer is divided into more than one position.

(d) The elected position of the superintendent of public instruction is an eligible position.

(38) "Plan I" means the teachers' retirement system, plan I providing the benefits and funding provisions covering persons who first became members of the system prior to October 1, 1977.

(39) "Plan II" means the teachers' retirement system, plan II providing the benefits and funding provisions covering persons who first became members of the system on and after October 1, 1977, and prior to July 1, 1996.

(40) "Plan III" means the teachers' retirement system, plan III providing the benefits and funding provisions covering persons who first become members of the system on and after July 1, 1996, or who transfer under RCW 41.32.817.

(41) "Index" means, for any calendar year, that year's annual average consumer price index, Seattle, Washington area, for urban wage earners and clerical workers, all items compiled by the bureau of labor statistics, United States department of labor.

(42) "Index A" means the index for the year prior to the determination of a postretirement adjustment.

(43) "Index B" means the index for the year prior to index A.

(44) "Index year" means the earliest calendar year in which the index is more than sixty percent of index A.

(45) "Adjustment ratio" means the value of index A divided by index B.

(46) "Annual increase" means, initially, fifty-nine cents per month per year of service which amount shall be increased each July 1st by three percent, rounded to the nearest cent.

(47) "Member account" or "member's account" for purposes of plan III means the sum of the contributions and earnings on behalf of the member in the defined contribution portion of plan III.

(48) "Separation from service or employment" occurs when a person has terminated all employment with an employer.

(49) "Employed" or "employee" means a person who is providing services for compensation to an employer, unless the person is free from the employer's direction and control over the performance of work. The department shall adopt rules and interpret this subsection consistent with common law.

Sec. 4. RCW 41.32.480 and 1991 c 35 s 53 are each amended to read as follows:

(1) Any member who (~~has left public school~~) separates from service after having completed thirty years of creditable service may retire upon the approval by the department of an application for retirement filed on the prescribed form.

Upon retirement the member shall receive a retirement allowance consisting of an annuity which shall be the actuarial equivalent of his or her accumulated contributions at his or her age of retirement and a pension as provided in RCW 41.32.497. Effective July 1, 1967, anyone then receiving a retirement allowance or a survivor retirement allowance under this chapter, based on thirty-five years of creditable service, and who has established more than thirty-five years of service credit with the retirement system, shall thereafter receive a retirement allowance based on the total years of service credit established.

(2) Any member who has attained age sixty years, but who has completed less than thirty years of creditable service, upon ~~((leaving public school))~~ separation from service, may retire upon the approval by the department of an application for retirement filed on the prescribed form. Upon retirement the member shall receive a retirement allowance consisting of an annuity which shall be the actuarial equivalent of his or her accumulated contributions at his or her age of retirement and a pension as provided in RCW 41.32.497.

(3) Any member who has attained age fifty-five years and who has completed not less than twenty-five years of creditable service, upon ~~((leaving public school))~~ separation from service, may retire upon the approval by the department of an application for retirement filed on the prescribed form. Upon retirement the member shall receive a retirement allowance which shall be the actuarial equivalent of his or her accumulated contributions at his or her age of retirement and a pension as provided in RCW 41.32.497. An individual who has retired pursuant to this subsection, on or after July 1, 1969, shall not suffer an actuarial reduction in his or her retirement allowance, except as the allowance may be actuarially reduced pursuant to the options contained in RCW 41.32.530. This 1974 amendment shall be retroactive to July 1, 1969.

Sec. 5. RCW 41.32.570 and 1995 c 264 s 1 are each amended to read as follows:

(1)(a) If a retiree enters employment with an employer sooner than one calendar month after his or her accrual date, the retiree's monthly retirement allowance will be reduced by five and one-half percent for every seven hours worked during that month. This reduction will be applied each month until the retiree remains absent from employment with an employer for one full calendar month.

(b) The benefit reduction provided in (a) of this subsection will accrue for a maximum of one hundred forty hours per month. Any monthly benefit reduction over one hundred percent will be applied to the benefit the retiree is eligible to receive in subsequent months.

(2) Any retired teacher or retired administrator who enters service in any public educational institution in Washington state and who has satisfied the break in employment requirement of subsection (1) of this section shall cease to receive pension payments while engaged in such service: PROVIDED, That service may

be rendered up to ~~((seventy-five days))~~ five hundred twenty-five hours per school year without reduction of pension.

~~((2))~~ (3) In addition to the ~~((seventy-five days))~~ five hundred twenty-five hours of service permitted under subsection ~~((1))~~ (2) of this section, a retired teacher or retired administrator may also serve only as a substitute teacher for up to an additional ~~((fifteen days))~~ one hundred five hours per school year without reduction of pension if:

(a) A school district, which is not a member of a multidistrict substitute cooperative, determines that it has exhausted or can reasonably anticipate that it will exhaust its list of qualified and available substitutes and the school board of the district adopts a resolution to make its substitute teachers who are retired teachers or retired administrators eligible for the additional ~~((fifteen days))~~ one hundred five hours of extended service once the list of qualified and available substitutes has been exhausted. The resolution by the school district shall state that the services of retired teachers and retired administrators are necessary to address the shortage of qualified and available substitutes. The resolution shall be valid only for the school year in which it is adopted. The district shall forward a copy of the resolution with a list of retired teachers and retired administrators who have been employed as substitute teachers to the department and may notify the retired teachers and retired administrators included on the list of their right to take advantage of the provisions of this subsection; or

(b) A multidistrict substitute cooperative determines that the school districts have exhausted or can reasonably anticipate that they will exhaust their list of qualified and available substitutes and each of the school boards adopts a resolution to make their substitute teachers ~~((or retired administrators))~~ who are retired teachers ~~((for retired administrators))~~ or retired administrators eligible for the extended service once the list of qualified and available substitutes has been exhausted. The resolutions by each of the school districts shall state that the services of retired teachers and retired administrators are necessary to address the shortage of qualified and available substitutes. The resolutions shall be valid only for the school year in which they are adopted. The cooperative shall forward a copy of the resolutions with a list of retired teachers and retired administrators who have been employed as substitute teachers to the department and may notify the retired teachers and retired administrators included on the list of their right to take advantage of the provisions of this subsection.

~~((3))~~ (4) In addition to the ~~((seventy-five days))~~ five hundred twenty-five hours of service permitted under subsection ~~((1))~~ (2) of this section, a retired administrator or retired teacher may also serve as a substitute administrator up to an additional ~~((fifteen days))~~ one hundred five hours per school year without reduction of pension if a school district board of directors adopts a resolution declaring that the services of a retired administrator or retired teacher are necessary because it cannot find a replacement administrator to fill a vacancy. The resolution shall be valid only for the school year in which it is adopted. The district shall

forward a copy of the resolution with the name of the retired administrator or retired teacher who has been employed as a substitute administrator to the department. However, a retired administrator or retired teacher may not serve more than a total of ~~((fifteen))~~ one hundred five additional ~~((days))~~ hours per school year pursuant to subsections ~~((2))~~ (3) and ~~((3))~~ (4) of this section.

~~((4))~~ (5) Subsection ~~((4))~~ (2) of this section shall apply to all persons governed by the provisions of plan I, regardless of the date of their retirement, but shall apply only to benefits payable after June 11, 1986.

~~((5))~~ (6) Subsection ~~((2))~~ (3) of this section shall apply to all persons governed by the provisions of plan I, regardless of the date of their retirement, but shall only apply to benefits payable after September 1, 1994.

Sec. 6. RCW 41.32.800 and 1990 c 274 s 13 are each amended to read as follows:

(1) Except as provided in section 8 of this act, no retiree under the provisions of plan II shall be eligible to receive such retiree's monthly retirement allowance if he or she is employed in an eligible position as defined in RCW 41.40.010 or 41.32.010, or as a law enforcement officer or fire fighter as defined in RCW 41.26.030.

If a retiree's benefits have been suspended under this section, his or her benefits shall be reinstated when the retiree terminates the employment that caused his or her benefits to be suspended. Upon reinstatement, the retiree's benefits shall be actuarially recomputed pursuant to the rules adopted by the department.

(2) The department shall adopt rules implementing this section.

Sec. 7. RCW 41.32.860 and 1995 c 239 s 110 are each amended to read as follows:

(1) Except under section 9 of this act, no retiree shall be eligible to receive such retiree's monthly retirement allowance if he or she is employed in an eligible position as defined in RCW 41.40.010 or 41.32.010, or as a law enforcement officer or fire fighter as defined in RCW 41.26.030~~((; except that a plan III retiree may work in eligible positions on a temporary basis for up to five months per calendar year))~~.

(2) If a retiree's benefits have been suspended under this section, his or her benefits shall be reinstated when the retiree terminates the employment that caused the suspension of benefits. Upon reinstatement, the retiree's benefits shall be actuarially recomputed pursuant to the rules adopted by the department.

NEW SECTION. Sec. 8. A new section is added to chapter 41.32 RCW under the subchapter heading "plan II" to read as follows:

(1)(a) If a retiree enters employment with an employer sooner than one calendar month after his or her accrual date, the retiree's monthly retirement allowance will be reduced by five and one-half percent for every seven hours worked during that month. This reduction will be applied each month until the retiree remains absent from employment with an employer for one full calendar month.

(b) The benefit reduction provided in (a) of this subsection will accrue for a maximum of one hundred forty hours per month. Any benefit reduction over one hundred percent will be applied to the benefit the retiree is eligible to receive in subsequent months.

(2) A retiree who has satisfied the break in employment requirement of subsection (1) of this section, may work up to five months per calendar year in an eligible position without suspension of his or her benefit.

(3) If the retiree opts to reestablish membership under RCW 41.32.044, he or she terminates his or her retirement status and immediately becomes a member. Retirement benefits shall not accrue during the period of membership and the individual shall make contributions and receive membership credit. Such a member shall have the right to again retire if eligible.

NEW SECTION. Sec. 9. A new section is added to chapter 41.32 RCW under the subchapter heading provisions applicable to "plan III" to read as follows:

(1)(a) If a retiree enters employment with an employer sooner than one calendar month after his or her accrual date, the retiree's monthly retirement allowance will be reduced by five and one-half percent for every seven hours worked during that month. This reduction will be applied each month until the retiree remains absent from employment with an employer for one full calendar month.

(b) The benefit reduction provided in (a) of this subsection will accrue for a maximum of one hundred forty hours per month. Any benefit reduction over one hundred percent will be applied to the benefit the retiree is eligible to receive in subsequent months.

(2) A retiree who has satisfied the break in employment requirement of subsection (1) of this section, may work up to five months per calendar year in an eligible position without suspension of his or her benefit.

(3) If the retiree opts to reestablish membership under RCW 41.32.044, he or she terminates his or her retirement status and immediately becomes a member. Retirement benefits shall not accrue during the period of membership and the individual shall make contributions and receive membership credit. Such a member shall have the right to again retire if eligible.

Sec. 10. RCW 41.40.010 and 1995 c 345 s 10, 1995 c 286 s 1, and 1995 c 244 s 3 are each reenacted and amended to read as follows:

As used in this chapter, unless a different meaning is plainly required by the context:

(1) "Retirement system" means the public employees' retirement system provided for in this chapter.

(2) "Department" means the department of retirement systems created in chapter 41.50 RCW.

(3) "State treasurer" means the treasurer of the state of Washington.

(4)(a) "Employer" for plan I members, means every branch, department, agency, commission, board, and office of the state, any political subdivision or

association of political subdivisions of the state admitted into the retirement system, and legal entities authorized by RCW 35.63.070 and 36.70.060 or chapter 39.34 RCW; and the term shall also include any labor guild, association, or organization the membership of a local lodge or division of which is comprised of at least forty percent employees of an employer (other than such labor guild, association, or organization) within this chapter. The term may also include any city of the first class that has its own retirement system.

(b) "Employer" for plan II members, means every branch, department, agency, commission, board, and office of the state, and any political subdivision and municipal corporation of the state admitted into the retirement system, including public agencies created pursuant to RCW 35.63.070, 36.70.060, and 39.34.030.

(5) "Member" means any employee included in the membership of the retirement system, as provided for in RCW 41.40.023. RCW 41.26.045 does not prohibit a person otherwise eligible for membership in the retirement system from establishing such membership effective when he or she first entered an eligible position.

(6) "Original member" of this retirement system means:

(a) Any person who became a member of the system prior to April 1, 1949;

(b) Any person who becomes a member through the admission of an employer into the retirement system on and after April 1, 1949, and prior to April 1, 1951;

(c) Any person who first becomes a member by securing employment with an employer prior to April 1, 1951, provided the member has rendered at least one or more years of service to any employer prior to October 1, 1947;

(d) Any person who first becomes a member through the admission of an employer into the retirement system on or after April 1, 1951, provided, such person has been in the regular employ of the employer for at least six months of the twelve-month period preceding the said admission date;

(e) Any member who has restored all contributions that may have been withdrawn as provided by RCW 41.40.150 and who on the effective date of the individual's retirement becomes entitled to be credited with ten years or more of membership service except that the provisions relating to the minimum amount of retirement allowance for the member upon retirement at age seventy as found in RCW 41.40.190(4) shall not apply to the member;

(f) Any member who has been a contributor under the system for two or more years and who has restored all contributions that may have been withdrawn as provided by RCW 41.40.150 and who on the effective date of the individual's retirement has rendered five or more years of service for the state or any political subdivision prior to the time of the admission of the employer into the system; except that the provisions relating to the minimum amount of retirement allowance for the member upon retirement at age seventy as found in RCW 41.40.190(4) shall not apply to the member.

(7) "New member" means a person who becomes a member on or after April 1, 1949, except as otherwise provided in this section.

(8)(a) "Compensation earnable" for plan I members, means salaries or wages earned during a payroll period for personal services and where the compensation is not all paid in money, maintenance compensation shall be included upon the basis of the schedules established by the member's employer.

(i) "Compensation earnable" for plan I members also includes the following actual or imputed payments, which are not paid for personal services:

(A) Retroactive payments to an individual by an employer on reinstatement of the employee in a position, or payments by an employer to an individual in lieu of reinstatement in a position which are awarded or granted as the equivalent of the salary or wage which the individual would have earned during a payroll period shall be considered compensation earnable and the individual shall receive the equivalent service credit;

(B) If a leave of absence is taken by an individual for the purpose of serving in the state legislature, the salary which would have been received for the position from which the leave of absence was taken, shall be considered as compensation earnable if the employee's contribution is paid by the employee and the employer's contribution is paid by the employer or employee;

(C) Assault pay only as authorized by RCW 27.04.100, 72.01.045, and 72.09.240;

(D) Compensation that a member would have received but for a disability occurring in the line of duty only as authorized by RCW 41.40.038;

(E) Compensation that a member receives due to participation in the leave sharing program only as authorized by RCW 41.04.650 through 41.04.670; and

(F) Compensation that a member receives for being in standby status. For the purposes of this section, a member is in standby status when not being paid for time actually worked and the employer requires the member to be prepared to report immediately for work, if the need arises, although the need may not arise. Standby compensation is regular salary for the purposes of RCW 41.50.150(2).

(ii) "Compensation earnable" does not include:

(A) Remuneration for unused sick leave authorized under RCW 41.04.340, 28A.400.210, or 28A.310.490;

(B) Remuneration for unused annual leave in excess of thirty days as authorized by RCW 43.01.044 and 43.01.041.

(b) "Compensation earnable" for plan II members, means salaries or wages earned by a member during a payroll period for personal services, including overtime payments, and shall include wages and salaries deferred under provisions established pursuant to sections 403(b), 414(h), and 457 of the United States Internal Revenue Code, but shall exclude nonmoney maintenance compensation and lump sum or other payments for deferred annual sick leave, unused accumulated vacation, unused accumulated annual leave, or any form of severance pay.

"Compensation earnable" for plan II members also includes the following actual or imputed payments, which are not paid for personal services:

(i) Retroactive payments to an individual by an employer on reinstatement of the employee in a position, or payments by an employer to an individual in lieu of reinstatement in a position which are awarded or granted as the equivalent of the salary or wage which the individual would have earned during a payroll period shall be considered compensation earnable to the extent provided above, and the individual shall receive the equivalent service credit;

(ii) In any year in which a member serves in the legislature, the member shall have the option of having such member's compensation earnable be the greater of:

(A) The compensation earnable the member would have received had such member not served in the legislature; or

(B) Such member's actual compensation earnable received for nonlegislative public employment and legislative service combined. Any additional contributions to the retirement system required because compensation earnable under ~~((b)(ii)(B))~~ (b)(ii)(A) of this subsection is greater than compensation earnable under ~~((b)(ii)(A))~~ (b)(ii)(B) of this subsection shall be paid by the member for both member and employer contributions;

(iii) Assault pay only as authorized by RCW 27.04.100, 72.01.045, and 72.09.240;

(iv) Compensation that a member would have received but for a disability occurring in the line of duty only as authorized by RCW 41.40.038;

(v) Compensation that a member receives due to participation in the leave sharing program only as authorized by RCW 41.04.650 through 41.04.670; and

(vi) Compensation that a member receives for being in standby status. For the purposes of this section, a member is in standby status when not being paid for time actually worked and the employer requires the member to be prepared to report immediately for work, if the need arises, although the need may not arise. Standby compensation is regular salary for the purposes of RCW 41.50.150(2).

(9)(a) "Service" for plan I members, except as provided in RCW 41.40.088, means periods of employment in an eligible position or positions for one or more employers rendered to any employer for which compensation is paid, and includes time spent in office as an elected or appointed official of an employer. Compensation earnable earned in full time work for seventy hours or more in any given calendar month shall constitute one service credit month except as provided in RCW 41.40.088. Compensation earnable earned for less than seventy hours in any calendar month shall constitute one-quarter service credit month of service except as provided in RCW 41.40.088. Only service credit months and one-quarter service credit months shall be counted in the computation of any retirement allowance or other benefit provided for in this chapter. Any fraction of a year of service shall be taken into account in the computation of such retirement allowance or benefits. Time spent in standby status, whether compensated or not, is not service.

(i) Service by a state employee officially assigned by the state on a temporary basis to assist another public agency, shall be considered as service as a state

employee: PROVIDED, That service to any other public agency shall not be considered service as a state employee if such service has been used to establish benefits in any other public retirement system.

(ii) An individual shall receive no more than a total of twelve service credit months of service during any calendar year. If an individual is employed in an eligible position by one or more employers the individual shall receive no more than one service credit month during any calendar month in which multiple service for seventy or more hours is rendered.

(iii) A school district employee may count up to forty-five days of sick leave as creditable service solely for the purpose of determining eligibility to retire under RCW 41.40.180 as authorized by RCW 28A.400.300. For purposes of plan I "forty-five days" as used in RCW 28A.400.300 is equal to two service credit months. Use of less than forty-five days of sick leave is creditable as allowed under this subsection as follows:

(A) Less than twenty-two days equals one-quarter service credit month;

(B) Twenty-two days equals one service credit month;

(C) More than twenty-two days but less than forty-five days equals one and one-quarter service credit month.

(b) "Service" for plan II members, means periods of employment by a member in an eligible position or positions for one or more employers for which compensation earnable is paid. Compensation earnable earned for ninety or more hours in any calendar month shall constitute one service credit month except as provided in RCW 41.40.088. Compensation earnable earned for at least seventy hours but less than ninety hours in any calendar month shall constitute one-half service credit month of service. Compensation earnable earned for less than seventy hours in any calendar month shall constitute one-quarter service credit month of service. Time spent in standby status, whether compensated or not, is not service.

Any fraction of a year of service shall be taken into account in the computation of such retirement allowance or benefits.

(i) Service in any state elective position shall be deemed to be full time service, except that persons serving in state elective positions who are members of the teachers' retirement system or law enforcement officers' and fire fighters' retirement system at the time of election or appointment to such position may elect to continue membership in the teachers' retirement system or law enforcement officers' and fire fighters' retirement system.

(ii) A member shall receive a total of not more than twelve service credit months of service for such calendar year. If an individual is employed in an eligible position by one or more employers the individual shall receive no more than one service credit month during any calendar month in which multiple service for ninety or more hours is rendered.

(iii) Up to forty-five days of sick leave may be creditable as service solely for the purpose of determining eligibility to retire under RCW 41.40.180 as authorized

by RCW 28A.400.300. For purposes of plan II "forty-five days" as used in RCW 28A.400.300 is equal to two service credit months. Use of less than forty-five days of sick leave is creditable as allowed under this subsection as follows:

- (A) Less than eleven days equals one-quarter service credit month;
- (B) Eleven or more days but less than twenty-two days equals one-half service credit month;
- (C) Twenty-two days equals one service credit month;
- (D) More than twenty-two days but less than thirty-three days equals one and one-quarter service credit month;
- (E) Thirty-three or more days but less than forty-five days equals one and one-half service credit month.

(10) "Service credit year" means an accumulation of months of service credit which is equal to one when divided by twelve.

(11) "Service credit month" means a month or an accumulation of months of service credit which is equal to one.

(12) "Prior service" means all service of an original member rendered to any employer prior to October 1, 1947.

(13) "Membership service" means:

- (a) All service rendered, as a member, after October 1, 1947;
- (b) All service after October 1, 1947, to any employer prior to the time of its admission into the retirement system for which member and employer contributions, plus interest as required by RCW 41.50.125, have been paid under RCW 41.40.056 or 41.40.057;

(c) Service not to exceed six consecutive months of probationary service rendered after April 1, 1949, and prior to becoming a member, in the case of any member, upon payment in full by such member of the total amount of the employer's contribution to the retirement fund which would have been required under the law in effect when such probationary service was rendered if the member had been a member during such period, except that the amount of the employer's contribution shall be calculated by the director based on the first month's compensation earnable as a member;

(d) Service not to exceed six consecutive months of probationary service, rendered after October 1, 1947, and before April 1, 1949, and prior to becoming a member, in the case of any member, upon payment in full by such member of five percent of such member's salary during said period of probationary service, except that the amount of the employer's contribution shall be calculated by the director based on the first month's compensation earnable as a member.

(14)(a) "Beneficiary" for plan I members, means any person in receipt of a retirement allowance, pension or other benefit provided by this chapter.

(b) "Beneficiary" for plan II members, means any person in receipt of a retirement allowance or other benefit provided by this chapter resulting from service rendered to an employer by another person.

(15) "Regular interest" means such rate as the director may determine.

(16) "Accumulated contributions" means the sum of all contributions standing to the credit of a member in the member's individual account, including any amount paid under RCW 41.50.165(2), together with the regular interest thereon.

(17)(a) "Average final compensation" for plan I members, means the annual average of the greatest compensation earnable by a member during any consecutive two year period of service credit months for which service credit is allowed; or if the member has less than two years of service credit months then the annual average compensation earnable during the total years of service for which service credit is allowed.

(b) "Average final compensation" for plan II members, means the member's average compensation earnable of the highest consecutive sixty months of service credit months prior to such member's retirement, termination, or death. Periods constituting authorized leaves of absence may not be used in the calculation of average final compensation except under RCW 41.40.710(2).

(18) "Final compensation" means the annual rate of compensation earnable by a member at the time of termination of employment.

(19) "Annuity" means payments for life derived from accumulated contributions of a member. All annuities shall be paid in monthly installments.

(20) "Pension" means payments for life derived from contributions made by the employer. All pensions shall be paid in monthly installments.

(21) "Retirement allowance" means the sum of the annuity and the pension.

(22) "Employee" (~~means any person who may become eligible for membership under this chapter, as set forth in RCW 41.40.023~~) or "employed" means a person who is providing services for compensation to an employer, unless the person is free from the employer's direction and control over the performance of work. The department shall adopt rules and interpret this subsection consistent with common law.

(23) "Actuarial equivalent" means a benefit of equal value when computed upon the basis of such mortality and other tables as may be adopted by the director.

(24) "Retirement" means withdrawal from active service with a retirement allowance as provided by this chapter.

(25) "Eligible position" means:

(a) Any position that, as defined by the employer, normally requires five or more months of service a year for which regular compensation for at least seventy hours is earned by the occupant thereof. For purposes of this chapter an employer shall not define "position" in such a manner that an employee's monthly work for that employer is divided into more than one position;

(b) Any position occupied by an elected official or person appointed directly by the governor for which compensation is paid.

(26) "Ineligible position" means any position which does not conform with the requirements set forth in subsection (25) of this section.

(27) "Leave of absence" means the period of time a member is authorized by the employer to be absent from service without being separated from membership.

(28) "Totally incapacitated for duty" means total inability to perform the duties of a member's employment or office or any other work for which the member is qualified by training or experience.

(29) "Retiree" means any person (~~(in receipt of)~~) who has begun accruing a retirement allowance or other benefit provided by this chapter resulting from service rendered to an employer while a member. (~~(A person is in receipt of a retirement allowance as defined in subsection (21) of this section or other benefit as provided by this chapter when the department mails, causes to be mailed, or otherwise transmits the retirement allowance warrant.)~~)

(30) "Director" means the director of the department.

(31) "State elective position" means any position held by any person elected or appointed to state-wide office or elected or appointed as a member of the legislature.

(32) "State actuary" or "actuary" means the person appointed pursuant to RCW 44.44.010(2).

(33) "Plan I" means the public employees' retirement system, plan I providing the benefits and funding provisions covering persons who first became members of the system prior to October 1, 1977.

(34) "Plan II" means the public employees' retirement system, plan II providing the benefits and funding provisions covering persons who first became members of the system on and after October 1, 1977.

(35) "Index" means, for any calendar year, that year's annual average consumer price index, Seattle, Washington area, for urban wage earners and clerical workers, all items, compiled by the bureau of labor statistics, United States department of labor.

(36) "Index A" means the index for the year prior to the determination of a postretirement adjustment.

(37) "Index B" means the index for the year prior to index A.

(38) "Index year" means the earliest calendar year in which the index is more than sixty percent of index A.

(39) "Adjustment ratio" means the value of index A divided by index B.

(40) "Annual increase" means, initially, fifty-nine cents per month per year of service which amount shall be increased each July 1st by three percent, rounded to the nearest cent.

(41) "Separation from service" occurs when a person has terminated all employment with an employer.

Sec. 11. RCW 41.40.023 and 1994 c 298 s 8 and 1994 c 197 s 24 are each reenacted and amended to read as follows:

Membership in the retirement system shall consist of all regularly compensated employees and appointive and elective officials of employers, as defined in this chapter, with the following exceptions:

(1) Persons in ineligible positions;

(2) Employees of the legislature except the officers thereof elected by the members of the senate and the house and legislative committees, unless membership of such employees be authorized by the said committee;

(3)(a) Persons holding elective offices or persons appointed directly by the governor: PROVIDED, That such persons shall have the option of applying for membership during such periods of employment: AND PROVIDED FURTHER, That any persons holding or who have held elective offices or persons appointed by the governor who are members in the retirement system and who have, prior to becoming such members, previously held an elective office, and did not at the start of such initial or successive terms of office exercise their option to become members, may apply for membership to be effective during such term or terms of office, and shall be allowed to establish the service credit applicable to such term or terms of office upon payment of the employee contributions therefor by the employee with interest as determined by the director and employer contributions therefor by the employer or employee with interest as determined by the director: AND PROVIDED FURTHER, That all contributions with interest submitted by the employee under this subsection shall be placed in the employee's individual account in the employee's savings fund and be treated as any other contribution made by the employee, with the exception that any contributions submitted by the employee in payment of the employer's obligation, together with the interest the director may apply to the employer's contribution, shall not be considered part of the member's annuity for any purpose except withdrawal of contributions;

(b) A member holding elective office who has elected to apply for membership pursuant to (a) of this subsection and who later wishes to be eligible for a retirement allowance shall have the option of ending his or her membership in the retirement system. A member wishing to end his or her membership under this subsection must file, on a form supplied by the department, a statement indicating that the member agrees to irrevocably abandon any claim for service for future periods served as an elected official. A member who receives more than fifteen thousand dollars per year in compensation for his or her elective service, adjusted annually for inflation by the director, is not eligible for the option provided by this subsection (3)(b);

(4) Employees holding membership in, or receiving pension benefits under, any retirement plan operated wholly or in part by an agency of the state or political subdivision thereof, or who are by reason of their current employment contributing to or otherwise establishing the right to receive benefits from any such retirement plan: PROVIDED, HOWEVER, In any case where the retirement system has in existence an agreement with another retirement system in connection with exchange of service credit or an agreement whereby members can retain service credit in more than one system, such an employee shall be allowed membership rights should the agreement so provide: AND PROVIDED FURTHER, That an employee shall be allowed membership if otherwise eligible while receiving survivor's benefits: AND PROVIDED FURTHER, That an employee shall not

either before or after June 7, 1984, be excluded from membership or denied service credit pursuant to this subsection solely on account of: (a) Membership in the plan created under chapter 2.14 RCW; or (b) enrollment under the relief and compensation provisions or the pension provisions of the volunteer fire fighters' relief and pension fund under chapter 41.24 RCW;

(5) Patient and inmate help in state charitable, penal, and correctional institutions;

(6) "Members" of a state veterans' home or state soldiers' home;

(7) Persons employed by an institution of higher learning or community college, primarily as an incident to and in furtherance of their education or training, or the education or training of a spouse;

(8) Employees of an institution of higher learning or community college during the period of service necessary to establish eligibility for membership in the retirement plans operated by such institutions;

(9) Persons rendering professional services to an employer on a fee, retainer, or contract basis or when the income from these services is less than fifty percent of the gross income received from the person's practice of a profession;

(10) Persons appointed after April 1, 1963, by the liquor control board as agency vendors;

(11) Employees of a labor guild, association, or organization: PROVIDED, That elective officials and employees of a labor guild, association, or organization which qualifies as an employer within this chapter shall have the option of applying for membership;

(12) ~~((Plan 1) Retirement system retirees ((employed in eligible positions on a temporary basis for a period not to exceed five months in a calendar year: PROVIDED, That if such employees are employed for more than five months in a calendar year in an eligible position they shall become members of the system prospectively))):~~ PROVIDED, That following reemployment in an eligible position, a retiree may elect to prospectively become a member of the retirement system if otherwise eligible;

(13) Persons employed by or appointed or elected as an official of a first class city that has its own retirement system: PROVIDED, That any member elected or appointed to an elective office on or after April 1, 1971, shall have the option of continuing as a member of this system in lieu of becoming a member of the city system. A member who elects to continue as a member of this system shall pay the appropriate member contributions and the city shall pay the employer contributions at the rates prescribed by this chapter. The city shall also transfer to this system all of such member's accumulated contributions together with such further amounts as necessary to equal all employee and employer contributions which would have been paid into this system on account of such service with the city and thereupon the member shall be granted credit for all such service. Any city that becomes an employer as defined in RCW 41.40.010(4) as the result of an individual's election under this subsection shall not be required to have all employees covered for

retirement under the provisions of this chapter. Nothing in this subsection shall prohibit a city of the first class with its own retirement system from: (a) Transferring all of its current employees to the retirement system established under this chapter, or (b) allowing newly hired employees the option of continuing coverage under the retirement system established by this chapter.

Notwithstanding any other provision of this chapter, persons transferring from employment with a first class city of over four hundred thousand population that has its own retirement system to employment with the state department of agriculture may elect to remain within the retirement system of such city and the state shall pay the employer contributions for such persons at like rates as prescribed for employers of other members of such system;

(14) Employees who (a) are not citizens of the United States, (b) do not reside in the United States, and (c) perform duties outside of the United States;

(15) Employees who (a) are not citizens of the United States, (b) are not covered by chapter 41.48 RCW, (c) are not excluded from membership under this chapter or chapter 41.04 RCW, (d) are residents of this state, and (e) make an irrevocable election to be excluded from membership, in writing, which is submitted to the director within thirty days after employment in an eligible position;

(16) Employees who are citizens of the United States and who reside and perform duties for an employer outside of the United States: PROVIDED, That unless otherwise excluded under this chapter or chapter 41.04 RCW, the employee may apply for membership (a) within thirty days after employment in an eligible position and membership service credit shall be granted from the first day of membership service, and (b) after this thirty-day period, but membership service credit shall be granted only if payment is made for the noncredited membership service under RCW 41.50.165(2), otherwise service shall be from the date of application;

(17) The city manager or chief administrative officer of a city or town, other than a retiree, who serves at the pleasure of an appointing authority: PROVIDED, That such persons shall have the option of applying for membership within thirty days from date of their appointment to such positions. Persons serving in such positions as of April 4, 1986, shall continue to be members in the retirement system unless they notify the director in writing prior to December 31, 1986, of their desire to withdraw from membership in the retirement system. A member who withdraws from membership in the system under this section shall receive a refund of the member's accumulated contributions.

Persons serving in such positions who have not opted for membership within the specified thirty days, may do so by paying the amount required under RCW 41.50.165(2) for the period from the date of their appointment to the date of acceptance into membership;

(18) Persons enrolled in state-approved apprenticeship programs, authorized under chapter 49.04 RCW, and who are employed by local governments to earn

hours to complete such apprenticeship programs, if the employee is a member of a union-sponsored retirement plan and is making contributions to such a retirement plan or if the employee is a member of a Taft-Hartley retirement plan.

Sec. 12. RCW 41.40.150 and 1994 c 197 s 26 are each amended to read as follows:

Should any member die, or should the individual separate or be separated from service without leave of absence before attaining age sixty years, or should the individual become a beneficiary, except a beneficiary of an optional retirement allowance as provided by RCW 41.40.188, the individual shall thereupon cease to be a member except:

(1) As provided in RCW 41.40.170.

(2) An employee not previously retired who reenters service shall upon completion of six months of continuous service and upon the restoration, in one lump sum or in annual installments, of all withdrawn contributions: (a) With interest as computed by the director, which restoration must be completed within a total period of five years of membership service following the member's first resumption of employment or (b) paying the amount required under RCW 41.50.165(2), be returned to the status, either as an original member or new member which the member held at time of separation.

(3) A member who separates or has separated after having completed at least five years of service shall remain a member during the period of absence from service for the exclusive purpose of receiving a retirement allowance to begin at attainment of age sixty-five, however, such a member may on written notice to the director elect to receive a reduced retirement allowance on or after age sixty which allowance shall be the actuarial equivalent of the sum necessary to pay regular retirement benefits as of age sixty-five: PROVIDED, That if such member should withdraw all or part of the member's accumulated contributions except those additional contributions made pursuant to RCW 41.40.330(2), the individual shall thereupon cease to be a member and this section shall not apply.

~~(4)((a) The recipient of a retirement allowance who is employed in an eligible position other than under RCW 41.40.023(12) shall be considered to have terminated his or her retirement status and shall immediately become a member of the retirement system with the status of membership the member held as of the date of retirement. Retirement benefits shall be suspended during the period of eligible employment and the individual shall make contributions and receive membership credit. Such a member shall have the right to again retire if eligible in accordance with RCW 41.40.180. PROVIDED, That where any such right to retire is exercised to become effective before the member has rendered two uninterrupted years of service the type of retirement allowance the member had at the time of the member's previous retirement shall be reinstated;~~

~~—(b))~~ The recipient of a retirement allowance elected to office or appointed to office directly by the governor, and who shall apply for and be accepted in membership as provided in RCW 41.40.023(3) shall be considered to have

terminated his or her retirement status and shall become a member of the retirement system with the status of membership the member held as of the date of retirement. Retirement benefits shall be suspended from the date of return to membership until the date when the member again retires and the member shall make contributions and receive membership credit. Such a member shall have the right to again retire if eligible in accordance with RCW 41.40.180: PROVIDED, That where any such right to retire is exercised to become effective before the member has rendered six uninterrupted months of service the type of retirement allowance the member had at the time of the member's previous retirement shall be reinstated, but no additional service credit shall be allowed: AND PROVIDED FURTHER, That if such a recipient of a retirement allowance does not elect to apply for reentry into membership as provided in RCW 41.40.023(3), the member shall be considered to remain in a retirement status and the individual's retirement benefits shall continue without interruption.

(5) Any member who leaves the employment of an employer and enters the employ of a public agency or agencies of the state of Washington, other than those within the jurisdiction of this retirement system, and who establishes membership in a retirement system or a pension fund operated by such agency or agencies and who shall continue membership therein until attaining age sixty, shall remain a member for the exclusive purpose of receiving a retirement allowance without the limitation found in RCW 41.40.180(1) to begin on attainment of age sixty-five; however, such a member may on written notice to the director elect to receive a reduced retirement allowance on or after age sixty which allowance shall be the actuarial equivalent of the sum necessary to pay regular retirement benefits commencing at age sixty-five: PROVIDED, That if such member should withdraw all or part of the member's accumulated contributions except those additional contributions made pursuant to RCW 41.40.330(2), the individual shall thereupon cease to be a member and this section shall not apply.

Sec. 13. RCW 41.40.690 and 1990 c 274 s 11 are each amended to read as follows:

(1) Except as provided in section 14 of this act, no retiree under the provisions of plan II shall be eligible to receive such retiree's monthly retirement allowance if he or she is employed in an eligible position as defined in RCW 41.40.010 or 41.32.010, or as a law enforcement officer or fire fighter as defined in RCW 41.26.030, except that((:

—(a)) a retiree who ends his or her membership in the retirement system pursuant to RCW 41.40.023(3)(b) is not subject to this section if the retiree's only employment is as an elective official of a city or town((; and

—(b) A plan II retiree may work in eligible positions on a temporary basis for up to five months in a calendar year)).

(2) If a retiree's benefits have been suspended under this section, his or her benefits shall be reinstated when the retiree terminates the employment that caused

his or her benefits to be suspended. Upon reinstatement, the retiree's benefits shall be actuarially recomputed pursuant to the rules adopted by the department.

(3) The department shall adopt rules implementing this section.

NEW SECTION. Sec. 14. A new section is added to chapter 41.40 RCW under the subchapter heading "provisions applicable to plan I and plan II" to read as follows:

(1)(a) If a retiree enters employment with an employer sooner than one calendar month after his or her accrual date, the retiree's monthly retirement allowance will be reduced by five and one-half percent for every eight hours worked during that month. This reduction will be applied each month until the retiree remains absent from employment with an employer for one full calendar month.

(b) The benefit reduction provided in (a) of this subsection will accrue for a maximum of one hundred sixty hours per month. Any benefit reduction over one hundred percent will be applied to the benefit the retiree is eligible to receive in subsequent months.

(2) A retiree who has satisfied the break in employment requirement of subsection (1) of this section, may work up to five months per calendar year in an eligible position without suspension of his or her benefit.

(3) If the retiree opts to reestablish membership under RCW 41.40.023(12), he or she terminates his or her retirement status and becomes a member. Retirement benefits shall not accrue during the period of membership and the individual shall make contributions and receive membership credit. Such a member shall have the right to again retire if eligible in accordance with RCW 41.40.180. However, if the right to retire is exercised to become effective before the member has rendered two uninterrupted years of service, the retirement formula and survivor options the member had at the time of the member's previous retirement shall be reinstated.

Sec. 15. RCW 41.50.130 and 1994 c 177 s 3 are each amended to read as follows:

(1) The director may at any time correct errors appearing in the records of the retirement systems listed in RCW 41.50.030. Should any error in such records result in any member, beneficiary, or other person or entity receiving more or less than he or she would have been entitled to had the records been correct, the director, subject to the conditions set forth in this section, shall adjust the payment in such a manner that the benefit to which such member, beneficiary, or other person or entity was correctly entitled shall be paid in accordance with the following:

(a) In the case of underpayments to a member or beneficiary, the retirement system shall correct all future payments from the point of error detection, and shall compute the additional payment due for the allowable prior period which shall be paid in a lump sum by the appropriate retirement system.

(b) In the case of overpayments to a ~~((member))~~ retiree or other beneficiary, the retirement system shall adjust the payment ~~((in such a manner))~~ so that the retiree or beneficiary receives the benefit to which ((such member or beneficiary was)) he or she is correctly entitled ((shall be reduced by an amount equal to the actuarial equivalent of the amount of overpayment. Alternatively the member)). The retiree or beneficiary shall ((have the option of repaying)) either repay the overpayment in a lump sum within ninety days of notification ((and receive the proper benefit in the future. In the case of overpayments to a member, beneficiary, or other person or entity resulting from actual fraud on the part of the member, beneficiary, or other person or entity, the benefits shall be adjusted to reflect the full amount of such overpayment, plus interest at the rate of one percent per month on the outstanding balance)) or, if he or she is entitled to a continuing benefit, elect to have that benefit actuarially reduced by an amount equal to the overpayment. The retiree or beneficiary is not responsible for repaying the overpayment if the employer is liable under section 16 of this act.

(c) In the case of overpayments to a person or entity other than a member or beneficiary, the overpayment shall constitute a debt from the person or entity to the department, recovery of which shall not be barred by laches or statute of limitations.

(2) Except in the case of actual fraud, in the case of overpayments to a member or beneficiary, the benefits shall be adjusted to reflect only the amount of overpayments made within three years of discovery of the error, notwithstanding any provision to the contrary in chapter 4.16 RCW.

~~(3)((a) The employer shall elicit on a written form from all new employees as to their having been retired from a retirement system listed in RCW 41.50.030.~~

~~—(b) In the case of overpayments which result from the failure of an employer to report properly to the department the employment of a retiree from information received in subparagraph (a), the employer shall, upon receipt of a billing from the department, pay into the appropriate retirement system the amount of the overpayment plus interest as determined by the director. However, except in the case of actual employer fraud, the overpayments charged to the employer under this subsection shall not exceed five thousand dollars for each year of overpayments received by a retiree. The retiree's benefits upon rereirement shall not be reduced because of such overpayment except as necessary to recapture contributions required for periods of employment.~~

~~—(c) The provision of this subsection regarding the reduction of retirees' benefits shall apply to recovery actions commenced on or after January 1, 1986, even though the overpayments resulting from retiree employment were discovered by the department prior to that date. The provisions of this subsection regarding the billing of employers for overpayments shall apply to overpayments made after January 1, 1986.~~

~~—(4)) Except in the case of actual fraud, no monthly benefit shall be reduced by more than fifty percent of the member's or beneficiary's corrected benefit. Any~~

overpayment not recovered due to the inability to actuarially reduce a member's benefit due to: (a) The provisions of this subsection; or (b) the fact that the retiree's monthly retirement allowance is less than the monthly payment required to effectuate an actuarial reduction, shall constitute a claim against the estate of a member, beneficiary, or other person or entity in receipt of an overpayment.

~~((5))~~ (4) Except as provided in subsection (2) of this section, obligations of employers or members until paid to the department shall constitute a debt from the employer or member to the department, recovery of which shall not be barred by laches or statutes of limitation.

NEW SECTION. Sec. 16. A new section is added to chapter 41.50 RCW to read as follows:

(1) Retirement system employers shall elicit on a written form from all new employees as to their having been retired from a retirement system listed in RCW 41.50.030. Employers must report any retirees in their employ to the department. If a retiree works in excess of applicable postretirement employment restrictions and the employer failed to report the employment of the retiree, that employer is liable for the loss to the trust fund.

(2) If an employer erroneously reports to the department that an employee has separated from service such that a person receives a retirement allowance in contravention of the applicable retirement system statutes, the person's retirement status shall remain unaffected and the employer is liable for the resulting overpayments.

(3) Upon receipt of a billing from the department, the employer shall pay into the appropriate retirement system trust fund the amount of the overpayment plus interest as determined by the director. The employer's liability under this section shall not exceed the amount of overpayments plus interest received by the retiree within three years of the date of discovery, except in the case of fraud. In the case of fraud, the employer is liable for the entire overpayment plus interest.

NEW SECTION. Sec. 17. This act applies to all overpayments discovered by the department of retirement systems on or after June 1, 1996, except that sections 10, 12, 14, 15, and 16 of this act apply retroactively to any person who retired under chapter 234, Laws of 1992 or part III of chapter 519, Laws of 1993.

Passed the Senate April 21, 1997.

Passed the House April 9, 1997.

Approved by the Governor May 5, 1997.

Filed in Office of Secretary of State May 5, 1997.

CHAPTER 255

[Substitute Senate Bill 5318]

WRITS OF RESTITUTION—EFFECTS OF PARTIAL PAYMENT

AN ACT Relating to writs of restitution; and amending RCW 59.18.390.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 59.18.390 and 1989 c 342 s 11 are each amended to read as follows:

(1) The sheriff shall, upon receiving the writ of restitution, forthwith serve a copy thereof upon the defendant, his or her agent, or attorney, or a person in possession of the premises, and shall not execute the same for three days thereafter, and the defendant, or person in possession of the premises within three days after the service of the writ of restitution may execute to the plaintiff a bond to be filed with and approved by the clerk of the court in such sum as may be fixed by the judge, with sufficient surety to be approved by the clerk of ~~((said))~~ the court, conditioned that they will pay to the plaintiff such sum as the plaintiff may recover for the use and occupation of the ~~((said))~~ premises, or any rent found due, together with all damages the plaintiff may sustain by reason of the defendant occupying or keeping possession of ~~((said))~~ the premises, together with all damages which the court theretofore has awarded to the plaintiff as provided in this chapter, and also all the costs of the action. The plaintiff, his or her agent or attorneys, shall have notice of the time and place where the court or judge thereof shall fix the amount of the defendant's bond, and shall have notice and a reasonable opportunity to examine into the qualification and sufficiency of the sureties upon ~~((said))~~ the bond before ~~((said))~~ the bond shall be approved by the clerk. After the issuance of a writ of restitution, acceptance of a payment by the landlord or plaintiff that only partially satisfies the judgment will not invalidate the writ unless pursuant to a written agreement executed by both parties. The eviction will not be postponed or stopped unless a copy of that written agreement is provided to the sheriff. It is the responsibility of the tenant or defendant to ensure a copy of the agreement is provided to the sheriff. Upon receipt of the agreement the sheriff will cease action unless ordered to do otherwise by the court. The writ of restitution and the notice that accompanies the writ of restitution required under RCW 59.18.312 shall conspicuously state in bold face type, all capitals, not less than twelve points information about partial payments as set forth in subsection (2) of this section. If the writ of restitution has been based upon a finding by the court that the tenant, subtenant, sublessee, or a person residing at the rental premises has engaged in drug-related activity or has allowed any other person to engage in drug-related activity at those premises with his or her knowledge or approval, neither the tenant, the defendant, nor a person in possession of the premises shall be entitled to post a bond in order to retain possession of the premises. The writ may be served by the sheriff, in the event he or she shall be unable to find the defendant, an agent or attorney, or a person in possession of the premises, by affixing a copy of ~~((said))~~ the writ in a conspicuous place upon the premises: PROVIDED, That the sheriff shall not require any bond for the service or execution of the writ. The sheriff shall be immune from all civil liability for serving and enforcing writs of restitution unless the sheriff is grossly negligent in carrying out his or her duty.

(2) The notice accompanying a writ of restitution required under RCW 59.18.312 shall be substantially similar to the following:

IMPORTANT NOTICE - PARTIAL PAYMENTS

YOUR LANDLORD'S ACCEPTANCE OF A PARTIAL PAYMENT FROM YOU AFTER SERVICE OF THIS WRIT OF RESTITUTION WILL NOT AUTOMATICALLY POSTPONE OR STOP YOUR EVICTION. IF YOU HAVE A WRITTEN AGREEMENT WITH YOUR LANDLORD THAT THE EVICTION WILL BE POSTPONED OR STOPPED, IT IS YOUR RESPONSIBILITY TO PROVIDE A COPY OF THE AGREEMENT TO THE SHERIFF. THE SHERIFF WILL NOT CEASE ACTION UNLESS YOU PROVIDE A COPY OF THE AGREEMENT. AT THE DIRECTION OF THE COURT THE SHERIFF MAY TAKE FURTHER ACTION.

Passed the Senate April 19, 1997.
Passed the House April 9, 1997.
Approved by the Governor May 5, 1997.
Filed in Office of Secretary of State May 5, 1997.

CHAPTER 256

[Substitute Senate Bill 5337]

PORT DISTRICTS—LIMITING AUTHORITY TO FORM LESS THAN COUNTY-WIDE DISTRICTS

AN ACT Relating to formation of less than county-wide port districts; amending RCW 53.04.023; and declaring an emergency.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 53.04.023 and 1994 c 223 s 84 are each amended to read as follows:

A less than county-wide port district with an assessed valuation of at least ((seventy-five)) one hundred fifty million dollars may be created in a county that already has a less than county-wide port district located within its boundaries. Except as provided in this section, such a port district shall be created in accordance with the procedure to create a county-wide port district.

The effort to create such a port district is initiated by the filing of a petition with the county auditor calling for the creation of such a port district, describing the boundaries of the proposed port district, designating either three or five commissioner positions, describing commissioner districts if the petitioners propose that the commissioners represent districts, and providing a name for the proposed port district. The petition must be signed by voters residing within the proposed port district equal in number to at least ten percent of such voters who voted at the last county general election.

A public hearing on creation of the proposed port district shall be held by the county legislative authority if the county auditor certifies that the petition contained sufficient valid signatures. Notice of the public hearing must be published in the county's official newspaper at least ten days prior to the date of the public hearing. After taking testimony, the county legislative authority may make changes in the

boundaries of the proposed port district if it finds that such changes are in the public interest and shall determine if the creation of the port district is in the public interest. No area may be added to the boundaries unless a subsequent public hearing is held on the proposed port district.

The county legislative authority shall submit a ballot proposition authorizing the creation of the proposed port district to the voters of the proposed port district, at any special election date provided in RCW 29.13.020, if it finds the creation of the port district to be in the public interest.

The port district shall be created if a majority of the voters voting on the ballot proposition favor the creation of the port district. The initial port commissioners shall be elected at the same election, from districts or at large, as provided in the petition initiating the creation of the port district. The election shall be otherwise conducted as provided in RCW 53.12.172, but the election of commissioners shall be null and void if the port district is not created.

~~((This section shall expire July 1, 1997;))~~

NEW SECTION. Sec. 2. This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately.

Passed the Senate April 21, 1997.

Passed the House April 14, 1997.

Approved by the Governor May 5, 1997.

Filed in Office of Secretary of State May 5, 1997.

CHAPTER 257

[Substitute Senate Bill 5341]

WASHINGTON ECONOMIC DEVELOPMENT AUTHORITY—OUTREACH PLAN— INCREASING ECONOMIC DEVELOPMENT ACTIVITIES AUTHORIZED

AN ACT Relating to the Washington economic finance authority; and amending RCW 43.163.090 and 43.163.210.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 43.163.090 and 1989 c 279 s 10 are each amended to read as follows:

The authority shall adopt a general plan of economic development finance objectives to be implemented by the authority during the period of the plan. The authority may exercise the powers authorized under this chapter prior to the adoption of the initial plan. In developing the plan, the authority shall consider and set objectives for:

- (1) Employment generation associated with the authority's programs;
- (2) The application of funds to sectors and regions of the state economy evidencing need for improved access to capital markets and funding resources;
- (3) Geographic distribution of funds and programs available through the authority;

- (4) Eligibility criteria for participants in authority programs;
- (5) The use of funds and resources available from or through federal, state, local, and private sources and programs;
- (6) Standards for economic viability and growth opportunities of participants in authority programs;
- (7) New programs which serve a targeted need for financing assistance within the purposes of this chapter; and
- (8) Opportunities to improve capital access as evidenced by programs existent in other states or as they are made possible by results of private capital market circumstances.

The authority shall, as part of the finance plan required under this section, develop an outreach and marketing plan designed to increase its financial services to distressed counties. As used in this section, "distressed counties" has the same meaning as distressed area in RCW 43.168.020.

At least one public hearing shall be conducted by the authority on the plan prior to its adoption. The plan shall be adopted by resolution of the authority no later than November 15, 1990. The plan shall be submitted to the chief clerk of the house of representatives and secretary of the senate for transmittal to and review by the appropriate standing committees no later than December 15, 1990. The authority shall periodically update the plan as determined necessary by the authority, but not less than once every two years. The plan or updated plan shall include a report on authority activities conducted since the commencement of authority operation or since the last plan was reported, whichever is more recent, including a statement of results achieved under the purposes of this chapter and the plan. Upon adoption, the authority shall conduct its programs in observance of the objectives established in the plan.

Sec. 2. RCW 43.163.210 and 1996 c 310 s 1 are each amended to read as follows:

For the purpose of facilitating economic development in the state of Washington and encouraging the employment of Washington workers at meaningful wages:

(1) The authority may develop and conduct a program or programs to provide nonrecourse revenue bond financing for the project costs for ~~((no more than five))~~ economic development activities ~~((, per fiscal year, included under the authority's general plan of economic development finance objectives. In addition, the authority may issue tax exempt bonds to finance ten manufacturing or processing activities, per fiscal year, for which the total project cost is less than one million dollars per project)).~~

(2) The authority may ~~((also))~~ develop and conduct a program that will stimulate and encourage the development of new products within Washington state by the infusion of financial aid for invention and innovation in situations in which the financial aid would not otherwise be reasonably available from commercial

sources. The authority is authorized to provide nonrecourse revenue bond financing for this program.

(a) For the purposes of this program, the authority shall have the following powers and duties:

(i) To enter into financing agreements with eligible persons doing business in Washington state, upon terms and on conditions consistent with the purposes of this chapter, for the advancement of financial and other assistance to the persons for the development of specific products, procedures, and techniques, to be developed and produced in this state, and to condition the agreements upon contractual assurances that the benefits of increasing or maintaining employment and tax revenues shall remain in this state and accrue to it;

(ii) Own, possess, and take license in patents, copyrights, and proprietary processes and negotiate and enter into contracts and establish charges for the use of the patents, copyrights, and proprietary processes when the patents and licenses for products result from assistance provided by the authority;

(iii) Negotiate royalty payments to the authority on patents and licenses for products arising as a result of assistance provided by the authority;

(iv) Negotiate and enter into other types of contracts with eligible persons that assure that public benefits will result from the provision of services by the authority; provided that the contracts are consistent with the state Constitution;

(v) Encourage and provide technical assistance to eligible persons in the process of developing new products;

(vi) Refer eligible persons to researchers or laboratories for the purpose of testing and evaluating new products, processes, or innovations; and

(vii) To the extent permitted under its contract with eligible persons, to consent to a termination, modification, forgiveness, or other change of a term of a contractual right, payment, royalty, contract, or agreement of any kind to which the authority is a party.

(b) Eligible persons seeking financial and other assistance under this program shall forward an application, together with an application fee prescribed by rule, to the authority. An investigation and report concerning the advisability of approving an application for assistance shall be completed by the staff of the authority. The investigation and report may include, but is not limited to, facts about the company under consideration as its history, wage standards, job opportunities, stability of employment, past and present financial condition and structure, pro forma income statements, present and future markets and prospects, integrity of management as well as the feasibility of the proposed product and invention to be granted financial aid, including the state of development of the product as well as the likelihood of its commercial feasibility. After receipt and consideration of the report set out in this subsection and after other action as is deemed appropriate, the application shall be approved or denied by the authority. The applicant shall be promptly notified of action by the authority. In making the decision as to approval or denial of an application, priority shall be given to those

persons operating or planning to operate businesses of special importance to Washington's economy, including, but not limited to: (i) Existing resource-based industries of agriculture, forestry, and fisheries; (ii) existing advanced technology industries of electronics, computer and instrument manufacturing, computer software, and information and design; and (iii) emerging industries such as environmental technology, biotechnology, biomedical sciences, materials sciences, and optics.

(3) The authority may also develop and implement, if authorized by the legislature, such other economic development financing programs adopted in future general plans of economic development finance objectives developed under RCW 43.163.090.

(4) The authority may not issue any bonds for the programs authorized under this section after June 30, 2000.

Passed the Senate April 21, 1997.

Passed the House April 9, 1997.

Approved by the Governor May 5, 1997.

Filed in Office of Secretary of State May 5, 1997.

CHAPTER 258

[Substitute Senate Bill 6022]

DEPARTMENT OF FINANCIAL INSTITUTIONS—CONFIDENTIALITY AND PRIVILEGE OF INFORMATION

AN ACT Relating to confidential and privileged information concerning financial institutions; and adding a new section to chapter 42.17 RCW.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. Sec. 1. A new section is added to chapter 42.17 RCW to read as follows:

Examination reports and information obtained by the department of financial institutions from banks under RCW 30.04.075, from savings banks under RCW 32.04.220, from savings and loan associations under RCW 33.04.110, from credit unions under RCW 31.12.565, from check cashers and sellers under RCW 31.45.030(3), and from securities brokers and investment advisers under RCW 21.20.100 are confidential and privileged information and not subject to public disclosure under this chapter.

Passed the Senate April 21, 1997.

Passed the House April 15, 1997.

Approved by the Governor May 5, 1997.

Filed in Office of Secretary of State May 5, 1997.

CHAPTER 259

[Engrossed Substitute House Bill 2069]

SCHOOL DISTRICT LEVIES—MAXIMUM DOLLAR AMOUNTS, LEVY EQUALIZATION
MODIFICATIONS

AN ACT Relating to school district levies; amending RCW 84.52.0531 and 28A.500.010; creating new sections; and repealing RCW 28A.320.150.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. Sec. 1. Funding resulting from this act is for school district activities which supplement or are not related to the state's basic program of education obligation as set forth under Article IX of the state Constitution.

Sec. 2. RCW 84.52.0531 and 1995 1st sp.s. c 11 s 1 are each amended to read as follows:

The maximum dollar amount which may be levied by or for any school district for maintenance and operation support under the provisions of RCW 84.52.053 shall be determined as follows:

(1) For excess levies for collection in calendar year ~~((1992))~~ 1997, the maximum dollar amount shall be calculated pursuant to the laws and rules in effect in November ~~((1991))~~ 1996.

~~(2) ((For the purpose of this section, the basic education allocation shall be determined pursuant to RCW 28A.150.250, 28A.150.260, and 28A.150.350; PROVIDED, That when determining the basic education allocation under subsection (4) of this section, nonresident full-time equivalent pupils who are participating in a program provided for in chapter 28A.545 RCW or in any other program pursuant to an interdistrict agreement shall be included in the enrollment of the resident district and excluded from the enrollment of the serving district.~~

~~—(3))~~ For excess levies for collection in calendar year ~~((1993))~~ 1998 and thereafter, the maximum dollar amount shall be the sum of (a) ~~((and))~~ plus or minus (b) and (c) of this subsection minus ~~((e))~~ (d) of this subsection:

(a) The district's levy base as defined in subsection ~~((4))~~ (3) of this section multiplied by the district's maximum levy percentage as defined in subsection ~~((5))~~ (4) of this section;

(b) ~~((In the case of nonhigh school districts only, an amount equal to the total estimated amount due by the nonhigh school district to high school districts pursuant to chapter 28A.545 RCW for the school year during which collection of the levy is to commence, less the increase in the nonhigh school district's basic education allocation as computed pursuant to subsection (1) of this section due to the inclusion of pupils participating in a program provided for in chapter 28A.545 RCW in such computation))~~ For districts in a high/nonhigh relationship, the high school district's maximum levy amount shall be reduced and the nonhigh school district's maximum levy amount shall be increased by an amount equal to the estimated amount of the nonhigh payment due to the high school district under RCW 28A.545.030(3) and 28A.545.050 for the school year commencing the year of the levy;

(c) For districts in an interdistrict cooperative agreement, the nonresident school district's maximum levy amount shall be reduced and the resident school district's maximum levy amount shall be increased by an amount equal to the per pupil basic education allocation included in the nonresident district's levy base under subsection (3) of this section multiplied by:

(i) The number of full-time equivalent students served from the resident district in the prior school year; multiplied by:

(ii) The serving district's maximum levy percentage determined under subsection (4) of this section; increased by:

(iii) The percent increase per full-time equivalent student as stated in the state basic education appropriation section of the biennial budget between the prior school year and the current school year divided by fifty-five percent;

(d) The district's maximum levy amount shall be reduced by the maximum amount of state matching funds for which the district is eligible under RCW 28A.500.010 ((for which the district is eligible in that tax collection year)).

~~((4))~~ (3) For excess levies for collection in calendar year ~~((1993))~~ 1998 and thereafter, a district's levy base shall be the sum of allocations in (a) through (c) of this subsection received by the district for the prior school year, including allocations for compensation increases, plus the sum of such allocations multiplied by the percent increase per full time equivalent student as stated in the state basic education appropriation section of the biennial budget between the prior school year and the current school year and divided by fifty-five percent. A district's levy base shall not include local school district property tax levies or other local revenues, or state and federal allocations not identified in (a) through (c) of this subsection.

(a) The district's basic education allocation as determined pursuant to RCW 28A.150.250, 28A.150.260, and 28A.150.350;

(b) State and federal categorical allocations for the following programs:

(i) Pupil transportation;

(ii) ~~((Handicapped))~~ Special education;

(iii) Education of highly capable students;

(iv) Compensatory education, including but not limited to learning assistance, migrant education, Indian education, refugee programs, and bilingual education;

(v) Food services; and

(vi) State-wide block grant programs; and

(c) Any other federal allocations for elementary and secondary school programs, including direct grants, other than federal impact aid funds and allocations in lieu of taxes.

~~((5))~~ For excess levies for collection in calendar year 1993 and thereafter, a district's maximum levy percentage shall be determined as follows:

—(a) Multiply the district's maximum levy percentage for the prior year by the district's levy base as determined in subsection (4) of this section;

— (b) Reduce the amount in (a) of this subsection by the total estimated amount of any levy reduction funds as defined in subsection (6) of this section which are to be allocated to the district for the current school year;

— (c) Divide the amount in (b) of this subsection by the district's levy base to compute a new percentage;

— (d) The percentage in (c) of this subsection or twenty percent, whichever is greater, shall be the district's maximum levy percentage for levies collected in that calendar year; and

— (e) For levies to be collected in calendar years 1994 through 1997, the maximum levy rate shall be the district's maximum levy percentage for 1993 plus four percent reduced by any levy reduction funds.

— For levies collected in 1998, the prior year shall mean 1993.

— ~~(6))~~ (4) A district's maximum levy percentage shall be twenty-two percent in 1998 and twenty-four percent in 1999 and every year thereafter; plus, for qualifying districts, the grandfathered percentage determined as follows:

(a) For 1997, the difference between the district's 1993 maximum levy percentage and twenty percent; and

(b) For 1998 and thereafter, the percentage calculated as follows:

(i) Multiply the grandfathered percentage for the prior year times the district's levy base determined under subsection (3) of this section;

(ii) Reduce the result of (b)(i) of this subsection by any levy reduction funds as defined in subsection (5) of this section that are to be allocated to the district for the current school year;

(iii) Divide the result of (b)(ii) of this subsection by the district's levy base; and

(iv) Take the greater of zero or the percentage calculated in (b)(iii) of this subsection.

(5) "Levy reduction funds" shall mean increases in state funds from the prior school year for programs included under subsection ~~((4))~~ (3) of this section: (a) That are not attributable to enrollment changes, compensation increases, or inflationary adjustments; and (b) that are or were specifically identified as levy reduction funds in the appropriations act. If levy reduction funds are dependent on formula factors which would not be finalized until after the start of the current school year, the superintendent of public instruction shall estimate the total amount of levy reduction funds by using prior school year data in place of current school year data. Levy reduction funds shall not include moneys received by school districts from cities or counties.

~~((7))~~ (6) For the purposes of this section, "prior school year" ~~((shall))~~ means the most recent school year completed prior to the year in which the levies are to be collected.

~~((8))~~ (7) For the purposes of this section, "current school year" ~~((shall))~~ means the year immediately following the prior school year.

~~((f9))~~ (g) Funds collected from transportation vehicle fund tax levies shall not be subject to the levy limitations in this section.

~~((f0))~~ (9) The superintendent of public instruction shall develop rules and regulations and inform school districts of the pertinent data necessary to carry out the provisions of this section.

NEW SECTION. Sec. 3. The house of representatives and senate fiscal committees shall study data and issues relevant to the state funded local effort assistance program known as "levy equalization" and prepare a report of findings and recommendations to the legislature by December 1, 1997.

Sec. 4. RCW 28A.500.010 and 1993 c 410 s 1 are each amended to read as follows:

(1) Commencing with taxes assessed in 1988 to be collected in calendar year 1989 and thereafter, in addition to a school district's other general fund allocations, each eligible district shall be provided local effort assistance funds as provided in this section. Such funds are not part of the district's basic education allocation. ~~((For the first distribution of local effort assistance funds provided under this section in calendar year 1989, state funds may be prorated according to the formula in this section:))~~

(2)(a) "Prior tax collection year" ~~((shall))~~ means the year immediately preceding the year in which the local effort assistance shall be allocated.

(b) The "state-wide average ten percent levy rate" ~~((shall))~~ means ten percent of the total levy bases as defined in RCW 84.52.0531~~((4))~~ (3) summed for all school districts, and divided by the total assessed valuation for excess levy purposes in the prior tax collection year for all districts as adjusted to one hundred percent by the county indicated ratio established in RCW 84.48.075.

(c) The "district's ten percent levy rate" ~~((of a district shall))~~ means ~~((:~~
~~— (i) Ten percent of the district's levy base as defined in RCW 84.52.0531(4), plus one-half of any amount computed under RCW 84.52.0531(3)(b) in the case of nonhigh school districts; divided by~~
~~— (ii))~~ the district's ten percent levy amount divided by the district's assessed valuation for excess levy purposes for the prior tax collection year as adjusted to one hundred percent by the county indicated ratio.

(d) The "district's ten percent levy amount" means the school district's maximum levy authority after transfers determined under RCW 84.52.0531(2)(a) through (c) divided by the district's maximum levy percentage determined under RCW 84.52.0531(4) multiplied by ten percent.

(e) The "district's twelve percent levy amount" means the school district's maximum levy authority after transfers determined under RCW 84.52.0531(2)(a) through (c) divided by the district's maximum levy percentage determined under RCW 84.52.0531(4) multiplied by twelve percent.

(f) "Districts eligible ~~((districts" shall))~~ for ten percent equalization" means:
(i) Before the 1999 calendar year, those districts with a ten percent levy rate which exceeds the state-wide average ten percent levy rate; and

(ii) In the 1999 calendar year and thereafter, those districts with a ten percent levy rate that exceeds the state-wide average ten percent levy rate but that is not in the top quartile of all district rates ranked from highest to lowest.

(g) "Districts eligible for twelve percent equalization" means in the 1999 calendar year and thereafter, those districts with a ten percent levy rate in the top quartile of all district rates ranked from highest to lowest.

(h) Unless otherwise stated all rates, percents, and amounts are for the calendar year for which local effort assistance is being calculated under this section.

(3) Allocation of state matching funds to eligible districts for local effort assistance shall be determined as follows:

(a) Funds raised by the district through maintenance and operation levies (~~(during that tax collection year)~~) shall be matched with state funds using the following ratio of state funds to levy funds: (i) The difference between the district's ten percent levy rate and the state-wide average ten percent levy rate; to (ii) the state-wide average ten percent levy rate.

(b) The maximum amount of state matching funds for (~~(which a district may be eligible in any tax collection year shall be ten percent of the district's levy base as defined in RCW 84.52.0531(4))~~) districts eligible for ten percent equalization shall be the district's ten percent levy amount, multiplied by the following percentage: (i) The difference between the district's ten percent levy rate and the state-wide average ten percent levy rate; divided by (ii) the district's ten percent levy rate.

(c) In the 1999 calendar year and thereafter, the maximum amount of state matching funds for districts eligible for twelve percent equalization shall be the district's twelve percent levy amount multiplied by the following percentage: (i) The difference between the district's ten percent levy rate and the state-wide average ten percent levy rate; divided by (ii) the district's ten percent levy rate.

~~(4)((a) Through tax collection year 1992, fifty-five percent of local effort assistance funds shall be distributed to qualifying districts during the applicable tax collection year on or before June 30 and forty-five percent shall be distributed on or before December 31 of any year.~~

~~(b) In tax collection year 1993 and thereafter;))~~ Local effort assistance funds shall be distributed to qualifying districts as follows:

- ~~((i))~~ (a) Thirty percent in April;
- ~~((ii))~~ (b) Twenty-three percent in May;
- ~~((iii))~~ (c) Two percent in June;
- ~~((iv))~~ (d) Seventeen percent in August;
- ~~((v))~~ (e) Nine percent in October;
- ~~((vi))~~ (f) Seventeen percent in November; and
- ~~((vii))~~ (g) Two percent in December.

NEW SECTION. Sec. 5. RCW 28A.320.150 and 1995 1st sp.s. c 11 s 2 are each repealed.

Passed the House April 18, 1997.
Passed the Senate April 27, 1997.
Approved by the Governor May 6, 1997.
Filed in Office of Secretary of State May 6, 1997.

CHAPTER 260

{House Bill 2011}

SCHOOL LEVIES—EXTENDING AUTHORIZATIONS TO FOUR YEARS

AN ACT Relating to authorizing school levies for periods not exceeding four years; amending RCW 84.52.053; and providing a contingent effective date.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 84.52.053 and 1994 c 116 s 1 are each amended to read as follows:

The limitations imposed by RCW 84.52.050 through 84.52.056, and 84.52.043 shall not prevent the levy of taxes by school districts, when authorized so to do by the voters of such school district in the manner and for the purposes and number of years allowable under Article VII, section 2(a) of the Constitution of this state. Elections for such taxes shall be held in the year in which the levy is made or, in the case of propositions authorizing two-year through four-year levies for maintenance and operation support of a school district, authorizing two-year levies for transportation vehicle funds established in RCW 28A.160.130, or authorizing two-year through six-year levies to support the construction, modernization, or remodeling of school facilities, in the year in which the first annual levy is made: PROVIDED, That once additional tax levies have been authorized for maintenance and operation support of a school district for a two-year through four-year period, no further additional tax levies for maintenance and operation support of the district for that period may be authorized.

A special election may be called and the time therefor fixed by the board of school directors, by giving notice thereof by publication in the manner provided by law for giving notices of general elections, at which special election the proposition authorizing such excess levy shall be submitted in such form as to enable the voters favoring the proposition to vote "yes" and those opposed thereto to vote "no".

NEW SECTION. **Sec. 2.** This act takes effect if the proposed amendment to Article VII, section 2 of the state Constitution authorizing school levies for periods not exceeding four years is validly submitted to and is approved and ratified by the voters at the next general election. If the proposed amendment is not approved and ratified, this act is void in its entirety.

Passed the House April 16, 1997.
Passed the Senate April 18, 1997.
Approved by the Governor May 6, 1997.
Filed in Office of Secretary of State May 6, 1997.

CHAPTER 261

[Substitute Senate Bill 6045]

STATE AGENCY SAVINGS—INCENTIVES

AN ACT Relating to the efficient use of general fund moneys; adding new sections to chapter 43.79 RCW; and declaring an emergency.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. **Sec. 1.** A new section is added to chapter 43.79 RCW to read as follows:

(1) The savings incentive account is created in the custody of the state treasurer. The account shall consist of all moneys appropriated to the account by the legislature. The account is subject to the allotment procedures under chapter 43.88 RCW, but no appropriation is required for expenditures from the account.

(2) Within the savings incentive account, the state treasurer may create subaccounts to be credited with moneys attributable to individual state agencies, as determined by the office of financial management in consultation with the legislative fiscal committees. Moneys deposited in the subaccounts may be expended only on the authorization of the agency's executive head or designee and only for the purpose of one-time expenditures to improve the quality, efficiency, and effectiveness of services to customers of the state, such as one-time expenditures for employee training, employee incentives, technology improvements, new work processes, or performance measurement. Funds may not be expended from the account to establish new programs or services, expand existing programs or services, or incur ongoing costs that would require future expenditures.

(3) For purposes of this section, "incentive savings" means state general fund appropriations that are unspent as of June 30th of a fiscal year, excluding any amounts included in across-the-board reductions under RCW 43.88.110 and excluding unspent appropriations for (a) caseload and enrollment in entitlement programs, (b) enrollments in state institutions of higher education, (c) a specific amount contained in a condition or limitation to an appropriation in the biennial appropriations act, if the agency did not achieve the purpose of the condition or limitation, (d) debt service on state obligations, and (e) state retirement system obligations. The office of fiscal management, after consulting with the legislative fiscal committees, shall report to the treasurer the amount of savings incentives achieved.

(4) By December 1, 1998, and each December 1st thereafter, the office of financial management shall submit a report to the fiscal committees of the legislature on the implementation of this section. The report shall (a) evaluate the impact of this section on agency reversions and end-of-biennium expenditure patterns, and (b) itemize agency expenditures from the savings recovery account.

NEW SECTION. **Sec. 2.** A new section is added to chapter 43.79 RCW to read as follows:

The education savings account is created in the custody of the state treasurer. The account shall consist of all moneys appropriated to the account by the legislature. The account is subject to the allotment procedures under chapter 43.88 RCW, but no appropriation is required for expenditures from the account.

Expenditures from the account may be authorized solely by the state board of education and solely for (1) common school construction projects that are eligible for funding from the common school construction account, and (2) technology improvements in the common schools.

NEW SECTION. Sec. 3. This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately.

Passed the Senate April 10, 1997.

Passed the House April 18, 1997.

Approved by the Governor May 6, 1997.

Filed in Office of Secretary of State May 6, 1997.

CHAPTER 262

[Engrossed Substitute House Bill 2042]

GRANT PROGRAM FOR READING IN THE PRIMARY GRADES

AN ACT Relating to reading in the primary grades; amending RCW 28A.230.190; adding new sections to chapter 28A.300 RCW; creating new sections; repealing RCW 28A.630.836; and declaring an emergency.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. Sec. 1. The legislature acknowledges the definition of reading as "Reading is the process of constructing meaning from written text. It is the complex skill requiring the coordination of a number of interrelated sources of information." Marilyn Adams, *Becoming a Nation of Readers* 7. The legislature also acknowledges the role that reading accuracy and fluency plays in the comprehension of text. The legislature finds that one way to determine if a child's inability to read is problematic is to compare the child's reading fluency and accuracy skills with that of other children. To accomplish this objective, the legislature finds that assessments that test students' reading fluency and accuracy skills must be scientifically valid and reliable. The legislature further finds that early identification of students with potential reading difficulties can provide valuable information to parents, teachers, and school administrators. The legislature finds that assessment of second grade students' reading fluency and accuracy skills can assist teachers in planning and implementing a reading curriculum that addresses students' deficiencies in reading.

NEW SECTION. Sec. 2. A new section is added to chapter 28A.300 RCW to read as follows:

(1) The superintendent of public instruction shall identify a collection of tests that can be used to measure second grade reading accuracy and fluency skills. The

purpose of the second grade reading test is to provide information to parents, teachers, and school administrators on the level of acquisition of reading accuracy and fluency skills of each student at the beginning of second grade. Each of the tests in the collection must:

(a) Provide a reliable and valid measure of student's reading accuracy and fluency skills;

(b) Be able to be individually administered;

(c) Have been approved by a panel of nationally recognized professionals in the area of beginning reading, whose work has been published in peer-reviewed education research journals, and professionals in the area of measurement and assessment; and

(d) Assess student skills in recognition of letter sounds, phonemic awareness, word recognition, and reading connected text. Text used for the test of fluency must be ordered in relation to difficulty.

(2) The superintendent of public instruction shall select tests for use by schools and school districts participating in pilot projects under section 3 of this act during the 1997-98 school year. The final collection must be selected by June 30, 1998.

(3) The superintendent of public instruction shall develop a per-pupil cost for each of the tests in the collection that details the costs for booklets, scoring services, and training required to reliably administer the test. To the extent funds are appropriated, the superintendent of public instruction shall pay for booklets or other testing material, scoring services, and training required to administer the test.

NEW SECTION. Sec. 3. A new section is added to chapter 28A.300 RCW to read as follows:

(1) The superintendent of public instruction shall create a pilot project to identify which second grade reading tests selected under section 2 of this act will be included in the final collection of tests that must be available by June 30, 1998.

(2) Schools and school districts may voluntarily participate in the second grade reading test pilot projects in the 1997-98 school year. Schools and school districts voluntarily participating in the pilot project test are not required to have the results available by the fall parent-teacher conference.

(3)(a) Starting in the 1998-99 school year, school districts must select a test from the collection adopted by the superintendent of public instruction. Selection must be at the entire school district level and must remain in place at that school district for at least three years.

(b) Students who score substantially below grade level when tested in the fall shall be tested at least one more time during the second grade. Test performance deemed to be "substantially below grade level" is to be determined for each test in the collection by the superintendent of public instruction during the pilot year of 1997-98.

(c) If a student, while taking the test, reaches a point at which the student's performance will be considered "substantially below grade level" regardless of the student's performance on the remainder of the test, the test may be discontinued.

(d) Each school must have the test results available by the fall parent-teacher conference. Schools must notify parents about the second grade reading test during these conferences, inform the parents of their students' performance on the test, identify actions the school intends to take to improve the child's reading skills, and provide parents with strategies to help the parents improve their child's score.

NEW SECTION. Sec. 4. A new section is added to chapter 28A.300 RCW to read as follows:

(1) The superintendent of public instruction shall establish a primary grade reading grant program. The purpose of the grant program is to enhance teachers' skills in using teaching methods that have proven results gathered through quantitative research and to assist students in beginning reading.

(2) Schools and school districts may apply for primary grade reading grants. To qualify for a grant, the grant proposal shall provide that the grantee must:

(a) Document that the instructional model the grantee intends to implement, including teaching methods and instructional materials, is based on results validated by quantitative methods;

(b) Agree to work with the independent contractor identified under subsection (3) of this section to determine the effectiveness of the instructional model selected and the effectiveness of the staff development provided to implement the selected model; and

(c) Provide evidence of a significant number of students who are not achieving at grade level.

To the extent funds are appropriated, the superintendent of public instruction shall make initial grants available by September 1, 1997, for schools and school districts voluntarily participating in pilot projects under section 3 of this act. Subject to available funding, additional applications may be submitted to the superintendent of public instruction by September 1, 1998, and by September 1st in subsequent years. Grants will be awarded for two years.

(3) The superintendent of public instruction shall contract with an independent contractor who has experience in program evaluation and quantitative methods to evaluate the impact of the grant activities on students' reading skills and the effectiveness of the staff development provided to teachers to implement the instructional model selected by the grantee. Five percent of the funds awarded for grants shall be set aside for the purpose of the grant evaluation conducted by the independent contractor.

(4) The superintendent of public instruction shall submit biennially to the legislature and the governor a report on the primary grade reading grant program. The first report must be submitted not later than December 1, 1999, and each succeeding report must be submitted not later than December 1st of each odd-numbered year. Reports must include information on how the schools and school

districts used the grant money, the instructional models used, how they were implemented, and the findings of the independent contractor.

(5) The superintendent of public instruction shall disseminate information to the school districts five years after the beginning of the grant program regarding the results of the effectiveness of the instructional models and implementation strategies.

(6) Funding under this section shall not become part of the state's basic program of education obligation as set forth under Article IX of the state Constitution.

Sec. 5. RCW 28A.230.190 and 1990 c 101 s 6 are each amended to read as follows:

(1) Every school district is encouraged to test pupils in grade two by an assessment device designed or selected by the school district. This test shall be used to help teachers in identifying those pupils in need of assistance in the skills of reading, writing, mathematics, and language arts. The test results are not to be compiled by the superintendent of public instruction, but are only to be used by the local school district. School districts shall test students for second grade reading accuracy and fluency skills starting in the 1998-99 school year as provided in section 3 of this act.

(2) The superintendent of public instruction shall prepare and conduct, with the assistance of school districts, a standardized achievement test to be given annually to all pupils in grade four. The test shall assess students' skill in reading, mathematics, and language arts and shall focus upon appropriate input variables. Results of such tests shall be compiled by the superintendent of public instruction, who shall make those results available annually to the legislature, to all local school districts and subsequently to parents of those children tested. The results shall allow parents to ascertain the achievement levels and input variables of their children as compared with the other students within the district, the state and, if applicable, the nation.

(3) The superintendent of public instruction shall report annually to the legislature on the achievement levels of students in grade four.

NEW SECTION. **Sec. 6.** RCW 28A.630.886 and 1995 c 303 s 2 are each repealed.

NEW SECTION. **Sec. 7.** A new section is added to chapter 28A.300 RCW to read as follows:

(1) The superintendent of public instruction may use up to one percent of the appropriated funds for administration of the primary grade reading grant program established in chapter . . . , Laws of 1997 (this act).

(2) The superintendent of public instruction shall adopt timelines and rules as necessary under chapter 34.05 RCW to administer the primary reading grant program in section 2 of this act.

(3) Funding under this section shall not become a part of the state's basic program of education obligation as set forth under Article IX of the state Constitution.

***NEW SECTION. Sec. 8.** *This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately.*

*Sec. 8 was vetoed. See message at end of chapter.

NEW SECTION. Sec. 9. If specific funding for section 4 of this act, referencing this act by bill or chapter number and section number, is not provided by June 30, 1997, in the omnibus appropriations act, sections 4 and 7 of this act are null and void.

Passed the House April 21, 1997.

Passed the Senate April 15, 1997.

Approved by the Governor May 6, 1997, with the exception of certain items that were vetoed.

Filed in Office of Secretary of State May 6, 1997.

Note: Governor's explanation of partial veto is as follows:

"I am returning herewith, without my approval as to section 8, Engrossed Substitute House Bill No. 2042 entitled:

"AN ACT Relating to reading in the primary grades;"

This legislation replaces the current requirement for a third-grade reading test with a requirement for a second-grade reading test. It also establishes, under the Superintendent of Public Instruction, a grant program to train teachers and assist students in beginning reading, and requires the Superintendent to report biennially to the legislature beginning in 1999.

This legislation includes an emergency clause in section 8. Although this bill is important, it is not a matter for the immediate preservation of the public peace, health or safety, or support of the state government and its existing public institutions.

For this reason, I have vetoed section 8 of Engrossed Substitute House Bill No. 2042.

With the exception of section 8, Engrossed Substitute House Bill No. 2042 is approved."

CHAPTER 263

[Senate Bill 5674]

GOVERNOR'S AWARD FOR EXCELLENCE IN TEACHING HISTORY

AN ACT Relating to governor's awards for excellence in teaching history; and adding a new section to chapter 27.34 RCW.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. Sec. 1. A new section is added to chapter 27.34 RCW to read as follows:

(1) Many people throughout the state contribute significantly to the promotion of historical study as a means to give the state's citizens a better sense of the past. The Washington state historical society recognizes the accomplishments of many men and women in the teaching professions whose skill and achievement in the

inculcating of historic values are not given the recognition nor the support they deserve or given the encouragement to continue their work.

(2) The governor's award for excellence in teaching history is created to annually recognize teachers and public and private nonprofit historical organizations that have organized, conducted, published, or offered on a consistently exemplary basis, outstanding activities that promote a better understanding and appreciation of the state's history. One cash award to an individual teacher and one cash award to an organization shall be made each year. The sums described in this section shall be raised through solicitations from private donors.

(3) The Washington state historical society's board of trustees shall make the final determination of award recipients.

Passed the Senate April 21, 1997.

Passed the House April 8, 1997.

Approved by the Governor May 6, 1997.

Filed in Office of Secretary of State May 6, 1997.

CHAPTER 264

[House Bill 1367]

DISPOSAL OF SURPLUS EDUCATIONAL PROPERTY FOR USE FOR EDUCATIONAL PURPOSES

AN ACT Relating to disposal of surplus educational property; and amending RCW 28A.335.180 and 43.19.1919.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 28A.335.180 and 1991 c 116 s 1 are each amended to read as follows:

(1) Notwithstanding any other provision of law, school districts, educational service districts, or any other state or local governmental agency concerned with education, when declaring texts and other books, equipment, materials or relocatable facilities as surplus, shall, prior to other disposal thereof, serve notice in writing in a newspaper of general circulation in the school district and to any public school district or private school in Washington state annually requesting such a notice, that the same is available for sale, rent, or lease to public school districts or approved private schools, at depreciated cost or fair market value, whichever is greater: PROVIDED, That students wishing to purchase texts pursuant to RCW 28A.320.230(2) shall have priority as to such texts. Such districts or agencies shall not otherwise sell, rent or lease such surplus property to any person, firm, organization, or nongovernmental agency for at least thirty days following publication of notice in a newspaper of general circulation in the school district.

(2) In lieu of complying with subsection (1) of this section, school districts and educational service districts may elect to grant surplus personal property to a federal, state, or local governmental entity, or to indigent persons, at no cost on the

condition the property be used for preschool through twelfth grade educational purposes, or elect to loan surplus personal property to a nonreligious, nonsectarian private entity on the condition the property be used for the preschool through twelfth grade education of members of the public on a nondiscriminatory basis.

Sec. 2. RCW 43.19.1919 and 1991 c 216 s 2 are each amended to read as follows:

Except as provided in section 1 of this act and RCW 43.19.1920, the division of purchasing shall sell or exchange personal property belonging to the state for which the agency, office, department, or educational institution having custody thereof has no further use, at public or private sale, and cause the moneys realized from the sale of any such property to be paid into the fund from which such property was purchased or, if such fund no longer exists, into the state general fund: PROVIDED, Sales of capital assets may be made by the division of purchasing and a credit established in central stores for future purchases of capital items as provided for in RCW 43.19.190 through 43.19.1939, as now or hereafter amended: PROVIDED FURTHER, That personal property, excess to a state agency, including educational institutions, shall not be sold or disposed of prior to reasonable efforts by the division of purchasing to determine if other state agencies have a requirement for such personal property. Such determination shall follow sufficient notice to all state agencies to allow adequate time for them to make their needs known. Surplus items may be disposed of without prior notification to state agencies if it is determined by the director of general administration to be in the best interest of the state. The division of purchasing shall maintain a record of disposed surplus property, including date and method of disposal, identity of any recipient, and approximate value of the property: PROVIDED, FURTHER, That this section shall not apply to personal property acquired by a state organization under federal grants and contracts if in conflict with special title provisions contained in such grants or contracts.

This section does not apply to property under RCW 27.53.045.

Passed the House April 19, 1997.

Passed the Senate April 10, 1997.

Approved by the Governor May 6, 1997.

Filed in Office of Secretary of State May 6, 1997.

CHAPTER 265

[Engrossed House Bill 1581]

SCHOOLS—DISRUPTIVE STUDENTS AND OFFENDERS

AN ACT Relating to schools; amending RCW 13.40.160, 13.40.215, 28A.225.225, 28A.600.010, 28A.600.420, 28A.205.020, and 28A.205.080; adding a new section to chapter 28A.150 RCW; and prescribing penalties.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 13.40.160 and 1995 c 395 s 7 are each amended to read as follows:

(1) When the respondent is found to be a serious offender, the court shall commit the offender to the department for the standard range of disposition for the offense, as indicated in option A of schedule D-3, RCW 13.40.0357 except as provided in subsections (5) and (6) of this section.

If the court concludes, and enters reasons for its conclusion, that disposition within the standard range would effectuate a manifest injustice the court shall impose a disposition outside the standard range, as indicated in option B of schedule D-3, RCW 13.40.0357. The court's finding of manifest injustice shall be supported by clear and convincing evidence.

A disposition outside the standard range shall be determinate and shall be comprised of confinement or community supervision, or a combination thereof. When a judge finds a manifest injustice and imposes a sentence of confinement exceeding thirty days, the court shall sentence the juvenile to a maximum term, and the provisions of RCW 13.40.030(2) shall be used to determine the range. A disposition outside the standard range is appealable under RCW 13.40.230 by the state or the respondent. A disposition within the standard range is not appealable under RCW 13.40.230.

(2) Where the respondent is found to be a minor or first offender, the court shall order that the respondent serve a term of community supervision as indicated in option A or option B of schedule D-1, RCW 13.40.0357 except as provided in subsections (5) and (6) of this section. If the court determines that a disposition of community supervision would effectuate a manifest injustice the court may impose another disposition under option C of schedule D-1, RCW 13.40.0357. Except as provided in subsection (5) of this section, a disposition other than a community supervision may be imposed only after the court enters reasons upon which it bases its conclusions that imposition of community supervision would effectuate a manifest injustice. When a judge finds a manifest injustice and imposes a sentence of confinement exceeding thirty days, the court shall sentence the juvenile to a maximum term, and the provisions of RCW 13.40.030(2) shall be used to determine the range. The court's finding of manifest injustice shall be supported by clear and convincing evidence.

Except for disposition of community supervision or a disposition imposed pursuant to subsection (5) of this section, a disposition may be appealed as provided in RCW 13.40.230 by the state or the respondent. A disposition of community supervision or a disposition imposed pursuant to subsection (5) of this section may not be appealed under RCW 13.40.230.

(3) Where a respondent is found to have committed an offense for which the respondent declined to enter into a diversion agreement, the court shall impose a term of community supervision limited to the conditions allowed in a diversion agreement as provided in RCW 13.40.080(2).

(4) If a respondent is found to be a middle offender:

(a) The court shall impose a determinate disposition within the standard range(s) for such offense, as indicated in option A of schedule D-2, RCW 13.40.0357 except as provided in subsections (5) and (6) of this section. If the standard range includes a term of confinement exceeding thirty days, commitment shall be to the department for the standard range of confinement; or

(b) If the middle offender has less than 110 points, the court shall impose a determinate disposition of community supervision and/or up to thirty days confinement, as indicated in option B of schedule D-2, RCW 13.40.0357 in which case, if confinement has been imposed, the court shall state either aggravating or mitigating factors as set forth in RCW 13.40.150. If the middle offender has 110 points or more, the court may impose a disposition under option A and may suspend the disposition on the condition that the offender serve up to thirty days of confinement and follow all conditions of community supervision. If the offender violates any condition of the disposition including conditions of a probation bond, the court may impose sanctions pursuant to RCW 13.40.200 or may revoke the suspension and order execution of the disposition. The court shall give credit for any confinement time previously served if that confinement was for the offense for which the suspension is being revoked.

(c) Only if the court concludes, and enters reasons for its conclusions, that disposition as provided in subsection (4)(a) or (b) of this section would effectuate a manifest injustice, the court shall sentence the juvenile to a maximum term, and the provisions of RCW 13.40.030(2) shall be used to determine the range. The court's finding of manifest injustice shall be supported by clear and convincing evidence.

(d) A disposition pursuant to subsection (4)(c) of this section is appealable under RCW 13.40.230 by the state or the respondent. A disposition pursuant to subsection (4)(a) or (b) of this section is not appealable under RCW 13.40.230.

(5) When a serious, middle, or minor first offender is found to have committed a sex offense, other than a sex offense that is also a serious violent offense as defined by RCW 9A.030, and has no history of a prior sex offense, the court, on its own motion or the motion of the state or the respondent, may order an examination to determine whether the respondent is amenable to treatment.

The report of the examination shall include at a minimum the following: The respondent's version of the facts and the official version of the facts, the respondent's offense history, an assessment of problems in addition to alleged deviant behaviors, the respondent's social, educational, and employment situation, and other evaluation measures used. The report shall set forth the sources of the evaluator's information.

The examiner shall assess and report regarding the respondent's amenability to treatment and relative risk to the community. A proposed treatment plan shall be provided and shall include, at a minimum:

(a)(i) Frequency and type of contact between the offender and therapist;

(ii) Specific issues to be addressed in the treatment and description of planned treatment modalities;

(iii) Monitoring plans, including any requirements regarding living conditions, lifestyle requirements, and monitoring by family members, legal guardians, or others;

(iv) Anticipated length of treatment; and

(v) Recommended crime-related prohibitions.

The court on its own motion may order, or on a motion by the state shall order, a second examination regarding the offender's amenability to treatment. The evaluator shall be selected by the party making the motion. The defendant shall pay the cost of any second examination ordered unless the court finds the defendant to be indigent in which case the state shall pay the cost.

After receipt of reports of the examination, the court shall then consider whether the offender and the community will benefit from use of this special sex offender disposition alternative and consider the victim's opinion whether the offender should receive a treatment disposition under this section. If the court determines that this special sex offender disposition alternative is appropriate, then the court shall impose a determinate disposition within the standard range for the offense, and the court may suspend the execution of the disposition and place the offender on community supervision for up to two years. As a condition of the suspended disposition, the court may impose the conditions of community supervision and other conditions, including up to thirty days of confinement and requirements that the offender do any one or more of the following:

(b)(i) Devote time to a specific education, employment, or occupation;

(ii) Undergo available outpatient sex offender treatment for up to two years, or inpatient sex offender treatment not to exceed the standard range of confinement for that offense. A community mental health center may not be used for such treatment unless it has an appropriate program designed for sex offender treatment. The respondent shall not change sex offender treatment providers or treatment conditions without first notifying the prosecutor, the probation counselor, and the court, and shall not change providers without court approval after a hearing if the prosecutor or probation counselor object to the change;

(iii) Remain within prescribed geographical boundaries and notify the court or the probation counselor prior to any change in the offender's address, educational program, or employment;

(iv) Report to the prosecutor and the probation counselor prior to any change in a sex offender treatment provider. This change shall have prior approval by the court;

(v) Report as directed to the court and a probation counselor;

(vi) Pay all court-ordered legal financial obligations, perform community service, or any combination thereof;

(vii) Make restitution to the victim for the cost of any counseling reasonably related to the offense; ((or))

(viii) Comply with the conditions of any court-ordered probation bond; or

(ix) The court shall order that the offender may not attend the public or approved private elementary, middle, or high school attended by the victim or the victim's siblings. The parents or legal guardians of the offender are responsible for transportation or other costs associated with the offender's change of school that would otherwise be paid by the school district. The court shall send notice of the disposition and restriction on attending the same school as the victim or victim's siblings to the public or approved private school the juvenile will attend, if known, or if unknown, to the approved private schools and the public school district board of directors of the district in which the juvenile resides or intends to reside. This notice must be sent at the earliest possible date but not later than ten calendar days after entry of the disposition.

The sex offender treatment provider shall submit quarterly reports on the respondent's progress in treatment to the court and the parties. The reports shall reference the treatment plan and include at a minimum the following: Dates of attendance, respondent's compliance with requirements, treatment activities, the respondent's relative progress in treatment, and any other material specified by the court at the time of the disposition.

At the time of the disposition, the court may set treatment review hearings as the court considers appropriate.

Except as provided in this subsection (5), after July 1, 1991, examinations and treatment ordered pursuant to this subsection shall only be conducted by sex offender treatment providers certified by the department of health pursuant to chapter 18.155 RCW. A sex offender therapist who examines or treats a juvenile sex offender pursuant to this subsection does not have to be certified by the department of health pursuant to chapter 18.155 RCW if the court finds that: (A) The offender has already moved to another state or plans to move to another state for reasons other than circumventing the certification requirements; (B) no certified providers are available for treatment within a reasonable geographical distance of the offender's home; and (C) the evaluation and treatment plan comply with this subsection (5) and the rules adopted by the department of health.

If the offender violates any condition of the disposition or the court finds that the respondent is failing to make satisfactory progress in treatment, the court may revoke the suspension and order execution of the disposition or the court may impose a penalty of up to thirty days' confinement for violating conditions of the disposition. The court may order both execution of the disposition and up to thirty days' confinement for the violation of the conditions of the disposition. The court shall give credit for any confinement time previously served if that confinement was for the offense for which the suspension is being revoked.

For purposes of this section, "victim" means any person who has sustained emotional, psychological, physical, or financial injury to person or property as a direct result of the crime charged. "Victim" may also include a known parent or

guardian of a victim who is a minor child unless the parent or guardian is the perpetrator of the offense.

(6) RCW 13.40.193 shall govern the disposition of any juvenile adjudicated of possessing a firearm in violation of RCW 9.41.040(1)(~~(e)~~) (b)(iii) or any crime in which a special finding is entered that the juvenile was armed with a firearm.

(7) Whenever a juvenile offender is entitled to credit for time spent in detention prior to a dispositional order, the dispositional order shall specifically state the number of days of credit for time served.

(8) Except as provided for in subsection (4)(b) or (5) of this section or RCW 13.40.125, the court shall not suspend or defer the imposition or the execution of the disposition.

(9) In no case shall the term of confinement imposed by the court at disposition exceed that to which an adult could be subjected for the same offense.

Sec. 2. RCW 13.40.215 and 1995 c 324 s 1 are each amended to read as follows:

(1)(a) Except as provided in subsection (2) of this section, at the earliest possible date, and in no event later than thirty days before discharge, parole, or any other authorized leave or release, or before transfer to a community residential facility, the secretary shall send written notice of the discharge, parole, authorized leave or release, or transfer of a juvenile found to have committed a violent offense, a sex offense, or stalking, to the following:

(i) The chief of police of the city, if any, in which the juvenile will reside;

(ii) The sheriff of the county in which the juvenile will reside; and

(iii) The approved private schools and the common school district board of directors of the district in which the juvenile intends to reside or the approved private school or public school district in which the juvenile last attended school, whichever is appropriate, except when it has been determined by the department that the juvenile is twenty-one years old; is not required to return to school under chapter 28A.225 RCW; or will be in the community for less than seven consecutive days on approved leave and will not be attending school during that time.

(b) After the effective date of this act, the department shall send a written notice to approved private and public schools under the same conditions identified in subsection (1)(a)(iii) of this section when a juvenile adjudicated of any offense is transferred to a community residential facility.

(c) The same notice as required by (a) of this subsection shall be sent to the following, if such notice has been requested in writing about a specific juvenile:

(i) The victim of the offense for which the juvenile was found to have committed or the victim's next of kin if the crime was a homicide;

(ii) Any witnesses who testified against the juvenile in any court proceedings involving the offense; and

(iii) Any person specified in writing by the prosecuting attorney.

Information regarding victims, next of kin, or witnesses requesting the notice, information regarding any other person specified in writing by the prosecuting attorney to receive the notice, and the notice are confidential and shall not be available to the juvenile. The notice to the chief of police or the sheriff shall include the identity of the juvenile, the residence where the juvenile will reside, the identity of the person, if any, responsible for supervising the juvenile, and the time period of any authorized leave.

~~((e))~~ (d) The thirty-day notice requirements contained in this subsection shall not apply to emergency medical furloughs.

~~((d))~~ (e) The existence of the notice requirements in this subsection will not require any extension of the release date in the event the release plan changes after notification.

(2)(a) If a juvenile found to have committed a violent offense, a sex offense, or stalking escapes from a facility of the department, the secretary shall immediately notify, by the most reasonable and expedient means available, the chief of police of the city and the sheriff of the county in which the juvenile resided immediately before the juvenile's arrest. If previously requested, the secretary shall also notify the witnesses and the victim of the offense which the juvenile was found to have committed or the victim's next of kin if the crime was a homicide. If the juvenile is recaptured, the secretary shall send notice to the persons designated in this subsection as soon as possible but in no event later than two working days after the department learns of such recapture.

(b) The secretary may authorize a leave, for a juvenile found to have committed a violent offense, a sex offense, or stalking, which shall not exceed forty-eight hours plus travel time, to meet an emergency situation such as a death or critical illness of a member of the juvenile's family. The secretary may authorize a leave, which shall not exceed the time medically necessary, to obtain medical care not available in a juvenile facility maintained by the department. Prior to the commencement of an emergency or medical leave, the secretary shall give notice of the leave to the appropriate law enforcement agency in the jurisdiction in which the juvenile will be during the leave period. The notice shall include the identity of the juvenile, the time period of the leave, the residence of the juvenile during the leave, and the identity of the person responsible for supervising the juvenile during the leave. If previously requested, the department shall also notify the witnesses and victim of the offense which the juvenile was found to have committed or the victim's next of kin if the offense was a homicide.

In case of an emergency or medical leave the secretary may waive all or any portion of the requirements for leaves pursuant to RCW 13.40.205 (2)(a), (3), (4), and (5).

(3) If the victim, the victim's next of kin, or any witness is under the age of sixteen, the notice required by this section shall be sent to the parents or legal guardian of the child.

(4) The secretary shall send the notices required by this chapter to the last address provided to the department by the requesting party. The requesting party shall furnish the department with a current address.

(5) Upon discharge, parole, or other authorized leave or release, a convicted juvenile sex offender shall not attend a public or approved private elementary, middle, or high school that is attended by a victim or a sibling of a victim of the sex offender. The parents or legal guardians of the convicted juvenile sex offender shall be responsible for transportation or other costs associated with or required by the sex offender's change in school that otherwise would be paid by a school district. Upon discharge, parole, or other authorized leave or release of a convicted juvenile sex offender, the secretary shall send written notice of the discharge, parole, or other authorized leave or release and the requirements of this subsection to the common school district board of directors of the district in which the sex offender intends to reside or the district in which the sex offender last attended school, whichever is appropriate. The secretary shall send a similar notice to any approved private school the juvenile will attend, if known, or if unknown, to the approved private schools within the district the juvenile resides or intends to reside.

(6) For purposes of this section the following terms have the following meanings:

- (a) "Violent offense" means a violent offense under RCW 9.94A.030;
- (b) "Sex offense" means a sex offense under RCW 9.94A.030;
- (c) "Stalking" means the crime of stalking as defined in RCW 9A.46.110;
- (d) "Next of kin" means a person's spouse, parents, siblings, and children.

Sec. 3. RCW 28A.225.225 and 1995 c 52 s 3 are each amended to read as follows:

(1) All districts accepting applications from nonresident students or from students receiving home-based instruction for admission to the district's schools shall consider equally all applications received. Each school district shall adopt a policy establishing rational, fair, and equitable standards for acceptance and rejection of applications by June 30, 1990. The policy may include rejection of a nonresident student((s)) if;

(a) Acceptance of ((these)) a nonresident student((s)) would result in the district experiencing a financial hardship;

(b) The student's disciplinary records indicate a history of violent or disruptive behavior or gang membership; or

(c) The student has been expelled or suspended from a public school for more than ten consecutive days. Any policy allowing for readmission of expelled or suspended students under this subsection (1)(c) must apply uniformly to both resident and nonresident applicants.

For purposes of subsection (1)(b) of this section, "gang" means a group which: (i) Consists of three or more persons; (ii) has identifiable leadership; and (iii) on an ongoing basis, regularly conspires and acts in concert mainly for criminal purposes.

(2) The district shall provide to applicants written notification of the approval or denial of the application in a timely manner. If the application is rejected, the notification shall include the reason or reasons for denial and the right to appeal under RCW 28A.225.230(3).

Sec. 4. RCW 28A.600.010 and 1990 c 33 s 496 are each amended to read as follows:

Every board of directors, unless otherwise specifically provided by law, shall:

(1) Enforce the rules (~~and regulations~~) prescribed by the superintendent of public instruction and the state board of education for the government of schools, pupils, and certificated employees.

(2) Adopt and make available to each pupil, teacher and parent in the district reasonable written rules (~~and regulations~~) regarding pupil conduct, discipline, and rights, including but not limited to short-term suspensions as referred to in RCW 28A.305.160 and (~~long-term~~) suspensions in excess of ten consecutive days. Such rules (~~and regulations~~) shall not be inconsistent with any of the following: Federal statutes and regulations, state statutes, common law (~~or~~), the rules (~~and regulations~~) of the superintendent of public instruction (~~or~~), and the state board of education (~~and~~), The board's rules shall include such substantive and procedural due process guarantees as prescribed by the state board of education under RCW 28A.305.160. Commencing with the 1976-77 school year, when such rules (~~and regulations~~) are made available to each pupil, teacher, and parent, they shall be accompanied by a detailed description of rights, responsibilities, and authority of teachers and principals with respect to the discipline of pupils as prescribed by state statutory law, superintendent of public instruction, and state board of education rules (~~and regulations~~) and rules and regulations of the school district.

For the purposes of this subsection, computation of days included in "short-term" and "long-term" suspensions shall be determined on the basis of consecutive school days.

(3) Suspend, expel, or discipline pupils in accordance with RCW 28A.305.160.

Sec. 5. RCW 28A.600.420 and 1995 c 335 s 304 are each amended to read as follows:

(1) Any elementary or secondary school student who is determined to have carried a firearm onto, or to have possessed a firearm on, public elementary or secondary school premises, public school-provided transportation, or areas of facilities while being used exclusively by public schools, shall be expelled from school for not less than one year under RCW 28A.600.010. The superintendent of the school district, educational service district, state school for the deaf, or state school for the blind may modify the expulsion of a student on a case-by-case basis.

(2) For purposes of this section, "firearm" means a firearm as defined in 18 U.S.C. Sec. 921, and a "firearm" as defined in RCW 9.41.010.

(3) This section shall be construed in a manner consistent with the individuals with disabilities education act, 20 U.S.C. Sec. 1401 et seq.

(4) Nothing in this section prevents a public school district, educational service district, the state school for the deaf, or the state school for the blind if it has expelled a student from such student's regular school setting from providing educational services to the student in an alternative setting.

(5) This section does not apply to:

(a) Any student while engaged in military education authorized by school authorities in which rifles are used but not other firearms; or

(b) Any student while involved in a convention, showing, demonstration, lecture, or firearms safety course authorized by school authorities in which the rifles of collectors or instructors are handled or displayed but not other firearms; or

(c) Any student while participating in a rifle competition authorized by school authorities.

(6) A school district may suspend or expel a student for up to one year subject to subsections (1), (3), (4), and (5) of this section, if the student acts with malice as defined under RCW 9A.04.110 and displays an instrument that appeared to be a firearm, on public elementary or secondary school premises, public school-provided transportation, or areas of facilities while being used exclusively by public schools.

NEW SECTION. See. 6. A new section is added to chapter 28A.150 RCW to read as follows:

(1) The board of directors of school districts may contract with alternative educational service providers for eligible students. Alternative educational service providers that the school district may contract with include, but are not limited to:

(a) Other schools;

(b) Alternative education programs not operated by the school district;

(c) Education centers;

(d) Skills centers;

(e) Dropout prevention programs; or

(f) Other public or private organizations, excluding sectarian or religious organizations.

(2) Eligible students include students who are likely to be expelled or who are enrolled in the school district but have been suspended, are academically at risk, or who have been subject to repeated disciplinary actions due to behavioral problems.

(3) If a school district board of directors chooses to initiate specialized programs for students at risk of expulsion or who are failing academically by contracting out with alternative educational service providers identified in subsection (1) of this section, the school district board of directors and the organization must specify the specific learning standards that students are expected to achieve. Placement of the student shall be jointly determined by the school

district, the student's parent or legal guardian, and the alternative educational service provider.

(4) For the purpose of this section, the superintendent of public instruction shall adopt rules for reporting and documenting enrollment. Students may reenter at the grade level appropriate to the student's ability. Students who are sixteen years of age or older may take the GED test.

(5) The board of directors of school districts may require that students who would otherwise be suspended or expelled attend schools or programs listed in subsection (1) of this section as a condition of continued enrollment in the school district.

Sec. 7. RCW 28A.205.020 and 1993 c 211 s 2 are each amended to read as follows:

Only eligible common school dropouts shall be enrolled in a certified education center for reimbursement by the superintendent of public instruction as provided in RCW 28A.205.040. ~~((No))~~ A person ((shall be considered)) is not an eligible common school dropout ~~((who))~~ if: (1) The person has completed high school, (2) ~~((who))~~ the person has not reached his or her ~~((thirteenth))~~ twelfth birthday or has passed his or her twentieth birthday, ~~((or))~~ (3) the person shows proficiency beyond the high school level in a test approved by the superintendent of public instruction to be given as part of the initial diagnostic procedure, or (4) ~~((until))~~ less than one month has passed after ~~((he or she))~~ the person has dropped out of any common school and the education center has not received written verification from a school official of the common school last attended in this state that ~~((such))~~ the person is no longer in attendance at ~~((such))~~ the school ~~((, unless such center has been requested to admit such person by written communication of)).~~ A person is an eligible common school dropout even if one month has not passed since the person dropped out if the board of directors or its designee, of that common school, ((or unless such)) requests the center to admit the person because the person has dropped out or because the person is unable to attend a particular common school because of disciplinary reasons, including suspension and/or expulsion ((therefrom)). The fact that any person may be subject to RCW 28A.225.010 through 28A.225.150, 28A.200.010, and 28A.200.020 shall not affect his or her qualifications as an eligible common school dropout under this chapter.

Sec. 8. RCW 28A.205.080 and 1993 c 211 s 7 are each amended to read as follows:

The legislature recognizes that education centers provide a necessary and effective service for students who have dropped out of common school programs. Education centers have demonstrated success in preparing such youth for productive roles in society and are an integral part of the state's program to address the needs of students who have dropped out of school. The superintendent of public instruction shall distribute funds, consistent with legislative appropriations, allocated specifically for education centers in accord with chapter 28A.205 RCW.

The legislature encourages school districts to explore cooperation with education centers pursuant to section 6 of this act.

NEW SECTION. Sec. 9. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

Passed the House April 25, 1997.

Passed the Senate April 25, 1997.

Approved by the Governor May 6, 1997.

Filed in Office of Secretary of State May 6, 1997.

CHAPTER 266

[Engrossed Second Substitute House Bill 1841]
SCHOOL SAFETY IMPROVEMENTS

AN ACT Relating to school safety; amending RCW 28A.635.020, 28A.600.020, 28A.400.110, 28A.635.060, and 28A.320.140; reenacting and amending RCW 28A.225.330 and 9.94A.320; adding new sections to chapter 28A.600 RCW; adding a new section to chapter 9A.46 RCW; adding a new section to chapter 28A.195 RCW; adding a new section to chapter 13.04 RCW; adding a new section to chapter 13.50 RCW; adding a new section to chapter 28A.320 RCW; creating a new section; and prescribing penalties.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. Sec. 1. The legislature finds that the children of this state have the right to an effective public education and that both students and educators have the need to be safe and secure in the classroom if learning is to occur. The legislature also finds, however, that children in many of our public schools are forced to focus on the threat and message of violence contained in many aspects of our society and reflected through and in gang violence activities on school campuses.

The legislature recognizes that the prevalence of weapons, including firearms and dangerous knives, is an increasing problem that is spreading rapidly even to elementary schools throughout the state. Gang-related apparel and regalia compound the problem by easily concealing weapons that threaten and intimidate students and school personnel. These threats have resulted in tragic and unnecessary bloodshed over the past two years and must be eradicated from the system if student and staff security is to be restored on school campuses. Many educators believe that school dress significantly influences student behavior in both positive and negative ways. Special school dress up and color days signify school spirit and provide students with a sense of unity. Schools that have adopted school uniforms report a feeling of togetherness, greater school pride, and better student behavior in and out of the classroom. This sense of unity provides students with the positive attitudes needed to avert the pressures of gang involvement.

The legislature also recognizes there are other more significant factors that impact school safety such as the pervasive use of drugs and alcohol in school. In addition to physical safety zones, schools should also be drug-free zones that

expressly prohibit the sale, use, or possession of illegal drugs on school property. Students involved in drug-related activity are unable to benefit fully from educational opportunities and are disruptive to the learning environment of their fellow students. Schools must be empowered to make decisions that positively impact student learning by eradicating drug use and possession on their campuses. This flexibility should also be afforded to schools as they deal with other harmful substance abuse activities engaged in by their students.

Toward this end, the legislature recognizes the important role of the classroom teacher who must be empowered to restore discipline and safety in the classroom. Teachers must have the ability to control the conduct of students to ensure that their mission of educating students may be achieved. Disruptive behavior must not be allowed to continue to divert attention, time, and resources from educational activities.

The legislature therefore intends to define gang-related activities as criminal behavior disruptive not only to the learning environment but to society as a whole, and to provide educators with the authority to restore order and safety to the student learning environment, eliminate the influence of gang activities, and eradicate drug and substance abuse on school campuses, thus empowering educators to regain control of our classrooms and provide our students with the best educational opportunities available in our schools.

The legislature also finds that students and school employees have been subjected to violence such as rapes, assaults, or harassment that has not been gang or drug-related criminal activity. The legislature intends that all violence and harassment directed at students and school personnel be eradicated in public schools.

NEW SECTION. Sec. 2. A new section is added to chapter 28A.600 RCW to read as follows:

(1) A student who is enrolled in a public school or an alternative school may be suspended or expelled if the student is a member of a gang and knowingly engages in gang activity on school grounds.

(2) "Gang" means a group which: (a) Consists of three or more persons; (b) has identifiable leadership; and (c) on an ongoing basis, regularly conspires and acts in concert mainly for criminal purposes.

NEW SECTION. Sec. 3. A new section is added to chapter 9A.46 RCW to read as follows:

A person commits the offense of criminal gang intimidation if the person threatens another person with bodily injury because the other person refuses to join or has attempted to withdraw from a gang, as defined in section 2 of this act, if the person who threatens the victim or the victim attends or is registered in a public or alternative school. Criminal gang intimidation is a class C felony.

Sec. 4. RCW 28A.225.330 and 1995 c 324 s 2 and 1995 c 311 s 25 are each reenacted and amended to read as follows:

(1) When enrolling a student who has attended school in another school district, the school enrolling the student may request the parent and the student to briefly indicate in writing whether or not the student has:

- (a) Any history of placement in special educational programs;
- (b) Any past, current, or pending disciplinary action;
- (c) Any history of violent behavior, or behavior listed in section 7 of this act;
- (d) Any unpaid fines or fees imposed by other schools; and
- (e) Any health conditions affecting the student's educational needs.

(2) The school enrolling the student shall request the school the student previously attended to send the student's permanent record including records of disciplinary action, attendance, immunization records, and academic performance. If the student has not paid a fine or fee under RCW 28A.635.060, or tuition, fees, or fines at approved private schools the school may withhold the student's official transcript, but shall transmit information about the student's academic performance, special placement, immunization records, and records of disciplinary action. If the official transcript is not sent due to unpaid tuition, fees, or fines, the enrolling school shall notify both the student and parent or guardian that the official transcript will not be sent until the obligation is met, and failure to have an official transcript may result in exclusion from extracurricular activities or failure to graduate.

(3) If information is requested under subsection (2) of this section, the information shall be transmitted within two school days after receiving the request and the records shall be sent as soon as possible. Any school district or district employee who releases the information in compliance with this section is immune from civil liability for damages unless it is shown that the school district employee acted with gross negligence or in bad faith. The state board of education shall provide by rule for the discipline under chapter 28A.410 RCW of a school principal or other chief administrator of a public school building who fails to make a good faith effort to assure compliance with this subsection.

(4) Any school district or district employee who releases the information in compliance with federal and state law is immune from civil liability for damages unless it is shown that the school district or district employee acted with gross negligence or in bad faith.

NEW SECTION. **Sec. 5.** A new section is added to chapter 28A.195 RCW to read as follows:

If a student who previously attended an approved private school enrolls in a public school but has not paid tuition, fees, or fines at the approved private school, the approved private school may withhold the student's official transcript, but shall transmit information to the public school about the student's academic performance, special placement, immunization records, and records of disciplinary action.

Sec. 6. RCW 28A.635.020 and 1981 c 36 s 1 are each amended to read as follows:

(1) It shall be unlawful for any person to willfully disobey the order of the chief administrative officer of a public school district, or of an authorized designee of any such administrator, to leave any motor vehicle, building, grounds or other property which is owned, operated or controlled by the school district if the person so ordered is under the influence of alcohol or drugs, or is committing, threatens to imminently commit or incites another to imminently commit any act which would disturb or interfere with or obstruct any lawful task, function, process or procedure of the school district or any lawful task, function, process or procedure of any student, official, employee or invitee of the school district. The order of a school officer or designee acting pursuant to this subsection shall be valid if the officer or designee reasonably believes a person ordered to leave is under the influence of alcohol or drugs, is committing acts, or is creating a disturbance as provided in this subsection.

(2) It shall be unlawful for any person to refuse to leave public property immediately adjacent to a building, grounds or property which is owned, operated or controlled by a school district when ordered to do so by a law enforcement officer if such person is engaging in conduct which creates a substantial risk of causing injury to any person, or substantial harm to property, or such conduct amounts to disorderly conduct under RCW 9A.84.030.

(3) Nothing in this section shall be construed to prohibit or penalize activity consisting of the lawful exercise of freedom of speech, freedom of press and the right to peaceably assemble and petition the government for a redress of grievances: PROVIDED, That such activity neither does or threatens imminently to materially disturb or interfere with or obstruct any lawful task, function, process or procedure of the school district, or any lawful task, function, process or procedure of any student, official, employee or invitee of the school district: PROVIDED FURTHER, That such activity is not conducted in violation of a prohibition or limitation lawfully imposed by the school district upon entry or use of any motor vehicle, building, grounds or other property which is owned, operated or controlled by the school district.

(4) Any person guilty of violating this section shall be deemed guilty of a gross misdemeanor (~~and, upon conviction therefor, shall be fined not more than five hundred dollars, or imprisoned in jail for not more than six months or both so fined and imprisoned~~) punishable as provided in chapter 9A.20 RCW.

NEW SECTION. **Sec. 7.** A new section is added to chapter 13.04 RCW to read as follows:

(1) Whenever a minor enrolled in any common school is convicted in adult criminal court, or adjudicated or entered into a diversion agreement with the juvenile court on any of the following offenses, the court must notify the principal of the student's school of the disposition of the case, after first notifying the parent or legal guardian that such notification will be made:

- (a) A violent offense as defined in RCW 9.94A.030;
- (b) A sex offense as defined in RCW 9.94A.030;

- (c) Inhaling toxic fumes under chapter 9.47A RCW;
- (d) A controlled substances violation under chapter 69.50 RCW;
- (e) A liquor violation under RCW 66.44.270; and
- (f) Any crime under chapters 9A.36, 9A.40, 9A.46, and 9A.48 RCW.

(2) The principal must provide the information received under subsection (1) of this section to every teacher of any student who qualifies under subsection (1) of this section and any other personnel who, in the judgment of the principal, supervises the student or for security purposes should be aware of the student's record. The principal must provide the information to teachers and other personnel based on any written records that the principal maintains or receives from a juvenile court administrator or a law enforcement agency regarding the student.

(3) Any information received by a principal or school personnel under this section is confidential and may not be further disseminated except as provided in RCW 28A.225.330, other statutes or case law, and the family and educational and privacy rights act of 1994, 20 U.S.C. Sec. 1232g et seq.

NEW SECTION. Sec. 8. A new section is added to chapter 13.50 RCW to read as follows:

Records of disposition for a juvenile offense must be provided to schools as provided in section 7 of this act.

NEW SECTION. Sec. 9. A new section is added to chapter 28A.600 RCW to read as follows:

(1) School district boards of directors shall adopt policies that restore discipline to the classroom. Such policies must provide for at least the following: Allowing each teacher to take disciplinary action to correct a student who disrupts normal classroom activities, abuses or insults a teacher as prohibited by RCW 28A.635.010, willfully disobeys a teacher, uses abusive or foul language directed at a school district employee, school volunteer, or another student, violates school rules, or who interferes with an orderly education process. Disciplinary action may include but is not limited to: Oral or written reprimands; written notification to parents of disruptive behavior, a copy of which must be provided to the principal.

(2) A student committing an offense under chapter 9A.36, 9A.40, 9A.46, or 9A.48 RCW when the activity is directed toward the teacher, shall not be assigned to that teacher's classroom for the duration of the student's attendance at that school or any other school where the teacher is assigned.

(3) A student who commits an offense under chapter 9A.36, 9A.40, 9A.46, or 9A.48 RCW, when directed toward another student, may be removed from the classroom of the victim for the duration of the student's attendance at that school or any other school where the victim is enrolled. A student who commits an offense under one of the chapters enumerated in this section against a student or another school employee, may be expelled or suspended.

(4) Nothing in this section is intended to limit the authority of a school under existing law and rules to expel or suspend a student for misconduct or criminal behavior.

(5) All school districts must collect data on disciplinary actions taken in each school. The information shall be made available to the public upon request. This collection of data shall not include personally identifiable information including, but not limited to, a student's social security number, name, or address.

NEW SECTION, Sec. 10. A new section is added to chapter 28A.320 RCW to read as follows:

School district boards of directors may adopt policies that limit the possession of (1) paging telecommunication devices by students that emit audible signals, vibrate, display a message, or otherwise summons or delivers a communication to the possessor, and (2) portable or cellular telephones.

Sec. 11. RCW 28A.600.020 and 1990 c 33 s 497 are each amended to read as follows:

(1) The rules adopted pursuant to RCW 28A.600.010 shall be interpreted to insure that the optimum learning atmosphere of the classroom is maintained, and that the highest consideration is given to the judgment of qualified certificated educators regarding conditions necessary to maintain the optimum learning atmosphere.

(2) Any student who creates a disruption of the educational process in violation of the building disciplinary standards while under a teacher's immediate supervision may be excluded by the teacher from his or her individual classroom and instructional or activity area for all or any portion of the balance of the school day, or up to the following two days, or until the principal or designee and teacher have conferred, whichever occurs first~~((:—PROVIDED, That)),~~ Except in emergency circumstances, the teacher ~~((shall have))~~ first ~~((attempted))~~ must attempt one or more alternative forms of corrective action~~((:—PROVIDED FURTHER, That)).~~ In no event without the consent of the teacher ~~((shall))~~ may an excluded student ~~((be returned))~~ return to the class during the balance of that class or activity period or up to the following two days, or until the principal or his or her designee and the teacher have conferred.

(3) In order to preserve a beneficial learning environment for all students and to maintain good order and discipline in each classroom, every school district board of directors shall provide that written procedures are developed for administering discipline at each school within the district. Such procedures shall be developed with the participation of parents and the community, and shall provide that the teacher, principal or designee, and other authorities designated by the board of directors, make every reasonable attempt to involve the parent or guardian and the student in the resolution of student discipline problems. Such procedures shall provide that students may be excluded from their individual classes or activities for periods of time in excess of that provided in subsection (2) of this section if such students have repeatedly disrupted the learning of other students~~((:—PROVIDED, That)).~~ The procedures ~~((are))~~ must be consistent with the ~~((regulations))~~ rules of the state board of education and must provide for early

involvement of parents in attempts to improve the student's behavior(~~(= PROVIDED FURTHER, That pursuant to RCW 28A.400.110;))~~.)

(4) The procedures shall assure, pursuant to RCW 28A.400.110, that all staff work cooperatively toward consistent enforcement of proper student behavior throughout each school as well as within each classroom.

(5) A principal shall consider imposing long-term suspension or expulsion as a sanction when deciding the appropriate disciplinary action for a student who, after the effective date of this section:

(a) Engages in two or more violations within a three-year period of section 2, 3, 9, or 10 of this act, RCW 28A.635.020, 28A.600.020, 28A.635.060, 9.41.280, or 28A.320.140; or

(b) Engages in one or more of the offenses listed in section 7 of this act.

The principal shall communicate the disciplinary action taken by the principal to the school personnel who referred the student to the principal for disciplinary action.

Sec. 12. RCW 28A.400.110 and 1990 c 33 s 379 are each amended to read as follows:

Within each school the school principal shall determine that appropriate student discipline is established and enforced. In order to assist the principal in carrying out the intent of this section, the principal and the certificated employees in a school building shall confer at least annually in order to develop and/or review building disciplinary standards and uniform enforcement of those standards. Such building standards shall be consistent with the provisions of RCW 28A.600.020(3).

School principals and certificated employees shall also confer annually, to establish criteria for determining when certificated employees must complete classes to improve classroom management skills.

Sec. 13. RCW 28A.635.060 and 1994 c 304 s 1 are each amended to read as follows:

(1) Any pupil who (~~shall~~) defaces or otherwise injures any school property, (~~shall be liable~~) or property belonging to a school contractor, employee, or another student, is subject to suspension and punishment. If any property of the school district (~~whose property~~), a contractor of the district, an employee, or another student has been lost or willfully cut, defaced, or injured, the school district may withhold the grades, diploma, and transcripts of the pupil responsible for the damage or loss until the pupil or the pupil's parent or guardian has paid for the damages. If the student is suspended, the student may not be readmitted until the student or parents or legal guardian has made payment in full or until directed by the superintendent of schools. If the property damaged is a school bus owned and operated by or contracted to any school district, a student suspended for the damage may not be permitted to enter or ride any school bus until the student or parent or legal guardian has made payment in full or until directed by the superintendent. When the pupil and parent or guardian are unable to pay for the damages, the school district shall provide a program of voluntary work for the

pupil in lieu of the payment of monetary damages. Upon completion of voluntary work the grades, diploma, and transcripts of the pupil shall be released. The parent or guardian of such pupil shall be liable for damages as otherwise provided by law.

(2) Before any penalties are assessed under this section, a school district board of directors shall adopt procedures which insure that pupils' rights to due process are protected.

(3) If the department of social and health services or a child-placing agency licensed by the department has been granted custody of a child, that child's records, if requested by the department or agency, are not to be withheld for nonpayment of school fees or any other reason.

Sec. 14. RCW 28A.320.140 and 1994 sp.s. c 7 s 612 are each amended to read as follows:

(1) School district boards of directors may establish schools or programs which parents may choose for their children to attend in which: (a) Students are required to conform to dress and grooming codes, including requiring that students wear uniforms; (b) parents are required to participate in the student's education; or (c) discipline requirements are more stringent than in other schools in the district.

(2) School district boards of directors may establish schools or programs in which: (a) Students are required to conform to dress and grooming codes, including requiring that students wear uniforms; (b) parents are regularly counseled and encouraged to participate in the student's education; or (c) discipline requirements are more stringent than in other schools in the district. School boards may require that students who are subject to suspension or expulsion attend these schools or programs as a condition of continued enrollment in the school district.

(3) If students are required to wear uniforms in these programs or schools, school districts shall accommodate students so that the uniform requirement is not an unfair barrier to school attendance and participation.

(4) Nothing in this section impairs or reduces in any manner whatsoever the authority of a board under other law to impose a dress and appearance code. However, if a board requires uniforms under such other authority, it shall accommodate students so that the uniform requirement is not an unfair barrier to school attendance and participation.

(5) School district boards of directors may adopt dress and grooming code policies which prohibit students from wearing gang-related apparel. If a dress and grooming code policy contains this provision, the school board must also establish policies to notify students and parents of what clothing and apparel is considered to be gang-related apparel. This notice must precede any disciplinary action resulting from a student wearing gang-related apparel.

(6) School district boards of directors may not adopt a dress and grooming code policy which precludes students who participate in nationally recognized youth organizations from wearing organization uniforms on days that the organization has a scheduled activity or prohibit students from wearing clothing in observance of their religion.

Sec. 15. RCW 9.94A.320 and 1996 c 302 s 6, 1996 c 205 s 3, and 1996 c 36 s 2 are each reenacted and amended to read as follows:

TABLE 2

CRIMES INCLUDED WITHIN EACH SERIOUSNESS LEVEL

XV	Aggravated Murder 1 (RCW 10.95.020)
XIV	Murder 1 (RCW 9A.32.030) Homicide by abuse (RCW 9A.32.055)
XIII	Murder 2 (RCW 9A.32.050)
XII	Assault 1 (RCW 9A.36.011) Assault of a Child 1 (RCW 9A.36.120)
XI	Rape 1 (RCW 9A.44.040) Rape of a Child 1 (RCW 9A.44.073)
X	Kidnapping 1 (RCW 9A.40.020) Rape 2 (RCW 9A.44.050) Rape of a Child 2 (RCW 9A.44.076) Child Molestation 1 (RCW 9A.44.083) Damaging building, etc., by explosion with threat to human being (RCW 70.74.280(1)) Over 18 and deliver heroin or narcotic from Schedule I or II to someone under 18 (RCW 69.50.406) Leading Organized Crime (RCW 9A.82.060(1)(a))
IX	Assault of a Child 2 (RCW 9A.36.130) Robbery 1 (RCW 9A.56.200) Manslaughter 1 (RCW 9A.32.060) Explosive devices prohibited (RCW 70.74.180) Indecent Liberties (with forcible compulsion) (RCW 9A.44.100(1)(a)) Endangering life and property by explosives with threat to human being (RCW 70.74.270) Over 18 and deliver narcotic from Schedule III, IV, or V or a nonnarcotic from Schedule I-V to someone under 18 and 3 years junior (RCW 69.50.406) Controlled Substance Homicide (RCW 69.50.415)

- Sexual Exploitation (RCW 9.68A.040)
- Inciting Criminal Profiteering (RCW 9A.82.060(1)(b))
- Vehicular Homicide, by being under the influence of intoxicating liquor or any drug (RCW 46.61.520)
- VIII
 - Arson I (RCW 9A.48.020)
 - Promoting Prostitution I (RCW 9A.88.070)
 - Selling for profit (controlled or counterfeit) any controlled substance (RCW 69.50.410)
 - Manufacture, deliver, or possess with intent to deliver heroin or cocaine (RCW 69.50.401(a)(1)(i))
 - Manufacture, deliver, or possess with intent to deliver methamphetamine (RCW 69.50.401(a)(1)(ii))
 - Possession of ephedrine or pseudoephedrine with intent to manufacture methamphetamine (RCW 69.50.440)
 - Vehicular Homicide, by the operation of any vehicle in a reckless manner (RCW 46.61.520)
- VII
 - Burglary I (RCW 9A.52.020)
 - Vehicular Homicide, by disregard for the safety of others (RCW 46.61.520)
 - Introducing Contraband I (RCW 9A.76.140)
 - Indecent Liberties (without forcible compulsion) (RCW 9A.44.100(1) (b) and (c))
 - Child Molestation 2 (RCW 9A.44.086)
 - Dealing in depictions of minor engaged in sexually explicit conduct (RCW 9.68A.050)
 - Sending, bringing into state depictions of minor engaged in sexually explicit conduct (RCW 9.68A.060)
 - Involving a minor in drug dealing (RCW 69.50.401(f))
 - Reckless Endangerment I (RCW 9A.36.045)
 - Unlawful Possession of a Firearm in the first degree (RCW 9A.41.040(1)(a))

- VI Bribery (RCW 9A.68.010)
- Manslaughter 2 (RCW 9A.32.070)
- Rape of a Child 3 (RCW 9A.44.079)
- Intimidating a Juror/Witness (RCW 9A.72.110,
9A.72.130)
- Damaging building, etc., by explosion with no
threat to human being (RCW
70.74.280(2))
- Endangering life and property by explosives
with no threat to human being (RCW
70.74.270)
- Incest 1 (RCW 9A.64.020(1))
- Manufacture, deliver, or possess with intent to
deliver narcotics from Schedule I or II
(except heroin or cocaine) (RCW
69.50.401(a)(1)(i))
- Intimidating a Judge (RCW 9A.72.160)
- Bail Jumping with Murder 1 (RCW
9A.76.170(2)(a))
- Theft of a Firearm (RCW 9A.56.300)
- V Persistent prison misbehavior (RCW 9.94.070)
- Criminal Mistreatment 1 (RCW 9A.42.020)
- Abandonment of dependent person 1 (RCW
9A.42.060)
- Rape 3 (RCW 9A.44.060)
- Sexual Misconduct with a Minor 1 (RCW
9A.44.093)
- Child Molestation 3 (RCW 9A.44.089)
- Kidnapping 2 (RCW 9A.40.030)
- Extortion 1 (RCW 9A.56.120)
- Incest 2 (RCW 9A.64.020(2))
- Perjury 1 (RCW 9A.72.020)
- Extortionate Extension of Credit (RCW
9A.82.020)
- Advancing money or property for extortionate
extension of credit (RCW 9A.82.030)
- Extortionate Means to Collect Extensions of
Credit (RCW 9A.82.040)
- Rendering Criminal Assistance 1 (RCW
9A.76.070)
- Bail Jumping with class A Felony (RCW
9A.76.170(2)(b))

- Sexually Violating Human Remains (RCW 9A.44.105)
- Delivery of imitation controlled substance by person eighteen or over to person under eighteen (RCW 69.52.030(2))
- Possession of a Stolen Firearm (RCW 9A.56.310)
- IV Residential Burglary (RCW 9A.52.025)
- Theft of Livestock 1 (RCW 9A.56.080)
- Robbery 2 (RCW 9A.56.210)
- Assault 2 (RCW 9A.36.021)
- Escape 1 (RCW 9A.76.110)
- Arson 2 (RCW 9A.48.030)
- Commercial Bribery (RCW 9A.68.060)
- Bribing a Witness/Bribe Received by Witness (RCW 9A.72.090, 9A.72.100)
- Malicious Harassment (RCW 9A.36.080)
- Threats to Bomb (RCW 9.61.160)
- Willful Failure to Return from Furlough (RCW 72.66.060)
- Hit and Run — Injury Accident (RCW 46.52.020(4))
- Hit and Run with Vessel — Injury Accident (RCW 88.12.155(3))
- Vehicular Assault (RCW 46.61.522)
- Manufacture, deliver, or possess with intent to deliver narcotics from Schedule III, IV, or V or nonnarcotics from Schedule I-V (except marijuana or methamphetamines) (RCW 69.50.401(a)(1) (iii) through (v))
- Influencing Outcome of Sporting Event (RCW 9A.82.070)
- Use of Proceeds of Criminal Profiteering (RCW 9A.82.080 (1) and (2))
- Knowingly Trafficking in Stolen Property (RCW 9A.82.050(2))
- III Criminal Gang Intimidation (RCW 9A.46.— (section 3 of this act))
- Criminal Mistreatment 2 (RCW 9A.42.030)
- Abandonment of dependent person 2 (RCW 9A.42.070)
- Extortion 2 (RCW 9A.56.130)
- Unlawful Imprisonment (RCW 9A.40.040)

- Assault 3 (RCW 9A.36.031)
- Assault of a Child 3 (RCW 9A.36.140)
- Custodial Assault (RCW 9A.36.100)
- Unlawful possession of firearm in the second degree (RCW 9A.41.040(1)(b))
- Harassment (RCW 9A.46.020)
- Promoting Prostitution 2 (RCW 9A.88.080)
- Willful Failure to Return from Work Release (RCW 72.65.070)
- Burglary 2 (RCW 9A.52.030)
- Introducing Contraband 2 (RCW 9A.76.150)
- Communication with a Minor for Immoral Purposes (RCW 9.68A.090)
- Patronizing a Juvenile Prostitute (RCW 9.68A.100)
- Escape 2 (RCW 9A.76.120)
- Perjury 2 (RCW 9A.72.030)
- Bail Jumping with class B or C Felony (RCW 9A.76.170(2)(c))
- Intimidating a Public Servant (RCW 9A.76.180)
- Tampering with a Witness (RCW 9A.72.120)
- Manufacture, deliver, or possess with intent to deliver marijuana (RCW 69.50.401(a)(1)(iii))
- Delivery of a material in lieu of a controlled substance (RCW 69.50.401(c))
- Manufacture, distribute, or possess with intent to distribute an imitation controlled substance (RCW 69.52.030(1))
- Recklessly Trafficking in Stolen Property (RCW 9A.82.050(1))
- Theft of livestock 2 (RCW 9A.56.080)
- Securities Act violation (RCW 21.20.400)
- II Unlawful Practice of Law (RCW 2.48.180)
- Malicious Mischief 1 (RCW 9A.48.070)
- Possession of Stolen Property 1 (RCW 9A.56.150)
- Theft 1 (RCW 9A.56.030)
- Trafficking in Insurance Claims (RCW 48.30A.015)
- Unlicensed Practice of a Profession or Business (RCW 18.130.190(7))

Health Care False Claims (RCW 48.80.030)
Possession of controlled substance that is either
heroin or narcotics from Schedule I or II
(RCW 69.50.401(d))
Possession of phencyclidine (PCP) (RCW
69.50.401(d))
Create, deliver, or possess a counterfeit
controlled substance (RCW 69.50.401(b))
Computer Trespass 1 (RCW 9A.52.110)
Escape from Community Custody (RCW
72.09.310)
Theft 2 (RCW 9A.56.040)
Possession of Stolen Property 2 (RCW
9A.56.160)
Forgery (RCW 9A.60.020)
Taking Motor Vehicle Without Permission
(RCW 9A.56.070)
Vehicle Prowl 1 (RCW 9A.52.095)
Attempting to Elude a Pursuing Police Vehicle
(RCW 46.61.024)
Malicious Mischief 2 (RCW 9A.48.080)
Reckless Burning I (RCW 9A.48.040)
Unlawful Issuance of Checks or Drafts (RCW
9A.56.060)
Unlawful Use of Food Stamps (RCW 9.91.140
(2) and (3))
False Verification for Welfare (RCW
74.08.055)
Forged Prescription (RCW 69.41.020)
Forged Prescription for a Controlled Substance
(RCW 69.50.403)
Possess Controlled Substance that is a Narcotic
from Schedule III, IV, or V or Non-
narcotic from Schedule I-V (except
phencyclidine) (RCW 69.50.401(d))

NEW SECTION. Sec. 16. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

Passed the House April 21, 1997.

Passed the Senate April 15, 1997.

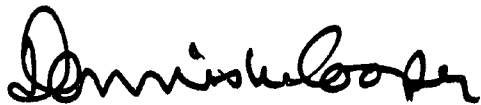
Approved by the Governor May 6, 1997.

Filed in Office of Secretary of State May 6, 1997.

AUTHENTICATION

I, Dennis W. Cooper, Code Reviser of the State of Washington, certify that, with the exception of such corrections as I have made in accordance with the powers vested in me by RCW 44.20.060, the laws published in this volume are a true and correct reproduction of the copies of the enrolled laws of the 1997 session (55th Legislature), chapters 1 through 266, respectively, as certified and transmitted to the Statute Law Committee by the Secretary of State under RCW 44.20.020.

IN TESTIMONY WHEREOF, I have hereunto set my hand at Olympia, Washington, this 18th day of June, 1996.

A handwritten signature in black ink, appearing to read "Dennis W. Cooper". The signature is written in a cursive, flowing style.

DENNIS W. COOPER
Code Reviser

